

Notes for defendant - mortgaged residential premises

The claimant has asked the court to make an order that you give up possession of the premises mentioned in the claim form. You should note that no-one can evict you from the property unless the court says that they can; the court will not make a decision before the hearing date. What you do may affect the court's decision. You should therefore take action immediately. These notes explain in more detail what you can do.

You should:

- get help and advice immediately from a solicitor or advice agency (see 'Getting help' below);
- fill in the attached defence form and return it to the court within 14 days of receiving the claim form;
- attend the hearing, even if you have agreed about repayment of any arrears with your mortgage lender.

What will happen at the hearing?

A judge will decide whether or not to make an order for possession. In making this decision, the judge will take account of the information provided by the claimant. The judge will also take account of any information you provide, such as details of your personal and financial circumstances, any proposal you have made to pay off any arrears, and any

dispute you have about the amount owing. But the judge can only take the information into account if you provide it. Fill in these details on the defence form and attend the hearing. It is in your best interests to do both.

What kind of orders can the judge make?

The judge can:

- decide not to make an order
- make an order for possession but suspend it. This means that you will not have to give up possession so long as you can pay off any arrears in a reasonable time (the judge will decide how long) and pay the instalments as well;
- make a possession order for some future date to allow you time to move out or find somewhere else to live; or
- make an order that you give up possession a very short time ahead.
- if the loan agreement is 'regulated' (see paragraph 4 of the particulars of claim) the judge can make other orders which may help you.

Getting help

You should get help and advice immediately from a solicitor or an advice agency. This is particularly important whether or not you disagree with the claim. You may qualify for assistance from the Community Legal