

CABmoney

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Fact Sheet #4: Accelerated Possession Procedure

The accelerated possession procedure can be used for gaining possession of a property without a court hearing.

When the accelerated possession procedure can be used

If a landlord uses the accelerated procedure he / she may only claim possession of the property and nothing else, for example rent arrears cannot be claimed.

To use this procedure the tenancy must be-

- an assured shorthold tenancy which has a written agreement, or
- a statutory periodic tenancy on the same terms (apart from rent or duration) as the tenancy agreement signed at the start of the original tenancy: or
- one in which there was an oral tenancy agreement concerning the same (or substantially the same) property which was let to the same tenant and on the same terms (apart from rent or duration) as the original assured shorthold tenancy for which there was a written tenancy agreement.
- Useful Contact:
Shelter - **0808 800 4444**

Court action

Your landlord must have served you the relevant notice seeking possession (section 21) before court proceedings can begin. The notice period must be either a minimum of two months or for the same period for which rent is paid (whichever is longer) and should end on the last day of the rental period. Court proceedings cannot begin before the expiry of the notice. The notice must be given on or before the last day of the fixed term and cannot expire before the end of the fixed term.

Any notice sent by your landlord must comply with all the criteria in the previous paragraph or it will be invalid which would mean he / she must then issue a new notice which complies with the statutory requirements.

If your landlord makes a claim for possession the court will send you the relevant papers which will include a NIIB defence form and notes on how to complete. You will have 14 days to complete and return the NIIB defence form from the deemed date of service (which is two days after posting). It is very important that you return the defence form within the specified time.

When you receive the court papers and NIIB defence form, you will need to read and study them carefully before responding. If you wish to stay in the property as long as possible due to exceptional hardship etc. you can request extra time to remain. This can be up to six weeks (42

days) and it will be up to the judge to decide. Examples of exceptional hardship would include you or a member of your household being ill, pregnant or if young children are involved and you have no immediate access to other accommodation. If you need assistance understanding and completing this form, **get advice immediately**.

If you do not return the form within the specified time your landlord can apply for possession based solely on his / her claim without the judge considering your circumstances. If you return the NIIB defence form after the specified time, but before your landlord returns the form requesting possession, your defence will be treated as being filed in time.

Examples of what the court can decide

- If you do not return the NIIB defence form within the specified time and your landlord returns the request for possession (and the judge is satisfied that he / she has met the necessary conditions) a possession order that you must leave within 14 days will be made, without a hearing.
- If you return the Defence form within the specified time the judge will decide whether there needs to be a hearing or not based on the evidence presented by both sides.
- The judge can strike out the claim if your landlord has not complied with the all the requirements of the accelerated procedure.
- An order for possession for 14 days can be made if there is no request for the judge to consider exceptional hardship.
- The judge can postpone possession for up to six weeks (42 days) if he / she

decides that there is exceptional hardship.

- You may in some circumstances, be able to apply to set aside or vary a possession order where it was given without a hearing via the N244 court form, this would need to be submitted within 14 days of the order being served.

Warrant of eviction

If you do not leave the property within the date of the possession order your landlord can apply to evict you.

Accelerated possession procedure costs

The costs your landlord can claim with this procedure are limited to the court application fee and fixed solicitors costs (if one is used).

Getting re-housed

If your landlord follows the accelerated possession procedure correctly, there is no defence to this action and therefore it is highly likely you will eventually have to leave your home. It is important then that you take steps as soon as possible with regards to re-housing if this procedure is used against you.

If you think you are going to face re-possession / eviction or become homeless for **any reason** contact your Local Housing Department as soon as possible and ask what they can do for you with regards to re-housing including a request for a list of local landlords both social and private.

Advice and assistance contacts

If you have problems with the accelerated procedure or any other housing issues, **get advice as soon as possible.**

- Community Legal Advice:
Housing and Homelessness
0845 345 4 345
www.communitylegaladvice.org.uk

- Shelter
0808 800 4444
www.shelter.org.uk

- Find your local Citizens Advice Bureau
www.citizensadvice.org.uk

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