

March 2018

High Court Enforcement – The pitfalls of a ‘quick eviction’

As a result of the recent court closures, Registered Providers are often faced with a frustrating delay: Once a possession order is granted, it isn't unfamiliar to wait up to 12 weeks for a bailiff appointment. During this time landlords find themselves housing tenants who may not be paying rent or possibly engaging in anti-social behaviour.

One immediate impact of this is that landlords are seeking advice on how to expedite the enforcement process in possession claims.

High Court Enforcement Officer

One alternative solution is the High Court Enforcement Officer (HCEO); an individual person authorised to enforce High Court judgements. A HCEO can execute:

- Any high court judgement;
- Any county court judgement, where the amount to be enforced is £600 or more;
- Employment Tribunal or ACAS award;
- Any High Court Possession Order or County Court Possession Order transferred to the High Court for enforcement;
- Any High Court Order for Delivery or County Court Order for delivery transferred to the High Court.

An outline of the benefits

HCEOs are authorised by the court, but are not employed by the court. They carry greater powers than the County Court Bailiffs, one example being that they are not required to give notice before taking action. Furthermore, obstructing a HCEO is considered contempt of court and can result in arrest.

Hurdles to face

In order to use a HCEO, a claimant must comply with two requirements.



First, an application must be made to the County Court, for an order transferring the possession proceedings to the High Court. The application comes under S.42 of the County Courts Act 1984.

An application for this can be made either on the claim form at the beginning of proceedings, or after the order has been granted. The Judge has complete discretion on whether to grant permission to transfer proceedings. Judges are often reluctant to do so as a matter of routine, and usually require an exceptionally compelling reason to do so, supported by sufficient evidence. If successful, the order becomes enforceable as if it were an order of the High Court.

Secondly, once transferred, a further application must be made to the High Court, for permission to issue a ‘writ of possession’ pursuant to rule 83.13 (8) of the Civil Procedure Rules.

Under 83.13 (8) of the Civil Procedure Rules, permission to issue the Writ will be refused unless ‘every person in actual possession’ of the land has ‘received’ such notice of the proceedings as appears to the court sufficient to enable the occupant to apply to the Court for any relief to which the occupant may be entitled’.

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In the case of *Secretary of State for Defence v Nicholas [2015] EWHC 4064 (Ch)* a ‘notice of the proceedings’ was held to mean that the tenant needs to be served with the application for permission to issue the writ, thus enabling a formal route of appeal. This may result in additional costs and delays for the landlord, particularly if the tenant requests a hearing which under case law, they are entitled to do.

These procedural hurdles mean that the HCEO route is more likely to take a couple of weeks from the date of the possession order, and maybe does not result in the ‘quick eviction’ presumed.

Trespassers

In respect of trespassers, it is possible to use a HCEO without requiring the court’s permission. Accordingly, an application can be made to the High Court via a HCEO for a writ of possession as if a possession order had been made in the high court.

Issue fee

The current issue fee for a county court warrant is £121. If the case is transferred to the High Court, a significantly higher fee is payable to the HCEO, which is in the region of £500. On a practical level, the use of the HCEO may appear to expedite the possession order, but with no guarantee of acceleration, is the high cost really worthwhile.

For more information, please contact Emily Hope at [housing law services](mailto:info@housinglawservices.co.uk).

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