

Priority Bills - Rent & arrears



Paying your rent should be treated as a priority because ultimately you are at risk of losing your home if you fall into arrears.

However, there are procedures that your landlord must follow to gain possession of your home. These depend on the type of tenancy you have as different tenancies give you different rights to remain in your home.

If you are a private tenant you should seek further advice regarding your tenancy and related rights. However as a minimum requirement you should be served with a *written* Notice to Quit *and* a Court Order requiring you to vacate the property. Remember that illegal eviction (and harassment) is a criminal offence.

If you are a local authority tenant or a housing association tenant the following information will apply to you.

As soon as you realise that you cannot keep up with your rent payments or you receive a reminder letter from your landlord you should contact your landlord and let them know of your circumstances.

Check that the amount of rent arrears is correct.

- Are you entitled to Housing Benefit? Has Housing Benefit been claimed? Could it be backdated? Is it correct? - For example since housing benefit was last assessed have any non-dependants moved in or out? Has there been any onset of ill health?
- Are you entitled to a Discretionary Housing Payment on the grounds of exceptional hardship?
- Have you provided all the proof you have been asked to?
- If you have an overpayment of Housing Benefit check the amount being recovered is correct? Is the overpayment recoverable?
- The Local Authority can reduce your ongoing Housing Benefit to recover an overpayment. Bolton MBC normally does this by deducting an amount each week from your current weekly Housing Benefit. However, if this is causing you financial difficulties you can ask them to reduce this to an amount you can afford.

Contact your landlord & make an offer to pay

- Keep your landlord informed of your situation.
- Your landlord will expect you to pay your weekly rent. If you are in receipt of Housing Benefit this will be the difference between your contractual rent and your weekly award. You may also have to pay for certain service charges, contents insurance or towards an overpayment of Housing Benefit.
- If you are a Housing Association tenant you can request that your Housing Benefit be paid directly to the Housing Association – if this isn't already being done.
- On top of the current rent, your landlord will also expect you to pay something off your arrears.
- If you are in receipt of Income Support (I.S.) or Income Based Job Seekers' Allowance (I.B. - J.S.A.) and owe more than 4 weeks full rent, you can contact the D.W.P. and ask

that a standard amount be deducted from your benefit each week and paid directly to your landlord.

- If you do not receive I.S. or I.B. - J.S.A you should use the information in this pack to make an offer of payment that you can afford and start to make the payments straight away. You should keep making these payments even if your landlord refuses or doesn't reply to your offer.

Legal Action

- The first stage of legal action would be for your landlord to issue you with a **Notice of Seeking Possession** or a **Notice to Quit**. Court proceedings cannot be started until this notice has expired. Again you should contact your landlord with an offer of payment and start to make these payments straight away.
- If an arrangement is not made or is not kept to you could then receive a **Claim** from the **County Court**. This would include a reply form for you to send to the County Court and would tell you when the **Court Hearing** is. Even at this stage you should contact your landlord with an offer of payment and start to make this payment straight away.
- If you cannot come to an affordable payment arrangement with your landlord you should return the reply form to the court and attend the **Court Hearing** taking along a "Financial Statement" to show that your offer is reasonable.
- There may be representatives from the "Duty Court Scheme" at court on the day of your hearing that are willing to help you.
- The Court Hearing will be in "chambers" i.e. in private and the District Judge will listen to what you have to say. Having heard both sides the District Judge will make an order, depending on what is reasonable in each case.

The Court Order

- The usual outcome of a possession hearing is a "**Suspended Possession Order**". This is when the judge orders you to pay the rent due plus an amount off the arrears. If you keep to this arrangement you cannot lose your home.
- Alternatively the judge may consider "**adjourning**" the case if, for example; you can pay all the arrears within a short period, or the reason for the arrears is due to Housing Benefit claimed and not been paid (it should be clear that you are likely to be awarded Housing Benefit).
- Occasionally an order for **outright possession** may be made. These orders are rare and are normally only made when the tenant doesn't attend the hearing or an alternative solution cannot be made and none of the above arrangements can be made.
- If your circumstances have changed or you can not afford the payments you agreed to make, you can apply to have the order varied. You should seek advice for how to do this without delay.

Eviction Notice

- If you have not kept up with the payments ordered by the court or the time has run out under an outright Possession Order your landlord can apply 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.
- If your landlord won't agree to stop the eviction you can apply to court for the eviction to be suspended. However, the court is only likely to agree to this in limited circumstances.

If an outright Possession Order is made against you, or you receive a Warrant of Possession you should seek advice and / or contact the Homeless Section without delay.

Further help and advice regarding these and other related housing issues (and possibly representation at the court hearing) can be obtained from the CAB, or Housing Advice.

Your Name
Your Address

Your Landlord
Your Landlord's Address

Date

Rent Arrears* – Agreement To Pay

Reference Number: _____

Dear Sir or Madam,

I have received your recent correspondence concerning my rent arrears*, which I am having difficulty paying. I am willing to pay whatever I can afford to reduce the outstanding debt, but I do not want to be forced into a situation of agreeing repayments which I would be unable to sustain.

I am currently in receipt of:-

- * Income Support
- * Income Based Job Seekers' Allowance
- * Employment Support Allowance
- * I have a low income

(* Delete as applicable)

I enclose a draft financial statement, which shows the extent of my difficulties. I can afford £ per week/month off my arrears.

I will begin to make these payments as soon as I can. If my circumstances improve I will seek to increase these minimum payments.

I appreciate that you may not be ideally satisfied with the initial level of payment offered, but I would ask you to accept this level of payment given my circumstances and would request that any enforcement proceedings be stayed whilst I continue with these payments.

Thank you for your assistance, I hope to hear from you shortly.

Yours faithfully

Your Signature