

I have a judgment but the defendant hasn't paid - What can I do?

How can I get my money after 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, this leaflet may help you decide what to do next.

The court will not enforce the judgment unless you ask it to.

You can try and get your money (called 'enforcing your judgment') by asking the court for any of the following:

- a warrant of execution;
- an attachment of earnings order;
- a third party debt order; or
- a charging order.

This leaflet provides short descriptions of each of these methods of enforcement.

If the amount you are owed is more than £750, you can also apply to make the defendant bankrupt. However, this can be expensive. You can get information about bankruptcy procedures from staff at a county court which deals with bankruptcy.

Remember, the court cannot guarantee you will get your money back, and a fee is payable for any action you take. Although the court will add the fee to the money the defendant already owes, the court cannot return what you have paid if you do not get your money from the Defendant, or if the court refuses your application.

However, your financial situation may mean that you do not have to pay a fee. The combined booklet and application form **EX160A - Court Fees - do I have to pay them?** provides further information on this.

Court staff can provide you with a copy of the EX160A. It is also available on-line at our website www.hmcourts-service.gov.uk You will have to make a separate application for each fee that you would otherwise have to pay.

Before you decide how to continue you should consider whether:

- you are likely to get your money and court fee from the defendant;
- the defendant owes other people money or has other court judgments;
- the defendant owns any goods or assets which can be taken and sold at auction;
- the defendant is working;
- the defendant has other earnings, such as income from investments;
- the defendant has a bank, building society or other account;
- the defendant owns property (a house); or
- anyone else owes the defendant money.

How do I find out if the defendant has any other judgments?

You can search the Register of Judgments, Orders and Fines to see if the defendant has any outstanding or previous judgments or fines. Judgments are retained on the register for six years, fines for five years. A request to search must be made to the Registrar.

You will have to pay a fee for each name you want to search for.

You can contact the Registrar, or apply for a search on-line at www.registry-trust.org.uk or by writing to: Registry Trust Ltd, 173 - 175 Cleveland Street, London, W1T 6QR - Telephone 020 7380 0133

Warrant of execution

A **warrant of execution** gives court bailiffs the authority to take goods from the defendant's home or business. Bailiffs will try to either:

- collect the money you are owed; or
- take goods to sell at auction.

You cannot ask the county court to issue a warrant if the amount you want the bailiff to collect is more than £5,000, unless you are enforcing an agreement made under the Consumer Credit Act 1974. (This is because regulated agreements can only be enforced in the county court.) But you can ask an Enforcement Officer (through the High Court) to try to collect the money you are owed or to remove goods.

High Court procedure is different from county courts and can be complicated and more expensive. You may want to get advice from a solicitor, law centre or Citizens Advice Bureau before you start this procedure. Some county courts are also district registries of the High Court. Staff there or at the High Court in London can tell you more about High Court enforcement.

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.

Bailiffs cannot always remove and sell the defendant's goods. For example, they cannot remove essential household items and tradesman's tools or goods subject to hire purchase or rental agreements.

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. The defendant's goods may also already have been seized by bailiffs acting under another warrant.

For more information about a warrant, read the leaflet called '**EX322 - How do I ask for a warrant of execution?**' which is available from any county court office, or from our website www.hmcourts-service.gov.uk

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.

The defendant must be employed by someone before you can issue an attachment of earnings order. An order cannot be made if the defendant is unemployed or self-employed. Also, 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.

For more information about an attachment of earnings order, read the leaflet called '**EX323 - How do I ask for an attachment of earnings order?**' which is available from any county court office, or from our website at www.hmcourts-service.gov.uk

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.

For more information about a third party debt order, read the leaflet called '**EX325 - Third party debt and charging orders - how do I ask for an order?**' which is available from any county court office, or from our website www.hmcourts-service.gov.uk

Charging order

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

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

The leaflet called '**EX325 - Third party debt and charging orders - How do I apply for an order?**' explains more about this procedure.

It is available from any county court office, or from our website
www.hmcourts-service.gov.uk

A third party debt order or a charging order can be complicated. You should get advice from a solicitor or your local Citizens Advice Bureau.

Which procedure should I choose?

As you can see, each way of enforcing your judgment is aimed at a different aspect of the defendant's assets. That is:

- goods owned (warrant of execution);
- wages or salary (attachment of earnings order);
- savings (third party debt order); or
- assets (charging order).

Choose the one which is most likely to get you your money. For example, if the defendant is unemployed or self-employed, you would be wasting your time and money asking for an attachment of earnings order. But if the defendant has money in a bank account, a third party debt order might be suitable.

What can I do if I have no information about the defendant's finances?

If the defendant admitted the claim and made an offer to pay before the judgment was made, you will already know something about the defendant's finances. But if you only know a little about the defendant's financial situation, you may be able to find out more by asking for an '**EX324 - Order to obtain information from a judgment debtor**'.

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.

For more information about an order to obtain information, ask for the leaflet called '**EX324 - Orders to obtain information - How do I apply for an order?**' It is available from any county court office, or from our website www.hmcourts-service.gov.uk

You can get more information about all these procedures from the staff at any county court, or from our website www.hmcourts-service.gov.uk. However, the court staff will not be able to tell you which method of enforcement to choose. It is up to you to decide which one is the most likely to get you your money. You may be able to get free legal advice from a law centre. A Citizens Advice Bureau or consumer advice centre may also be able to help.

Remember, this leaflet can only give you a general idea of what is likely to happen. It cannot explain everything about court rules and procedures.

For free legal information, help and advice contact Community Legal Service Direct on 0845 345 4 345 or www.clsdirect.org.uk