

# Enforcement

Once you have your judgement, the Court does not take its own action to collect the money for you. There are various applications you can instruct us to make to get the money from the debtor. The crucial issue again will be what information you have about the debtor and their financial affairs. We will charge you for the enforcement work at our hourly rates and we will discuss with you whether it is cost effective to proceed.

## Information order

This is an application requiring the debtor to attend Court to answer a detailed questionnaire about their finances. This is dealt with by a Court officer and we can add specific questions to the standard questionnaire and that will help decide which enforcement option to go for.

## Bailiffs warrant

This is an application for the bailiffs to go to the debtors premises and seize goods to the value of the judgement. Those goods are sold at auction and you get the balance after deduction of the auction costs. There is a list of items that the bailiffs cannot seize and that list includes such things as tools of the debtors trade, clothing, bedding and furniture. The bailiffs can only seize goods that belong to the debtor, so that excludes items on hire purchase etc

## Instalment payments

This is where the debtor is ordered to pay the debt off in set instalments, usually monthly. As long as the debtor maintains the payments you cannot take other steps to get the money more quickly.

## Charging order

Where the debtor is the freehold owner of land or premises (residential or commercial) you can make an application for an Order that charges the premises with the amount on your judgement. This is very much like a mortgage on the premises except that you will not necessarily be paid a monthly sum. This is often used in conjunction with the instalment payment. If the debtor stops making the payments you have the balance secured on the property. If the debtor sells the property having not yet paid off the debt, the balance has to be paid from the net sale proceeds.

## Order for sale

This is where you have a Charging Order and the debtor is either not paying the debt by instalments or has defaulted on the instalment payment ordered by the Court. If the debtor is not taking any steps to sell the property to pay you in full, you can ask the Court for an Order that is be sold. Whether the Court gives you the Order depends very much on the amount owed and the nature of the property. Small sums will not be recoverable using this enforcement method and if the property is the home of the debtor and family, the Court will regard this as a "last resort" option.

## Attachment of earnings order

This is where your debtor is in PAYE employment and you apply to the Court to make an order requiring the employer to pay part of the debtors wages to the Court, which they will then send to you. There is a "protected" level beyond which the wages actually paid to the debtor cannot fall. It is your responsibility to find out who the is and if the debtor changes jobs the Order will not automatically transfer to the new employer. You will have to provide the Court with the new employer's details and make a fresh application.

## Third party debt orders

This is available if you know the debtor has money in an account or is due to be paid money by a third party (not an employer). You can ask the Court for an Order requiring the Third Party to release the money to you to settle the judgement. If the money is in an account, you have to provide the account details, including bank account number and the Order applies to the money in the account at the time the Third Party receives the Order.

## Bankruptcy

Bankruptcy (for individuals) or Winding Up (for Companies) Petition - This is used as a last resort when the debtor is insolvent. Please refer to Insolvency.

If you would like further advice on this subject, or any other Dispute Resolution matter please contact Herrington Carmichael LLP's Dispute Resolution team on 01276 686222 or 0118 977 4045 or email [drteam@herrington-carmichael.com](mailto:drteam@herrington-carmichael.com)



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