**Possession Orders**

Possession of a property is a last resort where other interventions have failed or where the behaviour is so significant, this is a proportionate response.

Before applying for a possession order, you must first be served with a Notice of Intention to Seek Possession or a Notice to Quit. Possession can be requested for a number of behaviours including but not limited to –

* Anti-social behaviour
* Other breach of tenancy conditions
* Severe hoarding
* Under/over occupying the premises

**What Order can the court award?**

There are a number of options available to the court. Where the court feels an Order is just and reasonable, it can award the following:

* A Suspended Possession Order. This gives possession to the Landlord with conditions for the tenant to abide by the terms of the tenancy agreement
* An Outright Possession Order. This means the tenant must leave but the Court will give some extra time to leave (for example 28 days)
* Possession Forthwith. This means the tenant has to leave the property immediately
* Demotion Order. This Order will remove a number of tenant rights for 12 months. If the order is breached within that time, the Court will give an outright order
* Mandatory Possession. This Order was introduced in the Anti-Social Behaviour, Crime & Policing Act 2014 and must meet at least one of five conditions

What is the legal test for Mandatory Possession

The court must grant possession (where the action is deemed to be a proportionate response) provided the landlord has followed the correct procedure and at least one of the following five conditions is met:

* the tenant, a member of the tenant’s household, or a person visiting the property has been convicted of a serious offence;
* the tenant, a member of the tenant’s household, or a person visiting the property has been found by a court to have breached a Civil Injunction;
* the tenant, a member of the tenant’s household, or a person visiting the property has been convicted for breaching a Criminal Behaviour Order;
* the tenant’s property has been closed for more than 48 hours under a closure order for anti-social behaviour; or
* the tenant, a member of the tenant’s household, or a person visiting the property has been convicted for breaching a noise abatement notice or order.

Serious offences for this purpose include, for example: violent and sexual offences and those relating to offensive weapons, drugs and damage to property. A list of the relevant offences can be found in Schedule 2A to the Housing Act 1985.

If the decision has been made to apply for mandatory possession (Absolute Grounds for Possession), the tenant will have the right to appeal (Right to Review) this decision and will be offered a hearing prior to the decision to make the application to the court.

What is the difference between discretionary and mandatory possession?

* Council tenants have a statutory right to request a review of the landlord’s decision to seek possession under the absolute ground.
* The request for a review must be made in writing within seven days of the Notice being issued
* If the review panel upholds the original decision, the landlord will proceed by applying to the court for the possession order.
* The statutory review procedure does not apply to housing association tenants.
* Subject to any defence raised by the tenant, the court must grant an order for possession where the landlord has followed the correct procedure.
* The court may not postpone the giving up of possession to a date later than 14 days after making the order; unless exceptional hardship would result in which case it may be postponed for up to six weeks.
* Unlike with the discretionary grounds for possession, landlords do not need to prove to the court that it is reasonable to grant possession. This means that the court will be more likely to determine cases in a single hearing.