

WHAT IF I CAN'T AFFORD TO PAY A COUNTY COURT JUDGEMENT?

If you can't afford to pay a judgment or the amounts ordered by a court, you can apply to the county court to ask them to change (or 'vary') the order. In other words, you ask for your payment to be reduced.

To do this, ask your local county court to send you an 'application for suspension of a warrant/variation of an order' form, (form N245). Fill this in using the figures on your financial statement, make an offer that you can afford and send the form and a copy of your personal budget form to the county court that made the order. You will have to pay a fee for this but it is an essential way of bringing your finances under control and stopping further enforcement action. Some people are exempt from this fee (see below).

If you get Income Support, income-based Jobseeker's Allowance or certain other means tested benefits, you can apply for exemption from this fee by filling in an 'application for fee exemption or remission' form. This is form EX160 (which you can also get from your local county court). You must supply the correct proof of income. Please refer to leaflet EX160A "court fees - do I have to pay them?" for more information.

If you do not get any of these benefits you can use the same form to apply for the fee to be reduced or cancelled (known as 'remission') because of financial hardship. You will need to provide figures from your financial statement on the form to support your application. The fee will be reduced or cancelled if your application is accepted.

You will receive confirmation from the court of whether the offer has been accepted, what they have ordered you to pay, and when you will need to make a payment each month.

The court forms and information leaflets are also available online at:
www.hmcourts-service.gov.uk

Important

If you have received a 'warrant of execution' (bailiff action), you will also need to ask for this to be 'suspended' by ticking the appropriate box on the same N245 form.

ENFORCEMENT OF COUNTY COURT JUDGEMENTS

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.

This factsheet is only an overview. Do not rely on it as a complete statement of law.

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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 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.