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Fact Sheet #6: Charging Order / Order For Sale

If you are a homeowner and a creditor has been successful in obtaining a charging order on your property and has applied for an Order for Sale this can also lead to possession / eviction and must be immediately addressed.

For a number of reasons including job loss, relationship breakdown, interest rate rises, **paying other less important debts first**, many people don't realise that payments on a charging order can be just as important as paying your mortgage and failure to address this can lead to possession of and eviction from your home via an order for sale.

This fact sheet has been designed to explain what steps you can take if you are having difficulty with a Charging Order / Order For Sale.

If a creditor has been successful in obtaining a Charging Order (final) against your property they may in some circumstances (eg if any conditions or terms attached to the order have not been met) make an application to court for an Order for Sale.

Basically an Order for Sale is a court order to sell a property that is subject to a Charging Order so the debt can be paid out of the proceeds of the sale. Any such application to sell a property subject to a Charging Order is both serious and can be legally complex with immediate specialist advice here a must.

If a creditor makes an application to court for an order for sale it will require a hearing and ultimately it will be up to the court (District Judge) to decide whether to make an order for sale not the creditor.

Court Papers

If you receive an N244A Notice of Hearing of Application (an order for sale) & N208 claim form (CPR Part 8) it should be accompanied by

an N210 Acknowledgement of Service form and notes for the defendant (Part 8 claim form N208C).

You will need to check through the above forms very carefully and should complete and return the N210 Acknowledgement of Service form not more than 14 days after the service of the N208 claim form, together with any written evidence, indicating that you intend to oppose the order for sale and your reasons / proposals for doing so.

We would advise that it is **vital** that you immediately obtain specialist advice / representation and that you must attend the court hearing allowing yourself sufficient time.

Court Hearing

At the hearing the court (District Judge) should look at the following points / proposals when deciding if the order for sale should go ahead, be adjourned, or suspended.

- The history of the loan
- When you bought the home, what did you buy it for, long term family home?
- Is there enough equity to cover the Charging Order and any mortgages / secured loans
- If the debt is in your sole name, you could argue that it is unfair that others in the family will lose their home because of a debt belonging just to you.
- Any special factors eg, welfare of/ effect on any children (school), age, any disabilities, illness, stability at work, lack of alternative housing etc.
- Any offer of payments by installments and/or lump sums

If an order for sale is made and not suspended you will normally be given 28 days to pay the debt or leave your property. If you do not pay the debt or leave the property the creditor can apply for a warrant of possession / eviction which will give the court bailiffs the power to evict you and change the locks. An order for sale can be adjourned or suspended on terms- for example on payment via installments.

Getting re-housed

If you are faced with eviction with no hope of suspending any warrant you will need to look for alternative accommodation as soon as possible.

Many people believe that their local authority (council) will / must re-house them when evicted or homeless, this is not true in all cases as you may be deemed intentionally homeless or not be classed as top priority.

If you think you are going to face re-possession / eviction or become homeless for **any reason** contact your local housing department immediately 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 mortgage arrears or any housing issues, then **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
- Consumer Credit Counselling Service (CCCS)
0800 138 1111
- National Debtline
0808 808 4000

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