Important: paying your rent

Rent arrears are important because you could lose your home if you do not pay them.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org
Part one

This section has advice for:

- all council tenants (unless you have been given an introductory tenancy); and
- private tenants and housing association tenants who started renting their homes before 15 January 1989. The rules if you started renting your home before this date are complicated. If this applies to you, contact Shelter. See Useful contacts at the end of this fact sheet.

This section gives advice on the following.

- Housing Benefit.
- How can I pay off my rent arrears?
- Is your landlord refusing to agree to your offer?
- What if my landlord takes court action?
- Eviction – what can I do?

Housing Benefit

Rent arrears can often build up when you don’t claim all the benefits you can. Claiming Housing Benefit can reduce the amount of rent you have to pay.

To find out how much you might get, contact Shelter or a local advice agency. See Useful contacts at the end of this fact sheet or use an online calculator such as www.turn2us.org.uk.

- To make a claim, ask your council’s Housing Benefit office for a form. Some councils will let you apply over the phone.
  You can also get a copy of the form online at www.gov.uk.
- When you make a claim, keep a copy of your claim form and any letters you send or receive.
- Pay as much as you can towards your rent until your benefit comes through.
- Tell your landlord you have made a claim for Housing Benefit.

Recent changes to Housing Benefit

The ‘bedroom tax’

From 1 April 2013, if you rent your home from a social housing landlord such as the council or a housing association, and you are of working age, your Housing Benefit may be cut if it’s considered you have more bedrooms than you actually need. This means that people living in houses larger than they need (under occupiers) will have to move to somewhere smaller, or make up the difference in rent. In this situation, Housing Benefit will be reduced with a:

- 14% cut in Housing Benefit if you under occupy by one bedroom; or
- 25% cut in Housing Benefit if you under occupy by two or more bedrooms.
If you have a child that you think cannot share a bedroom with another child because they have a disability, tell your council. If your child receives the middle or higher rate care component of Disability Living Allowance, they should take this into account when working out how much Housing Benefit you are entitled to. They may also ask you for medical evidence or other information about your child's condition to help them make their decision.

Extra advice:

disabled children

If you have a child that you think cannot share a bedroom with another child because they have a disability, tell your council. If your child receives the middle or higher rate care component of Disability Living Allowance, they should take this into account when working out how much Housing Benefit you are entitled to. They may also ask you for medical evidence or other information about your child's condition to help them make their decision.

Information:

if you are of pension age

You won't be affected by the benefit cap or the bedroom tax if you are over Pension Credit age. It doesn't matter whether you actually get Pension Credit, or whether you're working.

The ‘benefit cap’

In 2013 the Government introduced a ‘benefit cap’. This means there is a limit on how much in benefits you can receive if you and your partner are of working age but not working. The cap will apply if your combined income from certain benefits is over a set limit, and means that the amount of Housing Benefit you receive may be reduced. You will have to either make up the difference in rent yourself, or move somewhere cheaper. The cap will not apply if anyone in your household receives particular disability-related and some other benefits.

If Housing Benefit won't cover all your rent, and you cannot afford to make up the difference yourself, ask your council about a discretionary housing payment. This is an amount of money the council can give you to help with housing costs that doesn't have to be paid back. It is up to the council whether to give you a discretionary housing payment, and if so, how much. It might also be a temporary payment. Ask your council or contact us for advice.

Payment of Housing Benefit

Under current rules, if you are a council tenant, your Housing Benefit is paid direct to the rent office of your council's housing department. If you are a housing association or private tenant, Housing Benefit will be paid direct to you, but you can arrange to have it paid direct to your landlord if you want to. Doing this may make your landlord more willing to come to an arrangement over your arrears, because they will be sure of receiving regular payment.
Extra advice:

interim payments of Housing Benefit

If you are a private or housing association tenant and:

- you are waiting for a Housing Benefit claim to be sorted out;
- 14 days have gone by; and
- this is making your rent arrears worse;

explain this to the Housing Benefit office at your council. Ask for an ‘interim’ payment of Housing Benefit. Contact us for advice.

How can I pay off my rent arrears?

You may not be in arrears yet, or your landlord may have started court action. Whatever the situation, do not delay. Contact your landlord as soon as possible.

Have the rent arrears been worked out properly?

Get a breakdown of your rent account from your landlord. Check that all the payments you have made have been added to your account. Ask for regular statements and keep your receipts.

It is also important to check if you have been overpaid any Housing Benefit. Sometimes the council may add overpaid Housing Benefit to your rent arrears. If the council is your landlord, they cannot treat a Housing Benefit overpayment as rent arrears. If you are a council tenant, you should not be evicted from your home for a Housing Benefit overpayment.

If you are not sure if your rent arrears include a Housing Benefit overpayment, contact us for advice.

If you rent from a private landlord or a housing association, the rules on Housing Benefit overpayments being treated as rent arrears are different. Contact Shelter on 0808 800 4444 or contact us for advice.

Extra payments to clear the arrears

Once you are sure that the amount your landlord says you owe is right, you need to work out how much you can afford to pay off the arrears.

- Use your budget to work out how much to pay off the arrears each week or month.
Information:
- direct payments of rent arrears

If you get Income Support, Pension Credit, Employment and Support Allowance or Jobseeker’s Allowance, you can have a set amount taken out of your benefit each week or every two weeks, and paid directly to your landlord for rent arrears.

The rules about how Housing Benefit is paid are changing. In some cases, you will no longer be able to have your Housing Benefit paid direct to your landlord. Instead, it will be paid directly into your bank account every month. Contact us for advice.

Extra advice:
- payments direct to your landlord

The rules about how Housing Benefit is paid are changing. In some cases, you will no longer be able to have your Housing Benefit paid direct to your landlord. Instead, it will be paid directly into your bank account every month. Contact us for advice.

Is your landlord refusing to agree to your offer?

If your landlord refuses your offer of payment, this does not automatically mean you will lose your home. If your landlord refuses to accept your offer:

- start paying what you have offered towards the arrears straight away, plus your normal rent if you don’t get full Housing Benefit;
- contact your landlord and use your budget to show that the amount you have offered is all you can afford;
- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, contact us for advice.

Your landlord might make it difficult for you to pay. If this is happening, Contact us for advice.

Don’t be afraid to offer a small amount, if that is all you can afford.

- If you get Housing Benefit, offer to have it paid directly to your landlord if this doesn’t happen already. This might make them more willing to agree to your offer.
- Start paying the amount you are offering straight away to the landlord or agent.
- If you don’t get full Housing Benefit, remember that your offer towards the arrears must be on top of your normal rent payment.

If you can’t afford to pay anything, contact us for advice.

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- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, contact us for advice.

Your landlord might make it difficult for you to pay. If this is happening, Contact us for advice.

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- Start paying the amount you are offering straight away to the landlord or agent.
- If you don’t get full Housing Benefit, remember that your offer towards the arrears must be on top of your normal rent payment.

If you can’t afford to pay anything, contact us for advice.

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- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, contact us for advice.

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- contact your landlord and use your budget to show that the amount you have offered is all you can afford;
- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, contact us for advice.

Your landlord might make it difficult for you to pay. If this is happening, Contact us for advice.

Contact us for advice.
Important:
threat of bailiffs
If your landlord threatens to use bailiffs against you to make you pay the arrears, contact us for advice.

Information:
no eviction without a court order
If you do not want to leave your home, you cannot be evicted without a court order. If your landlord is threatening to throw you out without going to court, or harasses you to make you leave, they may be acting illegally. If this happens to you, tell your local council or contact us for advice.

What if my landlord takes court action?

Before court action
Before your landlord can take court action, they must send you a formal letter. This will either be called:

- ‘a notice of seeking possession’ if you are a council or housing association tenant; or
- ‘a notice to quit’ if you are a private tenant. In some situations, if you are a private tenant and started renting your home before 15 January 1989, your landlord does not have to serve a notice to quit. Contact Shelter on 0808 808 4444 or contact us for advice. See Useful contacts at the end of this fact sheet.

Getting one of these letters does not mean you have to leave your home.

Contact your landlord straight away and try to reach an agreement. Keep paying your rent and what you have offered towards the arrears.

The notice has to give a date after which court action can start. This is normally four weeks after you get it. This means you should not receive a claim form from the court before this date. Try and use this time to make an agreement with your landlord.

Extra advice:
don’t wait for court action
If you are in arrears, your landlord may already have written to you. Sometimes they will get a solicitor to write to you as well. Try and contact them as soon as possible to make an agreement. This may mean court action is avoided.

Pre-action protocol for social landlords

The pre-action protocol for possession claims by social landlords is guidance that must be followed if your landlord is a council, a housing association or other ‘registered social landlord’, and the claim for possession of your home is based on rent arrears. The court will use the protocol when deciding what order to make. The protocol says your landlord should:

- contact you and try to agree what you should pay towards the arrears;
- arrange for your arrears to be paid through direct payments if you are on benefits;
help you with any claim you have for benefits including Housing Benefit;

not take possession action if you have given all the evidence needed to process your benefit claim, and you should qualify for benefit; and

not take possession action if you keep up with an agreement to pay your rent and an amount towards your arrears.

If your landlord does not follow the protocol, you can bring this up at the court hearing. The District Judge may reject (‘strike out’) the landlord’s claim for possession, or delay (‘adjourn’) the court hearing. Contact us for advice.

**Court action – the possession claim**

If you have not been able to reach an agreement with your landlord and the time limit on your notice has run out, your landlord can ask the court to send you a claim for possession. This will give you a date and time for a hearing in the county court. You should get at least four weeks’ notice of the hearing date.

Getting a claim for possession does not automatically mean you will lose your home. If the court decides you cannot afford to stay there, you will not be evicted on the day of the hearing.

The court will send you a form called ‘particulars of claim’. This sets out your landlord’s reasons for taking possession action against you. You will also get a form called a defence form N11R. You should fill this in and return it to the court within 14 days of getting it.

**Filling in the defence form**

It is important to fill in the defence form to give the court a full picture of your finances and what you can afford to pay. The form will give you a chance to explain if you don’t agree with the amount your landlord says you owe.

Check the particulars of claim. It should give:

- the amount of rent arrears;
- details of any agreement that you have made with your landlord to repay the arrears; and
- information about your circumstances that your landlord is aware of, for example if you get Housing Benefit.

If you do not agree with any of the details, say why on the first page of the form.
The form asks you whether you can pay anything towards the arrears. Put down the amount that your budget shows that you can afford to pay, even if your landlord has already refused this offer. If you cannot afford to pay anything towards the arrears, contact us for advice.

Fill in the financial details that the form asks for. This will show the court how you have worked out your payment offer. Use the spare boxes for things which are not listed on the form, but are listed in your budget.

The form also asks about any money you have in bank accounts. If there is money in your account to pay household bills, do not include this in any credit amount you list on the form.

At the bottom of the form, there is space to explain why you got into arrears. Ask here if you want the court to give you more time to find somewhere else to live.

**Information:**

**do you have a counterclaim?**

The form asks if you have a counterclaim against your landlord. For example:

- you have been made ill by damp or dangerous conditions;
- any repairs need doing; or
- your belongings have been damaged, for example by a leaking roof.

Counterclaims can be complicated. If you think you might have a counterclaim, contact us for advice.

**Extra advice:**

**keep paying your rent**

It is important to start paying the amount you have offered, plus your normal rent. You can still come to an agreement with your landlord or their solicitor. If you can reach an agreement, the hearing date may be put off ('adjourned') to give the agreement a chance to work.

**The hearing**

You will not be evicted from your home on the day of the hearing.

If the hearing is not adjourned, you must go even if you have already made an agreement with your landlord.

If you will not be able to go to the hearing because of illness or disability, write to the court to explain your circumstances and ask if a relative or friend can go instead of you. Don’t forget to include the case number in the letter. You will find this on the court form.
The hearing will not find anyone guilty or innocent. Rent arrears cases should be dealt with in private. At the hearing, you, your landlord or their representative and the District Judge will be present. The District Judge is the person who decides your case. Call the District Judge ‘Sir’ or ‘Madam’.

**When you go to court**

- Make short notes about what you want to say at the hearing. Take these with you and refer to them if this helps.
- If your circumstances have changed since you filled in the court form, work out a new budget. Take three copies of your budget with you, one for you, one for the District Judge and one for the landlord or their representative.
- If English is not your first language, you could take an interpreter with you.
- Don’t be afraid to approach the landlord or their representative before the hearing to see if you can come to an agreement to present to the District Judge.
- Answer questions clearly, calmly and fully. This will help the District Judge make his or her decision. Remember, you have as much right to put your case to the court as the landlord does.
- Remember to tell the District Judge if you think your landlord hasn’t followed the pre-action protocol. See the earlier section **Pre-action protocol for possession claims by social landlords**.

**Orders the District Judge might make**

At the hearing, the District Judge can make one of the following orders.

- An order dismissing your landlord’s action, for example, if you have paid off all the arrears before the hearing date.
- An order putting off (‘adjourning’) the case. The court may do this to give you time to provide extra information to support your case, or to pay off your arrears in full, for example, by sorting out your claim for Housing Benefit.
- An order for possession of the property to be given to your landlord, but where possession is ‘postponed’ on conditions the court feels are reasonable. This means that if you keep to the court’s order (normally that you pay the rent plus a set amount towards the arrears each week or month), the court will not allow your landlord to evict you from your home. Your tenancy rights are protected as long as you do not break the terms of the order.
- An order for outright possession of the property. This means that at the end of a set period, usually four weeks, your landlord can take the next step towards repossessing your home. See **Eviction – what can I do?** later in this fact sheet.
What you should ask for

- If you can show the court that it would be unreasonable to make a possession order, you should ask the District Judge to dismiss the landlord’s claim for possession. This might be because you have been paying the rent plus a regular amount towards the arrears for several months, or your arrears are due to a delay in your benefit claim. You can also ask the court to dismiss the landlord’s claim if you think they have failed to follow the pre-action protocol. Contact us for advice before you go to court if this applies to you.

- If you can pay all the arrears in a short time, for example, by sorting out your benefit claim, ask for an adjournment.

- If you can’t pay the arrears in a short time, and the amount of arrears is correct, you should make an offer of payment that you can afford.

- If you are on Income Support, Pension Credit, Jobseeker’s Allowance, Employment and Support Allowance, Universal Credit or a low income, do not be afraid to offer a very small amount if that is all you can afford. Use the Department for Work and Pensions (DWP) standard amount for direct payments as a guide. Contact us to get the most up to date figure.

- If the District Judge thinks your offer is fair, he or she is likely to make an order for possession, but it will be postponed if you agree to pay the normal rent plus the amount ordered each week or month towards the arrears. As long as you keep to what the court has ordered, your landlord can take no further action.

- If the court will not accept any of these arrangements, the District Judge can make an outright order for possession. This would normally allow you at least four weeks before your landlord could evict you. If you need it, ask the District Judge to give you more time to find somewhere else to live, for example two months.

Eviction – what can I do?

The court will not take action to evict you unless asked to by your landlord. Contact your landlord straight away if:

- you have not kept up the payments under a postponed order for possession; or
- the time given on an outright order for possession has run out.

Try to make an arrangement with your landlord. If you cannot reach an agreement, your landlord can apply to the court for a ‘warrant of possession’. This is a letter from the court bailiffs giving you a date and time when they will come to evict you. You may be able to stop this, but you must act quickly.

Extra advice:
what if I can't pay the order?

If at any time you find you cannot pay the amount which the court has ordered, you must go back to the court and ask for the order to be changed. Use the form N244, which you can get from the court office. There is a fee to pay unless you are on certain benefits or a low income. See Eviction – what can I do? below. You should also contact your landlord and try to make a new agreement. Contact us for advice.

Warning:
high court action

If your landlord has asked for your case to be transferred to the High Court, contact us for advice straightaway.
If you need further time, or want to make a new offer to pay the arrears, you should apply for the warrant to be suspended using form N244.

**How to fill in an N244**

You need to get your completed form to the court as soon as possible, to allow time for the court to arrange a hearing. The following points might be helpful when you fill in the form:

- Include the claim number of the case, and details of your landlord.
- **Question 1** Fill in your name here.
- **Question 2** You will normally tick the box that says ‘defendant’.
- **Question 3** Explain here what you want the court to do and why. Explain why you have not been able to pay, and give details of any new offer of payment.
- **Question 4** This asks if you have attached a draft of the order you are applying for. We would suggest that you only tick ‘yes’ if you have had help from a solicitor or advice agency with drafting it.
- **Question 5** This asks if you want to have the application dealt with at a hearing. Most applications will be dealt with at a hearing so we suggest that you tick ‘yes’ here.
- **Questions 6, 7 and 8** It is safer to leave these blank, rather than guess how long a hearing will last, or what level of judge you need.
- **Question 9** Only fill in this question if there is someone you want the court to send a copy of the application to, such as a solicitor.
- **Question 10** You should tick the box to explain what evidence you will be relying on to support your case. If you are going to court on your own, tick the box saying you are relying on ‘the evidence set out in the box below’. You need to include any evidence you have to support your case. You should also include any information you have about your possible defence. Give reasons if your application has been delayed.
- Sign the statement of truth at the bottom of the form.
- Send the form back to the court.
- Keep a copy of the form.

**Information:**

**court forms**

You can find most court forms using the court form finder on the HM Courts and Tribunals Service website www.justice.gov.uk/about/hmcts. You can fill in application forms online and print them off to sign and send to the court.

**Extra advice:**

**what do you want the court to do?**

When you fill in the N244, you can ask the court to suspend the warrant of possession for the following reasons.

- To make a new offer of payment on your arrears. Make sure you don’t offer more than you can afford. Work out a new budget and send a copy with the N244.
- To ask the court to give you more time to find somewhere else to live.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org

Freephone 0808 808 4000
www.nationaldebtline.org
Warning: act quickly
You should make your application as far ahead of your eviction date as possible, at least three days in advance if possible. The court may refuse to accept your application if it is not within this time, but it is able to accept late applications under court rules. If your application is refused, contact us for advice.

Information: court fees
There will be a fee to pay to make this application. In certain circumstances, you may not have to pay the fee, or may get a discount. Contact us for advice.

What will happen next?
The court will set a date for a hearing, usually before the eviction date. You must go to this hearing or the court is unlikely to suspend the warrant.

If any further warrants are issued, you may still be able to ask the court to suspend them, for example to give you time to find somewhere else to live.

If the court refuses your application to suspend the warrant, your eviction will go ahead. If this happens to you, contact Shelter or contact us for advice. See Useful contacts at the end of this fact sheet.

Extra advice:
try to move before eviction day
If you don’t, the bailiffs can force their way in and change the locks. If your furniture and possessions have not been removed by the time of the eviction, you will need to make arrangements with your landlord within a reasonable time, usually two weeks, to remove them.

Part two
This section has advice for:

- private tenants who started renting their homes on or after 15 January 1989.
- Housing association tenants who started renting their homes on or after 15 January 1989.

This section gives advice on the following.

- What type of tenancy do I have?
- Housing Benefit.
- What if my landlord increases my rent?
- How can I pay off my rent arrears?
- Is your landlord refusing to agree to your offer?
- What if my landlord takes court action?
Eviction – what can I do?

What type of tenancy do I have?

It is very important to check exactly what sort of tenancy agreement you have. It is a lot easier for a landlord to evict you from your home if you have an ‘assured shorthold tenancy’ (see below).

If your tenancy agreement has run out, the court must make you leave your home as long as you have had two months’ notice in writing. See Accelerated possession procedure later in this fact sheet.

If you have an assured tenancy, in most cases the court can decide if it is reasonable to make you leave your home, unless you have over two months’ or eight weeks’ rent arrears and your landlord uses this reason to start court action.

Assured shorthold tenancies

From 28 February 1997, new tenancies will normally be assured shorthold tenancies, unless you are given a notice by the landlord that says you have an ‘assured tenancy’.

For assured shorthold tenancies that began before 28 February 1997, your landlord must have given you a written notice that your tenancy is an assured shorthold tenancy before the tenancy began. The tenancy must have been for a fixed term of more than 6 months.

If your tenancy started on or after 28 February 1997, your landlord does not have to give you any written notice of the tenancy type. All new tenancies from this date will automatically be assured shorthold tenancies unless your landlord tells you otherwise in writing. Even if your tenancy is not for a fixed term, it will still be an assured shorthold tenancy.

Assured tenancies

Assured tenancies usually have no time limits although some may last for a fixed time. Housing association tenants will normally have this sort of tenancy, as well as some tenants of private landlords.

From 28 February 1997, you will not be an assured tenant unless your landlord gives you notice to say so.

If you are not sure what type of tenancy you have, contact Shelter or contact us for advice.

Information:

Are you already an assured tenant?

If you are already an assured tenant, your landlord cannot usually make your tenancy an assured shorthold tenancy. If your landlord tries to do this, contact us for advice.

Housing Benefit

Rent arrears can often build up when you don’t claim all the benefits you can. Claiming Housing Benefit can reduce the amount of rent you have to pay.

Important:

Introductory tenants

If you have been given an introductory tenancy by your housing association, these rules will not apply to you. Contact us for advice.

Important:

Rent arrears can often build up when you don’t claim all the benefits you can. Claiming Housing Benefit can reduce the amount of rent you have to pay.
Information:

Universal Credit

From October 2013 you may be moved onto Universal Credit. Universal Credit will replace benefits such as Housing Benefit, Child Tax Credit, Working Tax Credit, Income Support, Jobseeker's Allowance and Employment and Support Allowance. Universal Credit will include help with your housing costs. People will be moved onto Universal Credit at different times. Contact us for advice.

To find out how much you might get, contact Shelter or a local advice agency. See Useful contacts at the end of this fact sheet or use an online calculator such as www.turn2us.org.uk.

To make a claim, ask your council's Housing Benefit office for a form. Some councils will let you apply over the phone. You can also get a copy of the form online at www.gov.uk.

When you make a claim, keep a copy of your claim form, and any letters you send or receive.

Pay as much as you can towards your rent until your benefit comes through.

Tell your landlord you have made a claim for Housing Benefit.

If you are having any problems claiming Housing Benefit, contact us for advice.

Housing Benefit rent restriction rules

In some situations, the council will only pay Housing Benefit up to a maximum level, even if the actual cost of renting the property is higher.

These rules may affect you if:

- you rent from a private landlord;
- your tenancy began on or after 15 January 1989; and
- you have not been moved to Local Housing Allowance. See Local Housing Allowance later on this page.

If you think the Housing Benefit rent restriction rules may apply to you, ask your council or contact Shelter. See Useful contacts at the end of this fact sheet.

Housing Benefit if you are under 35

From 1 January 2012, if you are under the age of 35 and you do not live with your partner or dependents such as children, there are new rules about how much Housing Benefit you can get. You may only get enough Housing Benefit to pay for a single room with shared use of a living room, kitchen and bathroom. This rule only applies if you rent from a private landlord.

There are some situations in which this rule will not apply to you, for example, if you live in a certain type of hostel. Ask your council or contact us for advice.
The ‘benefit cap’

The ‘benefit cap’ means there is a limit on how much in benefits you can receive if you and your partner are of working-age but not working. The cap applies if your combined income from certain benefits is over a set limit, and means that the amount of Housing Benefit you receive may be reduced. You will have to either make up the difference in rent yourself, or move somewhere cheaper. The cap will not apply if anyone in your household receives particular disability-related and some other benefits.

Local Housing Allowance

Local Housing Allowance (LHA) is a different way of working out how much Housing Benefit someone can get. LHA rules only apply to certain private tenants.

LHA means that you will only get a certain amount of Housing Benefit, even if the rent on your home is higher. If this happens, you will have to pay the difference. The amount is worked out by a rent officer, using information about the cost of renting in your local area and the type of property you live in.

Under LHA rules, your benefit will be paid directly to you or into your bank account. It is then up to you to pay the rent to your landlord. However, if you are paying off rent arrears directly from your benefit, for example Income Support, or you have eight weeks’ rent arrears, the council will pay your landlord directly.

There may be other circumstances in which the council will agree to pay your landlord directly. Ask your council or contact us for advice.

Information:

when LHA does not apply

The LHA rules will not apply if:

- you are a council tenant;
- you are a private tenant but your tenancy started before 15 January 1989; or
- you rent from a housing association.

If you were claiming Housing Benefit before 7 April 2008, LHA only applies after this date if:

- you move house;
- you make a new claim for Housing Benefit; or
- you become a private tenant on or after 7 April 2008.

What can I do if Housing Benefit or Local Housing Allowance does not pay all my rent?

- You may be able to ask the landlord to charge you less rent.
- Pay the extra rent yourself out of your income.
- Take in a lodger but get advice first to see how this would affect your benefits and tenancy.
- Ask the council to review their decision about how much benefit they will pay. You can appeal against the decision to an independent tribunal within a month of the review decision, but only if you think a mistake has been made.
- Payments made directly to your landlord for the extra rent by friends, family, or a charity should not affect your benefits.
Important:
get advice

Appealing to the rent assessment committee is complicated. The committee can put your rent up as well as down. Before appealing, contact a local advice agency, Shelter or contact us for advice. See Useful contacts at the end of this fact sheet.

Extra advice:

Housing Benefit delays

Sometimes it can take several weeks for a Housing Benefit claim to be sorted out. If you are either an assured, or assured shorthold tenant, it is very important that your Housing Benefit is paid quickly because if you have more than two months’ or eight weeks’ rent arrears, and your landlord takes you to court, the court may not allow you to stay in your home.

The council should start paying your Housing Benefit within 14 days of getting your claim and supporting information. So, if your claim has been delayed, ask for an ‘interim payment’. Contact Shelter or contact us for advice.

What if my landlord increases my rent?

With assured and assured-shorthold tenancies, there is usually no fixed limit on the rent. However, if your tenancy is for a fixed period, your landlord cannot increase the rent during this time unless you agree to the change, or your tenancy agreement says your landlord can do this. If your tenancy is not for a fixed period, and your landlord increases it, you may be able to challenge the increase by appealing to a rent assessment committee.

If your landlord wants to increase your rent and you think it is too much, you can try the following.

- Write to your landlord and tell them you do not agree to the increase. Keep a copy of the letter.
- Appeal to the rent assessment committee. Their number is in the phone book under ‘rent assessment committee’ or ‘rent assessment panel’.
- Keep paying your old rent, but put money aside to pay the increase in case the rent assessment committee decides the new rent is correct.
- Contact your Housing Benefit office straight away. Tell them that your landlord has increased your rent but you have appealed to the rent assessment committee. Don’t wait until the committee decides your appeal, or you may lose benefit. If you are not already claiming Housing Benefit, the increase in rent may mean you will now qualify.

Important:
get advice

Appealing to the rent assessment committee is complicated. The committee can put your rent up as well as down. Before appealing, contact a local advice agency, Shelter or contact us for advice. See Useful contacts at the end of this fact sheet.
**How can I pay off my rent arrears?**

You may not be in arrears yet, or your landlord may have started court action. Whatever the situation, do not delay. Contact your landlord as soon as possible.

Explain to the Housing Benefit office if you are waiting for a Housing Benefit claim to be sorted out and this is making your rent arrears worse. Ask for an interim payment of Housing Benefit if you have been waiting more than 14 days. Contact Shelter or contact us for advice.

**Have the rent arrears been worked out properly?**

Get a breakdown of your rent account from your landlord. Check that all the payments you have made have been added to your account. Ask for regular statements and keep your receipts.

If Housing Benefit is paid directly to your landlord and there has been an overpayment, the rules on whether or not a Housing Benefit overpayment should be treated as rent arrears are complicated. Contact Shelter or contact us for advice.

If you are not sure if your rent arrears include a Housing Benefit overpayment, contact Shelter or contact us for advice.

**Extra payments to clear the arrears**

- Use your budget to work out how much you can afford to pay each week or month towards the arrears. Don’t be afraid to offer only a small amount if that is all you can afford.
- If you get Housing Benefit, ask if you can have it paid directly to your landlord. Your council may do this automatically if you have two months’ or eight weeks’ rent arrears.
- Start paying the amount you have offered straight away. If you cannot afford to pay anything, contact us for advice.

**Important:**

**direct payment of Housing Benefit**

The rules about how Housing Benefit is paid are changing. From October 2013, your Housing Benefit is likely to be paid directly to you in most situations. This means that you are then responsible for paying it to your landlord to keep your rent up to date. Contact us for advice.
Is your landlord refusing to agree to your offer?

If your landlord refuses your offer of payment, this does not mean you will automatically lose your home. If your landlord refuses to accept your offer:

- start paying your rent straight away, plus the amount you have offered towards the arrears;
- contact your landlord and use your budget to show that the amount you have offered is all you can afford;
- keep a record of all payments and letters to and from your landlord; and
- keep paying your rent and arrears payments.

If your landlord still takes action against you, contact us for advice.

Extra advice: no eviction without a court order

You cannot be evicted without a court order. If your landlord is threatening to throw you out without going to court, or harasses you to make you leave, they may be acting illegally. If this happens to you, tell your local council or contact us for advice.

Information: threat of bailiffs

If your landlord threatens to use bailiffs against you to make you pay the arrears, contact us for advice.

Pre-action protocol for claims by social landlords

There is guidance that must be followed if your landlord is a council, a housing association or other ‘registered social landlord’. The court will use the ‘Pre-action protocol for possession claims by social landlords’ when deciding what order to make. Your landlord should:

Extra advice: paying off arrears

The rules about how Housing Benefit is paid are changing. This may mean that you will no longer be able to have an amount taken out of your benefit each week to help pay your arrears. Contact us for advice.

Information: direct payment of rent arrears

If you get Income Support, Pension Credit, Employment and Support Allowance, Jobseeker's Allowance or Universal Credit, you can have a set amount taken out of your benefit and paid directly to your landlord for rent arrears. Contact us for advice.

My Money Steps is our free, independent and confidential online debt advice service. My Money Steps will help you work out a budget and give you a personalised action plan setting out practical steps to deal with your debts.

www.mymoneysteps.org

Freephone 0808 808 4000
www.nationaldebtline.org
Information:
accelerated possession procedure
If you are an assured shorthold tenant and your landlord starts court action because your tenancy has come to an end, the court cannot allow you to stay in your home. This is called the ‘accelerated possession procedure’. See the warning box in the later section Eviction - what can I do?

Renewing assured shorthold tenancies
If you have an assured shorthold tenancy, your landlord does not have to renew your tenancy when it runs out. They are not likely to let you stay if you are behind with your rent. You must try to come to an agreement with your landlord and pay the amount you have offered towards your arrears. If you pay regularly, and on time, your landlord may be willing to renew your tenancy.

What if my landlord takes court action?
Your landlord can take court action if:

- you have any rent arrears;
- you have rent arrears of more than two months or eight weeks;
- you have ‘persistently delayed’ in paying your rent. You do not have to be in arrears when your landlord starts court action for this reason, for example, if your Housing Benefit always arrives after the date the rent is due; or
- if you have an assured shorthold tenancy that has run out. See Renewing assured shorthold tenancies in the earlier Pre-action protocol for possession claims by social landlords section of this fact sheet.
Warning:
if you still have two months' arrears

If your landlord goes to court and you still have two months’ or eight weeks’ rent arrears at the date of the hearing, the court cannot usually allow you to make an agreement to pay the arrears. The only protection the court might be able to offer is to allow you extra time to find somewhere else to live.

If you have two months’ or eight weeks’ arrears

If you have two months’ or eight weeks’ rent arrears when you get your notice of possession proceedings, you must start paying your rent and something off the arrears straight away.

- If you have two months’ or eight weeks’ rent arrears, start paying your rent and something towards the arrears straight away. The amount you pay must reduce your arrears to under two months or eight weeks by the date of the court hearing.
- If you are in arrears because you are waiting for Housing Benefit to be paid, contact your Housing Benefit office. Explain why your claim is urgent and ask for an interim payment.
- If you can’t start paying straight away, or if you can’t reduce your arrears quickly enough, contact us for advice.

Court action – the possession claim

If you have not been able to make an agreement with your landlord and the time limit on the notice seeking possession has run out, your landlord can then ask the court to send you a ‘possession claim’ form N5. This will give you a date and time for a hearing in the county court. You should have at least four weeks’ notice of the hearing date.

- Your landlord can start court action even if you have no rent arrears, but have had rent arrears in the past.
- Even if your landlord takes you to the county court, you will not lose your home on the day of the hearing.
- Keep paying your rent and the amount you have offered towards the arrears. This shows the court you are now able to pay.
- Even if you have managed to clear your arrears by the date of the hearing, the landlord can still go ahead with the court action. This means you must fill in the court papers and go to the hearing.
The court will also send you a form called ‘particulars of claim’. This sets out the landlord’s case for taking possession of your home. You will also get form N11R called a ‘defence form’. You should fill this in and return it to the court within 14 days of getting it.

Filling in the defence form

It is important to fill in the defence form to give the court a full picture of your finances and what you can afford to pay. It will also give you a chance to explain if you don’t agree with the amount your landlord says you owe.

Check the particulars of claim. It should give:

- the amount of the rent arrears;
- details of any agreement that you have made with your landlord to repay the arrears; and
- information about your circumstances that your landlord is aware of, for example if you get Housing Benefit.

If you do not agree with any of the details, say why on the first page of the form.

The form asks you whether you can pay anything towards the arrears. Put down the amount that your budget shows you can afford to pay, even if your landlord has already refused this offer. If your landlord is asking for possession because you have two months’ or eight weeks’ rent arrears, remember it could be very important to reduce them to less than this by the date of the hearing. If you cannot afford to pay anything towards the arrears, contact us for advice.

Fill in the financial details that the form asks for. This will show the court how you have worked out your payment offer. Use the spare boxes for things which are not listed on the form, but are in your budget.

The form also asks about any money you have in bank accounts. If there is money in your account to pay household bills, do not include this in any credit amount you list on the form.

At the bottom of the form, there is space to explain why you got into arrears. Ask here if you want the court to give you more time to find somewhere else to live.

It is important to start paying the amount you have offered, plus your normal rent. You can still come to an agreement with your landlord or their solicitor. If you can reach an agreement, the hearing date may be put off (‘adjourned’) to give the agreement a chance to work.

The hearing

You will not be evicted from your home on the day of the hearing.
You must go to the court hearing even if you have already made an agreement with your landlord.
If you will not be able to go to the hearing because of illness or disability, write to the court to explain your circumstances and ask if a relative or friend can go instead of you. **Don't forget to include the case number in the letter.** You will find this on the court form.

The purpose of the hearing is not to find anyone guilty or innocent, but to come to a fair decision for both sides. As long as your rent arrears are under **two months or eight weeks**, the court should consider your offer of payment towards the arrears. Rent arrears cases should be dealt with in private. At the hearing, you, your landlord or their representative and the District Judge will be present. The District Judge is the person who decides your case. Call the District Judge ‘Sir’ or ‘Madam’.

**When you go to court**

- Make short notes about what you want to say at the hearing. Take these with you and refer to them if this helps.
- If your circumstances have changed since you filled in the court form, work out a new budget. Take **three** copies of your **budget** with you, one for you, one for the District Judge and one for the landlord or their representative.
- If English is not your first language, you could take an interpreter with you.

- Don’t be afraid to approach your landlord or their representative before the hearing to see if you can come to an agreement to present to the District Judge.
- Answer questions clearly, calmly and fully. This will help the District Judge make his or her decision. Remember, you have as much right to put your case to the court as the landlord has.
- If your landlord is a housing association, remember to point out to the District Judge if you do not think your landlord has followed the pre-action protocol. See the earlier section **Pre-action protocol for possession claims by social landlords** earlier in this fact sheet.

**Extra advice:**

**don't offer more than you can afford**

Don't be pressured into offering more than you can afford. The District Judge may agree with you, and allow you to pay less than the landlord’s representative wants.

**Orders the District Judge might make**

At the hearing, the District Judge can make one of the following orders.

- An order putting off ('adjourning') the case. The court may do this to give you time to provide extra information to support your case. For example, the court can tell the landlord to provide full details of your arrears if you have not had these.
- An order in your favour, for example if you have a counterclaim for repairs for the same amount, or more than, the arrears.
An order for possession of the property to be given to your landlord, but where possession is ‘postponed’ on conditions the court feels are reasonable. This means that if you keep to the court’s order (normally that you pay the rent plus a set amount towards the arrears each week or month), the court will not allow your landlord to take your home. Your tenancy rights are protected as long as you do not break the terms of the order.

An order for outright possession of the property. This means that at the end of a set period, your landlord can take the next step towards repossessing your home. See the later section Eviction – what can I do? in this fact sheet.

What you should ask for

If you are not in arrears, ask the court to adjourn the hearing because you can now afford to pay your rent regularly. If at any time in the future you have problems paying your rent, you must contact your landlord to make an agreement.

If you are in arrears, ask the District Judge to adjourn the hearing if you can pay all the arrears in a short space of time, for example, by sorting out your Housing Benefit claim, or because you don’t think your landlord has followed the pre-action protocol. The court may not be prepared to do this unless you can show ‘exceptional circumstances’.

If you can’t pay the arrears in a short time and you agree that the amount of arrears is correct, you should make an offer of repayment that you can afford.

If you are on Income Support, Pension Credit, Jobseeker’s Allowance, Employment and Support Allowance, Universal Credit, or a low income, do not be afraid to offer a very small amount if that is all you can afford. Use the Department for Work and Pensions (DWP) standard amount for direct payments as a guide. Contact us to get the most up to date figure.

If the District Judge thinks your offer is fair, he or she is likely to make a postponed order for possession unless your arrears are more than two months or eight weeks. This means that as long as you keep paying the normal rent plus the amount ordered each week or month towards the arrears, your landlord can take no further action.

If the court will not accept any of these arrangements, the District Judge can make an outright order for possession. You do not have to leave your home on the day of the hearing. If you need it, ask the District Judge to give you more time to find somewhere else to live.

Eviction – what can I do?

The court will not take action to evict you unless asked to by your landlord. Contact your landlord straight away if:

Information:

If you still have two months’ arrears

If your rent arrears are two months or eight weeks at the date of the hearing, the District Judge may not be able to give you time to pay.

Extra advice:

what if I can't pay the order?

If at any time you find you cannot pay the amount which the court has ordered, you must go back to the court and ask for the order to be changed. Use the form N244, which you can get from the court office. There is a fee to pay unless you are on certain benefits or a low income. See Eviction – what can I do? later in this fact sheet. You should also contact your landlord and try to make a new agreement. Contact us for advice.
Extra advice:

move before eviction day

Try to move out before the eviction date, because the bailiffs can force their way in if they have to and change the locks. If your furniture and possessions are not removed by the time of the eviction, you should make arrangements for their removal with your landlord. This should usually be within two weeks.

Extra advice:

what do you want the court to do?

When you fill in the N244, you should explain what you want the court to do. You can ask the court to suspend the warrant of eviction for the following reasons.

- To ask the court to give you more time to find somewhere else to live.
- To make a new offer of payment on your arrears.

Warning:

high court action

If your landlord has asked for your case to be transferred to the High Court, contact us for advice straightaway.

What will happen next?

The court will set a date for a new hearing, usually before the eviction date. You must go to this hearing or the court is unlikely to suspend the warrant.

If any further warrants are issued, you may still be able to ask the court to suspend them, for example to give you time to find somewhere else to live.

If the court refuses your application to suspend the warrant, your eviction will go ahead. If this happens to you, contact Shelter or contact us for advice. See Useful contacts at the end of this fact sheet.
Warning: accelerated possession procedure

If you have an assured shorthold tenancy, your landlord may be able to ask the court to make a possession order without a court hearing. This can only happen if your tenancy has come to an end. You must have had two months’ notice in writing from the landlord. The landlord cannot use this procedure for any other reason. The court will send you claim form N5B and ask you to fill in a reply on form N11B. You must reply if you have a defence. You can ask to stay for up to 6 weeks if leaving after 14 days will cause you severe hardship. The court will then set a hearing date to decide what will happen. If you do not reply to the claim, your landlord can get a possession order after 14 days without a hearing. If your landlord is asking for possession in this way, contact Shelter, a local advice agency, or contact us for advice.

Getting rehoused

If you think you may lose your home, contact your local council for help as a homeless person. The council only has to offer you permanent rehousing as homeless under certain circumstances.

The council has to look at whether you:

- are homeless and eligible for help;
- are in a priority need group;
- deliberately did something that made you lose your home (this is called ‘intentional homelessness’); and
- have a local connection with the area in which you have applied for help.
The rules about homelessness are complicated. If you think you may lose your home, get advice as soon as possible. Contact Shelter, a local advice centre or contact us for advice. See Useful contacts below for details.

**Useful contacts**

**Shelter**
Free housing advice helpline.
Phone: 0808 800 4444
[www.shelter.org.uk](http://www.shelter.org.uk)

**Citizens Advice Bureau**
Independent, free advice on issues such as debt, housing and benefits.
England Phone: 0344 411 1444
Wales Phone: 0344 477 2020
[www.adviceguide.org.uk](http://www.adviceguide.org.uk)
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)