

Frequently Asked Questions (FAQs) about the repossession process in Scotland

At Swift, we recognise that losing possession of your home is likely to be an extremely stressful experience. We do not take such decisions lightly and view repossession as a last resort. Regrettably there are, however, circumstances where taking possession may be the only option available in order to recover the sums due to us under your loan agreement.

These FAQs seek to answer some of the more common questions regarding the repossession process and also address what happens to the property and your account with us after repossession has taken place.

Q: Can I stop or delay the eviction?

A: It may not be too late to stop or delay the eviction. Depending on your particular circumstances, there may still be options available that allow you to remain in your home.

You can call us on 01277 359659 to discuss your available options

If we decide to cancel an eviction, because we have reached a suitable payment arrangement with you, but this is agreed within 7 days of the eviction appointment, we may nevertheless incur further costs relating to the Court process. These will be added to your loan balance.

Q: Should I seek independent advice and guidance?

A: If you have not already done so, you may wish to seek free independent advice and guidance on debt, housing or money issues from an organisation such as the Citizens Advice Bureau (local contact details can be found in the 'phone book or at www.citizensadvice.org.uk) or Shelter (ring 0808 800 4444). You may also consider contacting your local housing authority to discuss your accommodation requirements if repossession seems likely to occur. Both the Citizens Advice Bureau and Shelter will also be able to provide advice in relation to re-housing by your local authority if needed.

Q: Can I apply to Court to stop an eviction?

A: If you have not previously appeared or instructed a Solicitor to appear in the Court action you may have the right to apply to the Court to request a hearing to explain the reason you want the eviction stopped or delayed. You may have to pay a fee to the Court for this hearing. If you are unsure about the court process, you should seek advice from either the Citizens Advice Bureau or a Solicitor.

Q: Would the Mortgage to Rent Scheme be able to help me?

A: The government's Mortgage Rescue Scheme may allow you to remain in your home. Not everyone will be entitled to Mortgage Rescue but if you have not already explored whether you are eligible to participate in the scheme, contact either the Citizen's Advice Bureau, Shelter or your local housing authority.

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Q: Can I voluntarily sell the property and will I be given time to do this?

A: As an alternative to Swift taking possession, if you are unable to afford to make suitable payments to your account going forward, you may consider voluntarily selling your property. In our experience, this may result in a higher price being obtained for your property and the reduction of any potential shortfall amount ultimately owing to Swift.

Before taking steps to sell, seek advice on whether a voluntary sale is the most appropriate option for you and think carefully about your rehousing options. Your local housing authority may not have a duty to rehouse you if you are considered to have made yourself 'intentionally homeless'.

If you decide to voluntarily sell your property, **you should contact us immediately**. We will work with you and allow you time to sell, so long as we are satisfied that you are making all reasonable efforts to market and sell the property.

If the asking price for your property is ultimately less than the amount required to pay-off your loan with us and any other loan that might be secured on your property, then you will need to agree the sale with us and any other lender or charge holder beforehand. In this situation, we would also need to discuss with you an affordable monthly payment arrangement in respect of any such "shortfall" between the amount you owe on the day your sale completes and the amount we received from the sale proceeds.

We may even be able to help you if you have other secured debts which would otherwise prevent you from selling the property voluntarily. If this is the case, please let us know.

Q: If the eviction proceeds, what will happen on the eviction day?

A: The Sheriff Officers will attend at your property at the appointed eviction time with agents and contractors acting on behalf of Swift. You will have received notice of the eviction appointment prior to the eviction day.

The Sheriff Officers are empowered by the Court to use necessary force to enter the property. They have to act reasonably, and must not use unreasonable force. The locks on the property will be changed by our agents. This will happen even if you are not at the property when the Sheriff Officers arrive.

The Sheriff Officers will not remove any of your furniture or belongings. They will normally remain present whilst you do this yourself. If you do not remove your belongings they will be locked inside the property. You will need to make arrangements with Swift and our agents to remove any remaining belongings within 14 days of the eviction date. Any belongings remaining after 14 days will be securely disposed of by Swift's contractors. Sheriff Officers will prepare an inventory of any items they remove.

If you are unable to remove your belongings within the 14 day period you should contact us to negotiate an extension to this period.

You would need to be accompanied by our agent on any visit to the property and a fee may be payable by you in this regard.

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You should take steps prior to eviction to remove any animals that may be resident at the property. We will endeavour to place any animals that do remain on the day of eviction in the care of the RSPCA but cannot guarantee that the RSPCA will take custody of them. Any hazardous or perishable items that are not removed on eviction will need to be disposed of. In either case, any fees incurred by Swift will be charged to your account.

Q: Can I get into the property after the eviction?

A: Apart from collecting your belongings as mentioned above, it is not usually possible to get back into the property. We would, however, consider any reasonable request for access although a charge may apply to cover the costs of our agent who would need to accompany you on any visit.

Q: Is it possible to get my property back after eviction?

A: We may return the property to you if you can raise the money to repay your account soon after the eviction. You would have to either come to an agreement with Swift to stop any potential sale of the property while the arrangements are made to raise the monies required to repay the debt or apply to the Court for an injunction to stop the sale. If contracts have already been exchanged with a buyer, you will not be able to stop the sale from going ahead.

In exceptional circumstances, we may on request hand-back the property to you even if you are unable to repay the entire debt that you owe us. Any such request will be carefully considered and must be received by us within 7 days of eviction occurring. Handing-back a property would only ever occur if we are entirely satisfied that payments under the loan agreement are affordable and would be made by you when due going forward.

Q: What happens after my home is repossessed?

A: After we have obtained possession of your property, we have a legal duty to sell it for the best price that can reasonably be obtained within a reasonable period of time. The property will go onto the market as soon as possible and Swift will obtain expert advice on the price it should be sold for and the best method of sale.

If the sale of the property results in money being left over after all the money owed to Swift and any other secured lender has been repaid (i.e. a "surplus"), then this surplus will be returned to you. **It is, therefore, important that you supply us with a forwarding address and contact details.** If we are unable to locate you we will hold the surplus amount ourselves until we can contact you..

If the sale proceeds are not enough to pay off the money that you owe to Swift, then there is a "sale shortfall" which you will still owe to Swift.

Interest on any debt will continue to be charged until the property is sold and there will also be other costs added to your account, including our Valuer's costs, the costs incurred by the Estate Agent in marketing and selling the property and also any legal costs we incur in taking possession of and selling the property.

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Q: What will Swift do if there is a “sale shortfall”?

A: If there is a shortfall following the sale of your property, we will contact you as soon as possible after the sale advising you of the amount outstanding. It is, therefore, important that you provide us with details of your new address and other contact details as soon as you can. We will try to agree a reasonable payment arrangement with you to repay the sale shortfall.

If agreement cannot be reached to repay the sale shortfall, Swift may have no alternative but to take legal action to recover the amount still owed. This would only be considered in circumstances where all other attempts to agree a reasonable payment arrangement have failed. Please note that any outstanding debt could affect whether you are able to get credit in the future.

Q: Complaints

A: If you do not think that we have treated you fairly, please contact us at:
Swift Group, Arcadia House, Warley Hill Business Park
The Drive, Brentwood, Essex CM13 3BE
Telephone 01277 359659
Email complaints@swift.co.uk

Arcadia House, Warley Hill Business Park, Brentwood, Essex CM13 3BE