

REPLYING TO A COUNTY COURT CLAIM FORM

WHAT IF MY CREDITOR TAKES COURT ACTION?

If court action is taken, you will not usually have to go to a court hearing. Most of the procedure is done through the post.

You will receive a "claim form" from the court. This will come through the post and tell you how much the creditor says you owe.

The claim form will usually include details of the debt known as the "particulars of claim" but the creditor can send this separately within 14 days.

IF YOU AGREE YOU OWE THE DEBT

There will be a reply form with the claim form for you to make your offer of repayment. This is called the "admission form". There are instructions included on how to fill in the form. It looks quite like a personal budget sheet and asks for similar information on income and essential outgoings. See the self-help guide for information on completing a personal budget form.

There is a section you can fill in to include the payments you make on your priority debts. This is section 8 on the form. You also have space to include any other court judgments you may have. This is section 9 on the form. You can list all your credit debts as well. This is section 10 on the form.

It is important to make an offer of payment on the form. This is section 11 on the form. If you leave it blank the court will decide you have not made an offer. They will tell you to pay the whole debt at once "forthwith", or order you to

pay the monthly payments the creditor asks for. If you don't pay what the court has ordered the creditor can enforce the county court judgment (CCJ) in a variety of ways.

It is very important that you fill in the form and send it back to the creditor (called the "claimant") at the "address for service" not the court. This might be a solicitor's address rather than the actual creditor.

There is a time limit of 16 days from the date of the postmark to send back the form. It is a good idea to send the form recorded delivery and keep a copy. If you don't send it back the court will give judgment against you and order you to pay the whole debt in one lump sum immediately or "forthwith".

JOINT DEBTS

If your debt is in joint names your creditor may send out separate claim forms to you and the other person who is liable for the debt. You will both need to fill in separate reply forms and make sure you put an offer of payment in the OFFER OF PAYMENT box on each form. If you have worked out offers of payment to creditors put half of the offer on each reply form and enclose a full personal budget sheet and list of creditors. Explain what you have done in section 11 on each form.

REPLYING TO A COUNTY COURT CLAIM FORM cont'd

WHAT HAPPENS NEXT?

If a creditor accept your offer you will receive a county court judgment from the court, telling you to pay in monthly instalments. You should send your payments to the creditor not the court. Keep a record of what you have paid and when.

If the creditor does not accept your offer the court will decide what you should pay each month.

If you cannot afford what the court has decided you should pay, you can apply to the court to look at your offer again. This is called a "redetermination". There is no fee for doing this. You must do this within 14 days of getting the order. You can do this by simply writing a letter to the county court. Quote your case number. Attach your personal budget sheet and explain why you disagree with the order the court has made.

If there is a hearing, the case will automatically be transferred to your local county court so you can attend. The court will give you a hearing date. You must go to the hearing which should be in the district judge's rooms (in private). Take a copy of your personal budget sheet.

If a district judge made the first order on how much you should pay at a hearing you cannot apply for a "redetermination" but must apply for the monthly payments to be reduced or "varied". See factsheet FT11 – What if I cannot afford to pay a county court judgment?

IF YOU DISAGREE WITH WHAT THE CREDITOR SAYS YOU OWE

If you don't agree with the amount of the debt they say you owe then you must either:

Fill in the defence form. In this case send the form back to the court within 16 days.

Or

Fill in the "acknowledgement of service" form and tick the box to say you wish to defend all of the claim. Send the form back to the court within 16 days This gives you another 14 days after that to complete your defence form and return it to the court.

If you agree you owe only part of the debt, then you have to fill in both the admission form and the defence form and send them to the court.

Putting in a defence can be complicated. You must have good reasons for a defence and we recommend getting further advice.

FURTHER INFORMATION IS PROVIDED WITH THE CLAIM FORMS

ENFORCEMENT OF COUNTY COURT JUDGMENTS

It is important to realise that the creditor cannot enforce the judgment against you if you are up to date with the payments ordered by the court.

If you do not pay what has been ordered by the court on your judgment then the creditor can attempt to enforce payment through the court in the ways listed on the next page.

REPLYING TO A COUNTY COURT CLAIM FORM cont'd

Information Order

Before using enforcement action a creditor may ask you to complete forms and go to court for an interview about your income, outgoings and any assets you have, such as your house. This is called an "information order". This can happen at any time and not just when you miss a payment. The interview consists of a set of standard questions and you may be asked to bring things like you pay slips and credit agreements to the interview. It is very important that you go to the interview or tell the court if you cannot go. The court can actually send you to prison for not co-operating with the process.

Attachment of Earnings

The creditor can apply for an attachment of earnings order. This means that the court can order your employer to deduct an amount from your wages every month to pay back your debt. The creditor has to make an application to the court and you will be sent a form to fill in and return to the court outlining your income and outgoings. The court then sets the amount that will be taken from your wages. You can ask the court to suspend an attachment of earnings order if your job will be affected but you will need to offer alternative payments.

Charging Order

This is a way in which the creditor can ask the court to put a charge on your home which basically "secures" the debt, so it must be paid off when the house is sold. Some creditors will ask the court to make a judgment for you to pay the debt back immediately or "forthwith" so that they can ask for a charging order to be made as soon as you don't pay. It is becoming more common for the court to agree this even where you have made an offer to pay in instalments by replying to the county

court claim. If this happens to you contact us for advice. Alternatively you can ask to pay in instalments by putting in a county court form called an N245 application. This form is also used to suspend a warrant of execution (bailiffs).

A charging order application is a two stage process and there must be a hearing in front of a district judge before it is made final. Having a final charging order does not mean you will lose your home. A further application has to be made asking the court to order a sale of your home. It is very rare for the court to agree to allow your home to be sold.

Bailiffs

The creditor can ask the county court bailiffs to call at your home with the aim of taking your goods. It is very important to know that bailiffs do not have the right to come into your home unless you have let them in before. Do not let them in. It is usually straightforward to get a bailiffs warrant suspended using a county court form called an N245. See our factsheet FT11 – What if I cannot afford to pay a county court judgment? and factsheet FT05 - Bailiffs & Credit Debts.

Third Party Debt Order

This is a way in which your creditor can instruct someone who owes you money to pay the creditor instead. The most likely way a third party debt order would be used is where your creditor finds out you have savings in the bank and wants your bank to pay your savings to the creditor. This is very unlikely unless you have savings or valuable assets. If your creditor is threatening to use this procedure phone us for advice.