

## Lawyers must get up to speed on financial regulation in a bid to stem repossessions

The Financial Services Authority (FSA) has published a report – 'Financial Risk outlook for 2008' – claiming that 1.4 million homeowners could face problems meeting their mortgage payments this year and warning that lawyers needed to understand the latest regulations governing repossessions.

The FSA's Consumer Panel points to FSA regulations stating that lenders must make reasonable efforts to reach an agreement over repaying arrears; nor are they allowed to put excessive pressure on borrowers. Furthermore, lawyers need to be aware that any repossession can only occur when "all other attempts to resolve the position have failed." Even more interestingly, proceedings can be stopped if a mortgage is deemed to have been mis-sold.

The Consumer Panel says that lawyers need to be aware of repossession regulations and that solicitors who are not up to speed on the regulations may hinder the homeowners' legal case to avoid eviction.

For those thousands of homeowners struggling to meet their mortgage repayments the Government has urged homeowners facing repossession to take advantage of a free legal scheme which could be the difference between keeping and losing their homes. The 'Housing Possession Court Duty Scheme' provides last minute free access to a duty solicitor or other legal adviser for those facing possession hearings who will represent the homeowner at the hearing and deals with any follow-up proceedings.

Since the scheme was introduced in 2005, the number of people taking advantage of the scheme has grown rapidly to 30,000 a year. According to the Council of Mortgage Lenders, the number of houses being repossessed exceeded 27,000 in 2007, more than the treble the number three years before.

A study from PriceWaterhouseCoopers has predicted a rise in personal insolvencies in 2008 as a result of over-borrowing by consumers, leading to higher levels of [home repossession](#). With more than a million people coming off their current fixed-rate mortgages deals in 2008, leading to an average additional £140 a month mortgage payments, homeowners may rely more on their credit cards for spending, leading to a build-up of debt.

The Legal Services Commission, the government body that administers Legal Aid, has also advised people in difficulty with their mortgages to seek urgent legal advice as soon as possible – and emphasised that for many cases Legal Aid will be available to pay for the cost of this advice. Last year, Legal Aid was granted to 120,000 people with debt problems and 135,000 seeking housing advice, more than a 50% increase on the numbers recorded in 2006.

Crispin Passmore, director of Community Legal Services for the Legal Services Commission said that whilst homelessness had a devastating effect on homeowners and their families, many people were still arriving at court without the right legal help. Even at this stage, he added, it was not too late to get help. The Housing Duty Scheme is open to anyone when they are at court facing repossession, and those facing proceedings should arrive early to allow time to see an adviser.

However, Passmore warned that while the court-based government funded scheme helped save people's homes, getting advice early was still the best policy.

### About the Author

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