

# Court action: what to expect



## Fact Sheet 7

Cross Keys Homes will always try to resolve a case at the earliest opportunity without using court action. However, in some very serious circumstances or if the nuisance persists despite intervention, it may be necessary for Cross Keys Homes to pursue action through the court to either evict the tenant(s), demote the tenancy or seek an injunction.

### **I have been asked to give a witness statement – what happens next?**

Your witness statement is the way in which we are required to present your evidence to the court. Once you have given your witness statement to us the statement goes to:

- The tenant (defendant) action is being taken against so that they can see all of the allegations against them
- Solicitors acting for Cross Keys Homes
- The court, so that a Judge dealing with the case can see all of the evidence.

### **I gave my statement to support Cross Keys Homes in evicting the defendant. What will I have to do next?**

If Cross Keys Homes is asking the court to evict the tenant there is always a first hearing listed at the court.

At the first hearing the defendant says whether or not they accept the allegations made against them. If they do not accept that the allegations are true the Judge will order there to be a trial where evidence from both sides can be heard. Arrangements will be made for further statements to be exchanged by Cross Keys Homes and the defendant. The amount of time needed for a trial is also agreed.

At the trial, evidence from both sides will be heard. The Judge will normally want to hear from Cross Keys Homes (the claimant) first and then the defendant.

The defendant or their Barrister (if they have one) will be able to ask you questions about the evidence in your witness statement. Your statement will be in a folder containing all of the evidence, a 'bundle', which you will be referred to.

You will firstly be asked to swear on oath or affirm that you are telling the truth when you are giving your evidence.

You will then be asked questions by the defendant or their Barrister, and you may be asked questions by the Judge and the Barrister acting for Cross Keys Homes.

If it is proven that the defendant has behaved as alleged, the Judge will decide whether to evict the tenant, or whether to allow the tenant to remain in their property.

### **Why would the Judge allow the tenant to stay in the property if Cross Keys Homes prove that they have caused anti-social behaviour?**

If, as a result of the action taken there has been no further anti-social behaviour, sometimes the Judge will suspend the order that grants possession of the property to Cross Keys Homes. This means that if the tenant continues to behave they can remain in the property, but if they don't, Cross Keys Homes can apply for a bailiff to evict them.

The Judge may also impose other conditions on the tenant as well as those in the tenancy agreement.

For example, the Judge may say that the tenant must not play any music between 9pm and 7am each day.

We will tell you what the Judge has ordered so that you will know if the tenant is abiding by the order or not.

## **I gave my statement to support Cross Keys Homes in applying for an injunction against the defendant. What will I have to do next?**

### **Without notice injunctions**

In very serious circumstances where you have been physically harmed or are at serious risk, Cross Keys Homes will use your witness statement to apply for an injunction without the defendant knowing.

You will be required to attend court with Cross Keys Homes where the Judge will read all of the evidence and may ask you some questions.

They will then decide whether to make an injunction order against the defendant.

If any injunction order is made, the Judge will then set a date for another hearing. The defendant will be required to attend that hearing, but by which time they will be subject to the conditions of the injunction order.

At the next hearing, the defendant will say whether they accept or deny the allegations. The Judge will decide whether the injunction order is allowed to continue or whether there will need to be a trial for all of the evidence to be heard in detail, and a final decision made. The injunction will usually be able to run until at least the trial.

### **On notice injunctions**

In less serious cases the defendant will be informed that Cross Keys Homes are applying for an injunction against them. They will be able to attend the hearing. If they deny the allegations, the Judge will set some directions for exchange of further witness statements and a trial date where all of the evidence will be heard and a decision made. The Judge may make an interim injunction order at the first hearing to protect witnesses until there can be a trial for a final decision to be made.

The trial for an injunction hearing follows the same format as that for a possession hearing detailed above.

You will be given a copy of the injunction if an order is made. There may be some conditions in the order that have a 'power of arrest' attached to them. If these conditions are broken, you can contact the Police and they will arrest the defendant.

If any condition of the injunction is broken, the defendant could be sent to prison. This is decided at a court hearing which you may be asked to attend.

## **I have never been to court before, what else do I need to know?**

All hearings are usually at the County Court. Cross Keys Homes can arrange transport for you to the court.

Please let your neighbourhood manager know if you need this to be arranged.

When you attend court, there are security checks before you can enter the waiting areas and you will be directed by the security guard.

There are waiting areas and waiting rooms outside the court rooms. Usually we will direct you to a private waiting room where you will meet and talk to legal representatives for Cross Keys Homes. You will also be able to ask them any questions before we are called in for the case to be heard.

## **What do I call the Judge?**

Most cases issued by Cross Keys Homes are dealt with by a District Judge. You should call them 'Sir' or 'Madam'.

Sometimes cases can be dealt with a Circuit Judge, they are called 'Your Honour'.

We will make sure you know what to call the Judge before you enter the court room.

## **Where do I sit in the court room?**

First hearings are usually in 'chambers' which is a small room with rows of tables and chairs. You will be asked to sit at the back of the room.

Trials are usually in larger court rooms. You will be asked to sit at the back of the room until it is your turn to give evidence. You will then give your evidence by sitting or standing in the witness box at the front of the court room.

You are permitted to visit the court beforehand to familiarise yourself. Your neighbourhood manager can arrange and attend court with you to do this.

## Glossary

**Bundle:** A folder containing all the evidence presented to the court.

**Claimant:** The organisation issuing the case i.e. Cross Keys Homes.

**Defendant:** A person who has been accused of causing anti-social behaviour.

**On notice injunction:** An application for an injunction order which the defendant is informed about.

**Power of arrest:** The ability for the Police to arrest the Defendant.

**Trial:** A hearing where the Judge hears what has happened from the claimant and the defendant so they can make up their minds whether the claimant has proven their case.

**Without notice injunction:** An application for an injunction order which the defendant is not informed about.