

TAKING A SMALL CLAIMS ACTION IN THE COUNTY COURT

ENFORCING THE JUDGMENT



Welcome to this guide

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Enforcing the judgment

If the other party has been ordered to pay you a sum of money, but doesn't pay, the court will not take any action unless you ask it to. This is called 'enforcing your judgment'. Unless you qualify for the remission of fees you will have to pay a fee for this, see [Enforcement fees](#)

Enforcement through the High Court is £60 and the various options in the County Court are £100.

If the person is bankrupt or a business is in compulsory liquidation you are not likely to get your money. You can check this by contacting the Insolvency Service on 0207637 1110 or via www.insolvency.gov.uk or Companies House www.companieshouse.gov.uk.

If the person has already been taken to court by others and has not paid then you may have little chance of getting your money. You can find out if this is the case by contacting the Registry Trust at www.trustonline.org.uk. You will have to pay a fee for each name that you are interested in.

If you have been awarded judgment in the Small Claims court of over £600 (including court costs) up to 6 years old, then you could consider using a High Court Enforcement Officer (HCEO) to enforce the judgment for you. Judgments can be transferred to the High Court for enforcement, often the HCEO will transfer it for you. The HCEO will often provide this transfer service free and will only ask you to pay the £60 court fee. If the HCEO is successful in obtaining the money owed this is all that you will have to pay. If they are unsuccessful many only charge you a further £60 admin fee. Before you instruct a HCEO, confirm with them the maximum you will be liable to pay.

[Using a High Court Enforcement Officer](#)

[Using the County Court to enforce your judgment](#)

Choosing a High Court Enforcement Officer (HCEO)

HCEOs are responsible for the enforcement of the Writs of Execution issued out of the High Court. A HCEO can help you to transfer the judgment to the High Court and obtain a Writ that the enforcement officer can execute. HCEO is a legal role, the officers working for companies but having to be authorised to do so under the law. All HCEOs have to be members of the High Court Enforcements Officers Association www.hceo.org.uk

- Look at the Directory of members on the Association website: www.hceo.org.uk. Each member is listed with their contact details.
- Feel free to phone any members and look at their websites - many quote their success rates in enforcing judgments.
- Make sure that the HCEO operates in the area where the warrant will be executed i.e. the Defendant's address/es.
- Ask how the HCEO operates e.g. will they send notices before an intended visit to a defendant (it is often more successful if the defendant does not know that they are coming); will they climb over perimeter walls and fences; do they use a portable chip and pin machine to take credit and debit card payments.

[A Writ of Execution](#)

[When can a Writ be Issued?](#)

[Transferring my County Court Judgment to the High Court for enforcement](#)

[Once the Writ has been issued](#)

[Goods that the HCEO can take](#)

[Goods that the HCEO cannot take](#)

[If the HCEO does not recover any money or take goods](#)

[If you are not satisfied with the service of the HCEO](#)



Writ of execution

The Writ allows the HCEO to seize goods to cover the amount of your claim plus their costs if the Defendant is not able to pay at the time of their visit. The HCEO cannot force entry into domestic premises but they can force entry into commercial premises and take legal control of the goods. It is therefore important that you provide as much accurate information as possible about the Defendant:

- Their whereabouts and contact details including telephone numbers and emails.
- Details as to the location of assets that you may know about, including shops, factories, warehouses and offices.



When can a Writ be issued?

A Writ can be issued immediately after the Court's Judgment or Order is made for recovery of money and/or costs. Unless any stipulations are attached to the judgment or order, there is no need to seek the County Court's permission to issue the Writ and no need to give prior notice to the judgment debtor that a Writ has been issued.

There may be occasions when immediate enforcement cannot be initiated – for example:

- if the Judgment or Order contains directions allowing payment within a specified time, the Writ cannot be issued within that specified time;
- if the Judgment or Order contains directions regarding service on the judgment debtor, then the Writ cannot be issued until service of the Judgment or Order has been effected and proof of service has been lodged with the Court;
- if the Judgment or Order is conditional, the Writ can only be issued once the judgment debtor has defaulted in complying with any such conditions.

If the judgment awarded is for £600 or less you cannot use a HCEO and will have to use the enforcement options available in the [County Court](#).



Transferring my County Court Judgment to the High Court for enforcement

If you decide to issue a Writ, there is a process in which you will need to seek a 'certificate of judgment' from the County Court that confirms the amount you are owed in your judgment. Many HCEOs will provide this service for you but if you want to do the paperwork yourself, you will need to request this certificate on Court Form N293a, which is a combined certificate of judgment to enforce the judgment by a Writ of 'Fi Fa' (Fi Fa is the name for a Writ of Execution in the High Court). You can get Form from Her Majesty's Court Service website <http://hmctscourtfinder.justice.gov.uk/courtfinder/forms/n293a-eng.pdf> or from any County Court office.

[If you want to prepare the paperwork yourself](#)

[If you want to use the HCEO's transfer up service](#)



If you want to prepare the paperwork yourself

If you want to prepare the paperwork yourself, when you get form N293a you must complete parts 1 and 3, and send these to the Court where the judgment was made. You must state:

- the date of judgment
- the amount the Order was made for, including any additional costs allowed by the Court since judgment
- the total of any interest that has accrued on the judgment and, if appropriate, the daily rate.

There are notes on both sides of the form, which you need to read to ensure you have completed the form correctly.

Once you have your sealed form N293a, you may then issue your Writ of Fi Fa (form 53 downloadable from the [HM Courts service website](#) which is sent to a District Registry of the High Court with the sealed N293a, Writ of Fi Fa and Court Fee, for sealing.

Once you have received the sealed Writ, the original sealed Writ should then be sent to your chosen High Court Enforcement Officer. If you want any advice on how to complete the paperwork you can speak to any High Court Enforcement Officer's office or ask the Court staff for assistance in the Court where the judgment was obtained.

When issuing a Writ, you will need to either name the Authorised High Court Enforcement Officer, or address it to the "Authorised High Court Enforcement Officers of England and Wales" (the Writ will then be assigned to a High Court Enforcement Officer).



If you want to use the HCEO's transfer-up service

If you want to take advantage of any transfer-up service offered by High Court Enforcement Officers, then just ring the HCEO's office and they will help you. Usually, all the HCEO will need is the form of judgment from the Court and they will convert this into a Writ for you.



Once the Writ has been issued

The HCEO named in the Writ will begin work on your behalf. You should ask him how long they intend to take to attend the address and report back to you.

If the Defendant sends you any payments after the Writ has been issued, you should inform the High Court Enforcement Officer immediately so that he or she can allow any appropriate credit and recover any balance due including any fees from the debtor.

By issuing the Writ, the HCEOs are able to seize and sell goods if the debtor does not pay the money owed to you. If you gave more than one address for the debtor, the HCEO will visit each address in turn.

If the Defendant fails to settle the amount due, and has goods that can be sold, the HCEO will remove and sell the goods and take the cost of taking, storing and selling the goods from the amount raised at auction.

The HCEO will send you the balance after any auction sale. If this amount does not repay the amount you are owed, the HCEO will visit the defendant again to see if there are any other goods that could be sold. If there are not, the HCEO will not be able to take any more action on the Writ, unless you are able to direct them to a further address where the judgment debtor may have goods.

HCEOs can only enter the Defendant's home if they are allowed in by the person there. If there is nobody there, the HCEO can enter if a door is left unlocked or through a window that is already open. High Court Enforcement Officers may be able to break into business premises if there is no living accommodation attached and they believe the Defendant's goods are inside.

HCEOs can also enter if he has previously been allowed in and is returning to the Defendant's house to recover goods to be sold. Nevertheless, in these circumstances, you may be asked to promise to pay the HCEO an amount (an 'indemnity') in case they cannot recover any costs later from the Defendant.



Goods that the HCEO can take

The High Court Enforcement Officer can only take goods that belong to the Defendant.

If the HCEO does take goods that belong to someone other than the defendant, then he can make an application to the court for a decision on whether the goods are owned by the Defendant. This is known as applying for “Interpleader” relief.

High Court Enforcement Officers can also apply to the Court for a decision on whether goods are necessary to meet the basic domestic needs of the Defendant and his or her family, or whether any goods taken constitute tools of the trade.

Any goods that the High Court Enforcement Officer takes will be in his or her expert opinion likely to raise money at auction.



Goods that the HCEO cannot take

The HCEO cannot take:

- goods that are necessary to satisfy the basic needs of the debtor or their family; or tools of the trade
- Items which are leased, rented or on hire purchase agreements (subject to certain conditions)
- Goods that may have already been seized by any other type of bailiff or enforcement officer;
- Equipment that does not belong to a business (for example, office furniture, machinery and vehicles which may be leased).

The Defendant can pay a fee to the Court and ask for the Writ to be “stayed” (stopped), or he can make an application to set judgment aside.

These applications are often made without notice to the HCEO, who often only becomes aware of them if told by the claimant or informed by the Court of any order made.

If you become aware of any application, please make sure that you notify your High Court Enforcement Officer as soon as possible.



If the High Court Enforcement Officer does not recover any money or take goods

The HCEO will report to you on whether he has been able to locate any goods and/or recover any money. If you have not been told anything 14 days after you issued the Writ, you should contact the HCEO's office and ask for an update.

If a Writ is unsuccessful, it is usually because

- The Defendant is not at the address you gave, or
- The Defendant's goods are not worth enough to pay anything towards the amount you are owed, and the cost of taking and selling them at auction will outweigh the likely sale proceeds.



If you are not satisfied with the service of the HCEO

The High Court Enforcement Officers Association has a complaints process that you can follow.

www.hceoa.org.uk



Using the County Court to enforce your judgment

If a court has decided that someone must pay you an amount of money (you have 'obtained judgment against the defendant'), and you have not received a payment, you can ask the court for any of the following:

[A warrant of execution](#)

[Attachment of earnings order](#)

[A third party debt order](#)

[A Charging Order](#)



A warrant of execution

A warrant of execution gives court bailiffs the authority to take goods from the defendant's home or business. Bailiffs will normally write to the Defendant first and allow them 7 days to pay the debt – unlike High Court Enforcement Officers who will normally visit the Defendant without giving them prior notice.

If you issued your claim using Money Claim Online you may issue a request for a warrant of execution online. Log on to www.moneyclaim.gov.uk for further information.

The bailiff will not take the defendant's goods if they are not worth enough to pay the warrant after the costs of taking and selling the goods - goods sold at auction often raise only a fraction of their original value.

Before the court can issue a warrant, the defendant must have failed to pay the amount he or she has been ordered to pay, or fallen behind with at least one of his or her payments.

You can ask the county court bailiff to try to get back an amount of between £50 and £5000. You cannot ask the county court to issue a warrant for more than this, but you can transfer your judgment to the High Court. You can then ask a [High Court Enforcement Officer](#) (HCEO) to enforce the judgments of £600 or more.

[Once the warrant has been issued](#)

[Goods that the Bailiff can take](#)

[Goods that the Bailiff cannot take](#)

[What the Defendant can do to stop the warrant](#)

[If the Bailiff does not recover any money or take goods](#)

[How long does the warrant last?](#)



Once the warrant has been issued

The bailiff will usually send the defendant a letter saying that a warrant has been issued and that he or she must pay within seven days. If the defendant pays, the court will send you the money. This could take up to 15 days if the defendant paid by cheque. This delay is necessary to make sure that the cheque has cleared.

If the defendant does not pay within seven days, the bailiff will call at the address you gave. The bailiff will go to the defendant's address within 15 working days of the warrant being issued. The bailiff will try to identify goods which they could sell at auction or collect a payment to prevent goods being sold.

If you gave more than one address, the bailiff will visit each address in turn.



Goods that the Bailiff can take

Bailiffs can only enter the defendant's home if they are allowed in by the person there. If there is nobody there, the bailiff can enter if a door is left unlocked or through a window that is already open. Bailiffs may be able to break into business premises if there is no living accommodation attached and they believe the defendant's goods are inside. They can also enter if the bailiff has previously been allowed in and is returning to the defendant's house to collect goods to be sold.

The bailiff can only take goods which belong to the defendant or are jointly owned. For example, the bailiff cannot take goods which belong to the defendant's partner. (Partner is someone the defendant lives with as if they were married.)

Any goods which the bailiff takes must be likely to fetch money at auction. Bailiffs will not remove goods if they think that they will not raise enough to pay something towards the warrant after the cost of removing and selling them at auction have been paid.



Goods that the Bailiff cannot take

Bailiffs cannot take:

- items which the defendant needs for his job or business, such as tradesman's tools or books
- essential household items which the defendant and his family need such as clothing or bedding
- items which are leased, rented or are on hire purchase agreements
- goods which may have already been seized by bailiffs acting under another warrant
- cars which are bought on hire purchase
- equipment which does not belong to a business e.g. office furniture, machinery and vehicles may be leased

There may be nothing belonging to a company at its registered office. If you can, give an address where the company is actually carrying on its business.



What the Defendant can do to stop the warrant

The defendant can pay a fee and ask for the warrant to be suspended (stopped).

The court will send you a copy of the defendant's application to suspend the warrant and form N246A (your reply to the defendant's application to suspend the warrant).

Form N246A tells you what to do if:

- you agree to the warrant being suspended and accept the defendant's offer of payment;
- you agree to the suspension but think that the defendant could pay more than he or she has offered; or
- you do not agree to the warrant being suspended.

If you agree to the suspension

If you do not agree to the warrant being suspended

If you do not agree with the court's decision on payment



If you agree to the suspension

If you agree to the suspension but not the defendant's offer, a court officer will look at the information given on the defendant's application and decide how much the defendant can afford to pay. The court will send an order to the defendant telling him or her how much to pay and when. You will be sent a copy.

If the warrant is suspended but the defendant does not pay as he or she said (or as ordered), you can use form N445 (request for reissuing warrant) to ask the court to issue the warrant again. This is called 'reissuing the warrant'. You can get form N445 online from hmctsformfinder.justice.gov.uk There is no fee for reissuing a warrant which has been suspended.



If you do not agree to the suspension

If you do not agree to the warrant being suspended, an appointment will be arranged and you and the defendant will be told when to go to court. You can write to the court saying why you object. But, if you do not go to the appointment, the district judge may make an order anyway.

If the warrant is suspended but the defendant does not pay as he or she said (or as ordered), you can use form N445 (request for reissuing warrant) to ask the court to issue the warrant again. This is called 'reissuing the warrant'. You can get form N445 online from hmctsformfinder.justice.gov.uk There is no fee for reissuing a warrant which has been suspended.



If you do not agree with the court's decision on payment

If you do not agree with the court's decision on payment you can ask for a district judge to decide what would be a fair rate for the defendant to pay. You need to write to the court saying why you object to the court officer's decision and give reasons.

You must send the form or your letter to the court within 16 days of the date of the postmark shown on the envelope in which the order came. An appointment will be arranged and you and the defendant will be told when to come to court. There is no fee for this appointment.

If the warrant is suspended but the defendant does not pay as he or she said (or as ordered), you can use form N445 (request for reissuing warrant) to ask the court to issue the warrant again. This is called 'reissuing the warrant'. You can get form N445 online from hmctsformfinder.justice.gov.uk There is no fee for reissuing a warrant which has been suspended.



If the Bailiff does not recover any money or take goods

If the Bailiff does not recover any money or take goods the court will tell you why the bailiff has not collected any money. If you have not been told anything one month after you issued the warrant, you should contact the court.

If a warrant is unsuccessful it is usually because:

- the defendant is not at the address you gave; or
- the defendant's goods are not worth enough to pay anything towards the amount you are owed and the cost of taking and selling them at auction.

If you are sure that the defendant lives at the address you gave or you have found another address, you can use form N445 to ask the court to reissue the warrant. But you will have to pay a fee (£30 at April 2013) in these circumstances.

If the warrant is being sent to the same address, you should give a description of the defendant if you can. You must also give the reason why you think the defendant is still there.

If you believe that the defendant does own something which could be worth selling, you can use form N445 to ask the court to reissue the warrant. Give details of the item or items in question. You will have to pay a fee for this.

Remember, the bailiff cannot take goods that do not belong to the defendant. Remember, that it is also up to you to provide new information. The court cannot trace the defendant for you.



How long does the warrant last?

The warrant lasts for one year.

If the warrant has not been paid or if the bailiff has not made a final report within this time, it is no longer valid. You can ask the court to 'extend the warrant's life'. You will have to pay a fee for asking the court to do this. You should try to do this before the year is up. You can also do this after the year is over, but you will have to give reasons why you did not do so sooner.

If the court does not agree, and you still want to use this form of enforcement, you will have to ask for a new warrant. You will have to pay another fee.



Attachment of earnings order

An attachment of earnings order is sent to the defendant's employer. It tells the employer to take an amount from the defendant's earnings each pay day and send it to a collection office. The money is then sent to you.

An order **cannot** be made if the defendant is unemployed or self-employed; a firm or a limited company; in the army, navy or air force; or a merchant seaman (there are special arrangements for getting money from someone in the armed forces or a merchant seaman, Court staff will be able to give you more information).

The court may not be able to make an order, or may only make an order to pay it back in small instalments, if the defendant's living expenses are greater than what is earned.

Before you can ask the court to issue an attachment of earnings order the defendant must be behind with at least one payment and the amount he or she still owes you must be £50 or more.

If you are not sure whether the defendant is employed, you can apply for any of the following:

[An Order to obtain information](#)

[A Search of the Attachment of earnings index](#)



Order to Obtain Information

An order to obtain information is not a method of enforcing your judgment. It is a way of finding out about the defendant's income, assets and spending. This information can help you decide whether the defendant can pay you and which method is most likely to get you your money.

You will have to pay a [fee](#) for an order to obtain information. Although the court will add the fee to the money the defendant already owes you, the court cannot return what you have paid if your enforcement method does not succeed.

If you use this procedure, the judgment debtor will be ordered to come to the court to be questioned (as set out in form EX140 Record of examination), on oath, by a court officer. The sort of information you will receive from the questioning includes:

- employment status
- if appropriate, details of employer and wages or salary
- details of dependants and outgoings paid from income
- details of any additional income
- details of any property owned (house, car, caravan, etc.), which may have a saleable value
- details of any bank or building society accounts and the balances in them.

[Applying for an order to obtain information](#)

[Order to attend for questioning](#)

[Issuing the judgment debtor with the order to attend for questioning](#)

[Judgment debtor does not attend for questioning](#)

[Questioning of the judgment debtor](#)

[Suspended committal order](#)



Applying for an order to obtain information

You can make an application for an order at any time after you have obtained judgment. The judgment debtor does not have to be behind with payments.

If the judgment debtor is an individual, you must complete Form N316 (Application for an order that the judgment debtor attends court for questioning). You can get the form from hmctsformfinder.justice.gov.uk. You must make the application to the court where your claim is proceeding.

If the judgment debtor is a company, you can ask that one of the officers of that company is questioned about the company's affairs, for example, a Director. You can find out who the officers of a company are, and their addresses, by searching the Companies Register at Companies House. You can get an application form for a search and details of the fee payable by ringing 0303 1234 500. Once you have the information you should complete form N316A.

If your claim is a designated money claim (a claim for money only) issued in the name of Northampton County Court, you must make your application to the court which covers the defendant's home area. You can find this at hmctscourtfinder.justice.gov.uk

The court for the defendant's home area will arrange for the claim to be transferred to it so that it can process your application.

[Completing form N316](#)



Completing form N316A

To complete form N316 (or form N316A) you will need to know:

- the name and address of the judgment debtor
- details of the judgment you have against the judgment debtor
- whether there are any particular questions you want put to the judgment debtor
- whether there are any particular documents you want the judgment debtor to bring to court to provide information, or support the information being sought.

The notes on form N316 (Application that the judgment debtor attends court for questioning) or form N316A will tell you the documents a judgment debtor will normally be asked to bring to the examination. You must decide whether there are any other matters that could be verified by a document that is not already listed. The questions that the court officer will normally ask are set out in form EX140 (or EX141) (Record of examination). Decide whether you would like the court officer to ask any others. But remember, questions and documents, must be directly related to the judgment debtor's or the relevant company's ability to pay.



Order to attend for questioning

The court will draw up an order in Form N39 (Order to attend for questioning), using the information you have given in your application. The order will:

- give a time, date and place for the judgment debtor to attend to be questioned
- give an explanation that the judgment debtor must attend and must answer, on oath, the questions asked by the court officer
- tell the judgment debtor to ask you to provide sufficient money to cover any travel expenses to and from the court if it is needed, and that this request must be made to you within seven days of receipt of the order to attend
- tell the judgment debtor, if he wishes to pay the amount due, that payment should be made direct to you.

The order also contains a warning to the judgment debtor that failure to do what the order says may result in imprisonment.

If you receive payment in full before the questioning takes place, you must let the court know immediately. Make sure you tell the court where the questioning is taking place. You should not worry if you are not approached for travelling expenses.

The questioning will take place at the court for the area where the judgment debtor resides or carries on business. It is important that you note the correct court when making your application. Any documents you need to file relating to the questioning must be filed at that court.

There is no need for you to attend unless you particularly wish to. A court officer will put the questions in form EX140 Record of examination (or form EX141 where an officer of a company is being questioned), together with any additional questions you requested. The court officer will record the answers on whichever form is appropriate. After the questioning has taken place, you will be sent a copy of the completed form. The form will also tell you what documents the judgment debtor produced to support the information given.



Issuing the judgment debtor with the order to attend for questioning

A copy of the order must be handed to the judgment debtor personally (called 'personal service') - you, or someone on your behalf, must hand the order to attend for questioning to the judgment debtor personally. You can pay for a county court bailiff to serve the order on the judgment debtor on your behalf – see the link to fees under 'Order to Obtain information'

The order **must not** be left with someone else at the judgment debtor's address, or posted through the letterbox.

The order to attend for questioning must be served **no less than 14 days** before the questioning is due to take place.

If you are responsible for serving the order to attend and you have not been able to serve the order in time, you should return both copies of the order to the court where the questioning is due to take place. You should explain that you have not been able to serve the order in time, and ask for another date to be set. You must do this no later than **seven** days before the date set for the questioning. The court will set a new date and return the two copies of the order to you for further attempts at service.

If the county court bailiff is responsible for service of the order, but is unable to serve it on the judgment debtor in time, the court will let you know. A new date will be given and the papers will be returned to the bailiff. The court will tell you what the new date for the questioning is.



The judgment debtor does not attend to be questioned

If the judgment debtor does not attend to be questioned, or comes, but refuses to take an oath or answer questions, a judge can decide to commit the judgment debtor to prison.

The judge may not commit them to prison unless:

- there is proof that you, or someone on your behalf, has served a copy of the order on the judgment debtor personally
- there is evidence about whether or not the judgment debtor has asked you for sufficient travelling expenses for the journey to and from the court, and
- there is confirmation that the money you are owed, or any part of it, has not been paid.

You must provide a sworn statement (an affidavit- form EX550 available from the County Court) saying:

- If you were responsible for serving the order, how and when the judgment debtor was served. (If someone served the order on your behalf, that person must swear their own affidavit dealing with the service).
- Whether or not the judgment debtor has approached you to ask for travelling expenses, and if so, how much money was given. Don't worry if the judgment debtor does not ask for travelling expenses - simply say in your affidavit that you have not been asked for any.
- Either that all the money that was owing when you issued your application remains unpaid, or give details of the balance owing if you have received any payments from the judgment debtor in the meantime.

A copy of the order served must be attached (exhibited) to the affidavit.

The judgment debtor must ask for travelling expenses within seven days of being served with the order to attend for questioning which means that you cannot swear your affidavit until after that time but note that it must be filed at the court where the questioning is to take place not less than two days before the date of the questioning.

You can have your affidavit sworn at any county court - a court officer will do this free of charge. The court officer will ask you to sign your affidavit and will then ask you to swear that the affidavit contents are true. You can also go to a solicitor or commissioner for oaths, but they will make a charge for swearing your affidavit.



Questioning of the judgment debtor

At the questioning the judgment debtor will be asked to swear an oath, or affirm, before the questioning begins. A court officer will explain the purpose of the oath and the questioning, and will then ask the judgment debtor all the questions that are relevant in the form EX140 (or EX141), and any additional questions you suggested. The court officer will write the answers to the questions on the appropriate form. At the end of the questioning the judgment debtor will be asked to sign it to say that it reflects the answers given. The court officer will also note what documents the judgment debtor brought to confirm the information given. After the questioning, you will be sent a copy of the Record of examination.

If the judgment debtor does not attend, or attends, but refuses to take an oath or answer questions the court officer will note these things on a certificate. The certificate will be passed to a circuit judge together with the affidavit(s) dealing with service, travelling expenses and the outstanding balance. If the judge is satisfied, from the documentation, that the judgment debtor has not complied with the order to attend for questioning, the judge will order the issue of a suspended committal order. The order will be in form N79A (suspended committal order).



Suspended committal order

This is an order for the judgment debtor's committal to prison. It will not take effect immediately, the committal to prison is suspended if the judgment debtor attends a new date to be questioned, takes the oath and answers questions. This order has to be served personally. This is because it can lead to imprisonment and the court has to be certain that the judgment debtor received the order.

If you are responsible for service, the court will send you two copies of form N79A. It must be served not less than 14 days before the questioning is due to take place. You must file your affidavit of service not less than two days before the date of the questioning. You do not, however, on this occasion have to be concerned about travelling expenses. The judgment debtor, has already been given the opportunity to ask for these, and may have already asked for them or failed to do so.

If a county court bailiff served the form N39 on your behalf, then a bailiff will also serve the form N79A for you. As with the form N39, if you, or the county court bailiff, are unable to serve the form on the judgment debtor, then the court will have to set a new date for the questions. You will be told of the new date if the bailiff is serving. You must let the court know no less than seven days before the date of the questioning if you have not been able to serve the suspended committal order.

If the judgment debtor fails to attend on the date in the suspended committal order a warrant of arrest will be issued and passed to a county court bailiff. The warrant gives the bailiff the authority to arrest the judgment debtor. Once the judgment debtor has been arrested, the bailiff will take the judgment debtor before a judge at court. If the judgment debtor agrees to be questioned by an officer of the court there and then, the judge will normally discharge the suspended committal order. If the judgment debtor refuses to be questioned, or fails to comply with the order to attend for questioning in any other way, a warrant of committal will normally be issued immediately. A warrant of committal authorises the bailiff to take the judgment debtor to prison for the time specified in the suspended committal order.



Searching the Attachment of earnings Index

Ask the court in the defendant's home area to search the attachment of earnings index – see below. This index is a list of all the attachment of earnings orders against people living in that area. (This includes orders made by magistrates' courts.) There is no fee for this.

The court will use this index to check whether the defendant has any other attachment of earnings orders against him or her. If the defendant has another attachment of earnings order against him or her already, you can ask the court to join (or 'consolidate') your debt with those he or she already owes. You can get an attachment of earnings order in this way without having to pay a fee.

To ask for a search of the index you can either:

- fill in the top part of form N336 ('request for and result of a search in the attachment of earnings index') which you can get free from any county court office, or online from hmctsformfinder.justice.gov.uk ; or
- write a letter asking for the information. You must include the name and address of the defendant, your claim number and the date of your judgment. The court will either fill in the lower part of the Form N336 and send it to you, or write to you to tell you the result of the search.

Ask for an attachment
of earnings order

Once an Order
is made

If the defendant becomes
unemployed after an
order has been made

If the defendant already
has an attachment of
earnings order



Ask for an attachment of earnings order

You will need form N337 ('request for an attachment of earnings order'). You can get this form online from hmctsformfinder.justice.gov.uk/about.

The court will tell the defendant to either:

- pay all the money owed; or
- fill in a form giving information about his or her employment, income and outgoings ('statement of means'). If the defendant does not send back the form a bailiff will serve an order telling the defendant to fill in a statement of means. If the defendant still does not return the form but the judge thinks the defendant knew about the attachment of earnings application, the judge may issue a warrant to arrest the defendant. The bailiff will arrest the defendant and may bring him or her to court to fill in a statement of means. If after six to eight weeks you have not heard anything from the court, you should ring the office where you sent your form to see what has happened.

A court officer will look at the information given on the defendant's statement of means and decide how much the defendant can afford to pay. The officer will take into account how much the defendant needs to live on for food, rent or mortgage and essentials and to pay regular bills, such as electricity. This is called the 'protected earnings rate'. If the defendant earns more than the protected earnings rate, an order will be made.

If the defendant is on a low wage, it may not be possible to make an attachment of earnings order.



Once an Order is made

The order will be sent to the defendant's employer saying how much to take and when to take it. It will be sent by the Centralised Attachment of Earnings Payment System (CAPS) in Northampton, who will be responsible for collecting payments. You will be sent a copy of the order. The defendant can ask for the order to be suspended if he or she does not want the court to contact his or her employer. If the court agrees, they will tell the defendant to make regular payments direct to you. If the defendant has a suspended order and does not pay, or pays and then stops, you can use form N446 'request for reissue of post-judgment process (other than warrant)' to ask the court to send the order to the employer. There is no fee for this and you can get the form free from any county court office, or online from hmctsformfinder.justice.gov.uk

You do not have to accept the court officer's decision. You can ask for a district judge to decide what would be a fair way for the defendant to pay the money. To do this you need to fill out form N244 which you can get from any county court office or from hmctsformfinder.justice.gov.uk. You may have to pay a fee. You must say why you object to the court officer's decision.

You must send the form to the court within 16 days of the date of the postmark shown on the envelope which the attachment of earnings order came in. The court will make an appointment and you will be told when to come to court. If you do not go to this appointment, the district judge may make an order without you being there.

After the order is made, CAPS will send you any money they receive from the employer, each week or month, depending on how the defendant is paid and when the employer takes the money from the defendant's earnings. CAPS will make sure the employer makes payments. If CAPS do not receive payments, they will find out why from the employer. The most common reasons for not receiving payments are that the defendant has left or changed jobs or the defendant is not earning enough for the payments to be made.

If the employer does not reply, CAPS will ask the court that made the order to take action against the employer. You will be told if this happens.



If the defendant becomes unemployed after an order has been made

If the defendant becomes unemployed after an order has been made the order will stop ('lapse').

If you think that the defendant has found new work, you can use form N446 (request for reissue) to ask the court to send the attachment of earnings order to the new employer. There is no fee for this and you can get the form free from any county court office, or online from hmctsformfinder.justice.gov.uk.



If the defendant already has an attachment of earnings order

If the defendant already has an attachment of earnings against him or her, your order may be joined with it to make a 'consolidated order'. Anyone involved in an attachment of earnings order (including the defendant's employer) can ask for a consolidated order. The court can also decide to do this. If you do want to do this, you must write to the court. Say that the defendant is behind with his or her payments and show the amount that is owed to you. A consolidated order means that the employer will take one amount from the defendant's wages to cover all the orders. Payments will be held at the court until the court has received a certain percentage of the total debt (usually 10 per cent). The court then divides this up according to the size of each debt between you and the other people who are owed money. They will then send you your share of this money. This is called 'declaring a dividend'.

If a consolidated order is made, it usually means that you receive a smaller amount of money less often than you would under an ordinary attachment of earnings order.

If the court is asked to make a consolidated order it will let you know. If you object to a consolidated order being made, you must send a letter to the court within 16 days of the date of the postmark shown on the envelope which the notice came in. The court will make an appointment and you will be told when to come to court. If you do not go the district judge may make an order without you being there.



A third party debt order

A third party debt order is usually made to stop the defendant taking money out of his or her bank or building society account. The money you are owed is paid to you from the account. A third party debt order can also be sent to anyone who owes the defendant money.

If the defendant has a bank or building society account, the bank or building society will freeze the account when it receives the order from the court. If the account is overdrawn on the day the bank or building society receives your order, you cannot be paid from the account. The defendant will know about the order and may stop paying money into the account.

The organisation or person that is holding the money is referred to as the 'third party'. A third party debt order will prevent the defendant having access to the money until the court makes a decision about whether or not the money should be paid to you.

The money held by the third party must be held solely for the debtor. You cannot, for example, apply for a third party debt order against a joint bank account unless the judgment debt is owed by all the account holders.

You can make an application for an order at any time after you have obtained judgment. The judge who considers your application will not make an order unless the judgment debtor:

- has failed to pay the amount of the judgment when it was due, or
- has failed to pay one or more of the instalments due under the terms of the judgment.

[When to make an application](#)

[How to make an application](#)

[Interim Third Party Debt Order](#)

[Final Third Party Order](#)

[Hardship Payment Order](#)



When to make an application

You should carefully consider when to make your application. The court order which is initially sent to the third party will only 'freeze' money held in an account on the day it is received by (served on) the third party. So if, for example, the order is received a couple of days before the debtor's salary is paid into the account, you are likely to receive little or nothing. This is because the 'freeze' will not be applied to any money paid into the account after the court's order was received.



How to make an application for a Third Party Debt Order

To apply for a third party debt order complete form N349 (Application for a third party debt order). You can obtain a copy of the form from www.hmctsformfinder.justice.gov.uk. If your claim is a designated money claim (a claim only for money) issued in the name of Northampton County Court, you must make your application to the court which covers the defendant's home area. You can find this online at www.hmctscourtfinder.justice.gov.uk

You will need to state:

- the judgment debtor's name and address
- the total amount of the judgment, the amount still owing including any costs and interest, and, if the judgment was payable by instalments, what the total amount of the instalments that are in arrears is.
- the name and address of the third party; the address must be in England or Wales.
- If the third party is a bank or building society you must give its name and the address of its Head Office. If you know them, you should also give the name of the branch where the account is held, the branch address, the bank's sort code, if appropriate, and the debtor's account number.
- whether or not you know if there is anyone else who has an interest in the same money (with details if there is).
- whether or not you have made any other applications for third party debt orders in respect of the same judgment.



Interim Third Party Debt Order

Court staff will issue your application and refer it to a judge. If the judge is satisfied with the information you have provided, the judge will make an interim third party debt order. The order will be in Form N84. A copy will be sent to you and the third party by first class post. A copy is not sent to the judgment debtor until seven days after it has been sent to the third party. This is to ensure that the third party 'freezes' the money before the debtor becomes aware of the order.

The order will include a hearing date at which the judge will decide whether or not the money that has been frozen should be paid to you. You must attend that hearing, otherwise the judge may dismiss your application.

If you want the order to reach the recipient on a certain date you have the option to serve it yourself. You must file the form N215 certificate of service not less than two days before the hearing or produce a certificate of service at the hearing.

[If the Third Party is not a bank or building society](#)

[If the Third Party is a bank or building society](#)



If the Third Party is not a bank or building society

If the third party is not a bank or a building society, within seven days of being served with the interim order, the third party must let you and the court know if:

- the third party claims not to owe the judgment debtor any money, or
- the third party claims to owe the judgment debtor less than the amount being claimed in the interim order.

If the third party claims not to owe money to the judgment debtor and you wish to dispute this, you must file your written evidence with the court not less than three days before the hearing. You must at the same time send a copy to the third party and to the judgment debtor. Your evidence should be in the form of a witness statement. Court staff will be able to tell you the wording you must use to verify what you have written in your statement.



If the Third Party is a bank or building society

If the third party is a bank or building society, within seven days of being served with the interim order, the bank or building society must carry out a search to identify all accounts held in the sole name of the judgment debtor. For each account identified they must tell you and the court:

- the account number
- if the account is in credit; and, if it is,
- whether the balance of the account(s) is sufficient to cover the amount being claimed in the interim order; and
- if it is not sufficient the balance in the account at the time it was served with the interim order; and
- whether the bank or building society is entitled to retain some of the credit balance to offset debit balances or other amounts.

The bank or building society may make a charge for making the search. The charge will be deducted from out of any money standing to the credit of the judgment debtor.



Final Third Party Order

If the judgment debtor or the third party objects to your application for a final third party order they must file their written evidence setting out their objections not less than three days before the hearing is due to take place. They must send copies to you and to each other. If they have raised objections, the judge will expect them to attend the hearing. You should note that both the third party, and the judgment debtor may apply to the court for the hearing to take place at a court nearer to their home, or place of business. If an application is made, the court will let you know.

At the hearing the judge will consider your application and any other evidence you, the third party, or the judgment debtor has filed. If the judge is satisfied that a final order should be made, an order will be drawn in Form N85 (Final third party debt order). If there is sufficient money, the final order will allow the third party to pay to you the judgment debt and costs and your costs of making the application. If the final order is for a lesser amount, the costs of making the application will be paid first and part of the judgment debt will remain outstanding.

A copy of the order will be sent to you, the third party and the judgment debtor.

The third party will be told how much to pay you and the date by which it is to be paid. Remember that the court cannot order the third party to pay you an amount that is more than the amount originally frozen. If this is less than you are owed, then you may want to consider other enforcement procedures to recover the balance.



Hardship Payment Order

Where the judgment debtor is an individual (not a firm, company or corporation) and the third party is a bank or building society, the judgment debtor can make an application for a hardship payment order to be made. This is an order made by a judge which tells the third party to release some of the money frozen as a result of the interim third party debt order to the judgment debtor or some other named person. The order will be in Form N37 (Hardship payment order).

The judge will only make this kind of order if the judgment debtor is able to prove that the judgment debtor and the judgment debtor's family, is not able to meet day to day living expenses as a result of money being frozen.

The judgment debtor can make an application at any court. It does not have to be the court where you made your application for a third party debt order. If an application is made, a judge will decide how and when you are to be told about it. For example, the court may try to telephone you, or send you an email, since, from the judgment debtor's point of view, the situation will be urgent. A hardship payment order may allow the release of a single amount of money, but could allow the release of specific sums over a period of weeks until the hearing.



Charging Order

A charging order prevents the defendant from selling their assets (such as property, land or investments) without paying what is owed to you.

You will not get your money until the defendant sells their assets. In some circumstances you may be able to ask the court for an order to force them to sell their assets.

The court places a 'charge' on the judgment debtor's property, such as a house or a piece of land. The charge will be the amount you are owed. The charging order will not normally get you your money immediately, but it may safeguard your money for the future.

If the judgment debtor owns stocks or shares or has a fund or money in court, the court can also put a charge on these in much the same way as on property.

A charge on a property means that if the property is sold, the charge usually has to be paid first before any of the proceeds of the sale can be given to the judgment debtor.

[Limitations of a Charging Order](#)

[Applying for a Charging Order](#)

[Interim Charging Order](#)

[Charging Order – the hearing](#)



Limitations of a Charging Order

- It does not compel the judgment debtor to sell the property.
- If there are already charges on the property when your charge is registered, e.g. a mortgage, then those charges will be paid first.
- If there is no equity in the property i.e. the mortgage owing is the same as or more than the value of the property, you will not receive any money when the property is sold.



Applying for a Charging Order

To apply for a charging order you must complete Form N379. You can get a copy online from www.hmctsformfinder.justice.gov.uk

To complete the application you will need:

- details of the judgment i.e. when it was made, at what court and under what claim number
- the full name and address of the judgment debtor
- the amount of the judgment, including any costs and interest
- the amount owing at the time of your application, again including any interest, and the total amount of any instalments, if any, which have not been paid
- the address of the property or land on which you want to impose a charge
- information as to whether the judgment debtor owns the property solely or jointly with someone else, and evidence to prove it
- details of any other creditors you know the judgment debtor has, that is, their names and addresses and the nature of their debt
- details of any other person who has an interest in the property
- details of any additional reasons, apart from the fact you are owed the money, you want the court to take into account when deciding whether or not to grant your application

The application contains a statement of truth. You will have to sign it to confirm that the facts stated in it are true. Remember that proceedings for contempt can be brought against you if you sign the statement without an honest belief in its truth.

Some, but not all, land or property may be registered at HM Land Registry. If there is a registration you should obtain a copy of the entry and attach it to your application. Information about the procedures and fees charged by the Land Registry can be obtained by ringing their General Enquiry Line Tel. 020 7917 8888 or visiting their website at www.landregistry.gov.uk

If your claim is a designated money claim (a claim only for money) issued in the name of Northampton County Court, you must make your application to the court which covers the defendant's home area. Court staff will issue your application and refer it to a judge. If the judge is satisfied with the information you have provided, the judge will make an interim charging order. The order will be drawn on Form N86 (Interim charging order). A copy will be sent to you and the judgment debtor.

The order will include the date and time of a hearing at which the judge will decide whether or not to make a final charging order. You must attend that hearing, otherwise the judge may dismiss your application.



Interim Charging Order

When you receive the interim charging order, to make sure the charge is effective immediately, you must register it. You can obtain information about how to do this by ringing the Land Registry's General Enquiry Line. Court staff cannot give advice on this procedure, nor undertake registration for you.

If the judgment debtor (or anyone else who has been served with the interim charging order), wishes to object to the making of a final order that person must file written evidence and serve a copy on you not less than seven days before the hearing.



Charging Order – the hearing

You should note that the judgment debtor can make an application for the hearing to take place at another court nearer to his home or place of business.

At the hearing the judge will consider your application and any evidence the judgment debtor or any other person served with your application has filed. If objections have been raised, the judge can deal with them there and then, or give directions for a hearing later on. Directions tell you what you must do to prepare for that hearing. If the judge feels that the objections are justified, your application may be dismissed. If that happens you may not be able to recover the fee you paid to issue the application, and you may have to pay the costs of the party who raised the objections.

If your application is successful, any fees you paid are usually recoverable from the judgment debtor by being added to the judgment. An order will be drawn on Form N87 (Final charging order). You and any other party will be sent a copy.

After the hearing you should contact the Land Registry who must be made aware of the making of a final charging order. You must also contact them if your application is dismissed to make sure that the interim charging order is removed from the register.



Enforcement Fees

High Court Writ of execution	£60
Order to obtain information (this does not enforce the judgment but it can provide you with information to help you decide if a County Court enforcement method is suitable)	£50
Order to obtain information – request for bailiff service	£100
Warrant of execution	£100
Warrant of execution – further attempt at new address	£30
Attachment of Earnings order	£100 per defendant
Attachment of Earnings order – Consolidated attachment of earnings order	A fee of 10p for every £1, or part £1, of money paid into court, is deducted from the money before it is paid out to the creditors under the order.
Charging Order	£100 for each order
Third Party Debt Order	£100 for each third party

 [Back to Enforcing the Judgement](#)

 [Back to **An order to obtain information**](#)