



Housing Fact Sheet

This housing fact sheet will take you through some common errors made when creating a housing application to help you ensure that you get your applications right first time.

Recover possession - tenant - Enforcement - Housing
Recover possession - tenant - Housing
Recover possession - tenant- Appeal - Housing

Which proceeding should I select?

When creating a housing application it is important you select the correct proceeding, as each proceeding also includes Enforcement and Appeal.

Enforcement: If, for example, you are applying to commit the respondent or applying for a charging order on the respondents property for the failure to pay damages arising out of an unlawful eviction then use Harassment/wrongful eviction - Enforcement - Housing

Normal: If the claimant is seeking possession for arrears or has applied for a warrant of eviction which the client seeks to suspend then use Recover possession — tenant – Housing

Appeal: if the court has awarded possession to the claimant and you intend to appeal the decision to a higher court then use Recover possession — tenant - Appeal – Housing

An appeal to the County Court on a point of law under Section 204 of the Housing Act 1996

Incorrect Process:

Selecting the proceeding 'Homelessness – Housing Act 1996 - Appeal – Housing'

Correct Process:

Select the above proceeding **only** if the County Court appeal is unsuccessful and you want to appeal to a higher court.

You should be selecting 'Homelessness – Housing Act 1996 – Housing'.



Possession - In most cases for possession it will arrears, anti-social behaviour, succession

Incorrect Process:

Selecting 'Housing Act 1988 - Housing' proceeding

Correct Process:

Use 'Recover possession — tenant – Housing' even if the claimant has relied on grounds covered under the Housing Act 1985/1988.

If the claimant has issued on the basis the client is an unauthorised occupier then you can use 'Recover possession unauthorised occupier – Housing' but would still be covered if you use 'Recover possession — tenant – Housing'.

Injunctions under Part 1 Anti-Social Behaviour Crime and Policing Act 2014 (ASBCPA).

Since 23rd March 2015 this injunction replaces a number of orders – Anti Social Behaviour Injunctions under the Housing Act 96 and Anti-Social Behaviour Orders.

Incorrect Process:

Applying for 'Housing Act 1996 — antisocial behaviour – Housing' and 'ASBO – Housing' respectively– **this is incorrect and will result in your application being rejected to you.**

Correct Process:

You should be applying for funding under the **Residual category, choosing the Nuisance matter type** and selecting the proceeding 'To be represented on an application for a part 1 injunction under the Anti-Social Behaviour, Crime and Policing Act 2014'.

If you are NOT able to delegate functions, you should explain this within the merits assessment or statement of case and confirm your date of delegated functions.

You can apply under **the Crime Civil contract** if you have one and use delegated functions (the proceeding is the same).

If injunction and possession proceedings have been issued together only a housing provider can represent the client in both sets of proceedings on the same certificate. What you need to do is to submit an application under the Housing mater type, selecting 'Recover possession — tenant – Housing' and add an additional limitation for representation in the ASBCPA proceedings. If an injunction is issued afterwards then a housing certificate can be amended but it will have to be through the addition of an extra limitation.



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Any work in relation to **committal for any breach** (family or non-family) is no longer dealt with by civil Legal Aid and now **falls under criminal Legal Aid regulations**.

Only providers with a crime contract can undertake this work and must apply to the National Courts Team in Nottingham on a CRM14 form. If the provider only holds a civil legal aid contract they can apply for an individual case. Any application received will be withdrawn.

Avoid using any proceeding ending with 'Enforcement', unless that is actually what you want to apply for (e.g. apply for a charging order, order for sale, applying to commit the other side). If you do it restricts the limitations you will have access to.

We often see this in family cases where an application is being made to defend and enforce contact orders. The two proceedings often applied for are:

- Enforcement order- to be represented on an application for the amendment of an enforcement order under section 11J and Schedule A1 Children Act 1989.
- Enforcement order- to be represented on an application for an enforcement order under section 11J Children Act 1989.

Number one is the one you need to select (differentiated by a hyphen). If you select two you will only have access to inappropriate limitations in relation to enforcement.

We have training available in this area which includes a live online module, an interactive module which you can download at your convenience and quick guides.

Visit our training website to find out more <http://ccmstraining.justice.gov.uk/>