

I cannot pay my judgment - what do I do?

What should I do?

This leaflet explains what you can do if you cannot pay the judgment or if the claimant (the person who took you to court) asks the court to take steps to make you pay. This is known as 'enforcing the judgment'.



You may want to talk to a solicitor or a local advice agency if you are not sure about the case against you. You may qualify for assistance from the Community Legal Service Fund (CLSF) (this used to be called Legal Aid) to meet some or all of your legal costs. Ask about the CLSF at any county court office or any information or help point which displays the Community Service logo.

What happens if I cannot pay the judgment?

If you have been ordered to pay the whole judgment in one amount ('in full') or you have been ordered to pay by instalments which you cannot afford, you can ask the court to vary the order and reduce the instalments. This is called a varied order.

Use Form N245 to ask for a varied order. You can get this free from any county court office, or from the our website www.hmcourts-service.gov.uk Fill in all the details about your income and spending. Remember to write in the amount you can afford to pay. You will have to pay a fee to apply for a varied order. Court staff can tell you how much you will have to pay, or you can get information from the County Court Fees leaflet (available from any county court or from our website www.hmcourts-service.gov.uk). Keep a copy and send the form and fee to the court. The court will send the form to the claimant, who will decide whether to accept your offer of payment.

In certain circumstances, for example if you are receiving certain social security benefits, you may be able to claim exemption from paying a fee. If you have a very low income, you may be entitled to have part of the fee remitted (waived). A leaflet **EX160 - Court fees - do I have to pay them?** - (available from any court office or from our website www.hmcourts-service.gov.uk) tells you more about exemption, remission and the form you need if you qualify for either.

If the claimant accepts your offer, the court will make an order for the instalments you said you could pay.

If the claimant does not accept your offer, the court will look at the information you gave and decide how much you should pay. The court will tell you how much to pay and when.

If you still do not think you can afford to pay, you can ask the court to 'reconsider' the order. Write to the court within **16** days of the postmark on the varied order. Give your reasons why you don't think you can pay the amount the court has ordered you to pay.

The court will arrange a private hearing for you and the claimant to discuss your payments with the district judge. If judgment was not made in your local court, the case will automatically be transferred there before the hearing is arranged. You will be told when to come to court. You should go to this hearing.

Once the court has made an order for instalments you can afford, you must keep up with your payments. The leaflet - '**EX20 - Paying my judgment - what do I do?**' tells you how to pay. You can get this leaflet free from any county court or from the website www.hmcourts-service.gov.uk

Remember, if at any time you cannot pay, you can use this procedure to ask the court to make a new varied order.

What if I cannot afford to pay anything towards the judgment?

If you suddenly have no income and you can't pay anything towards the judgment, you can ask the court for permission to pay nothing for the moment. This is called a 'stay of judgment or execution'. Fill in Form N244 (application form) to ask for a stay of judgment, giving your reasons. You can get this form free from any county court office or from the website www.hmcourts-service.gov.uk You will have to pay a fee to apply for a stay of judgment or execution.

Court staff can tell you how much you will have to pay, or you can get information from the County Court Fees leaflet. Keep a copy and send the form and fee to the court.

The court will arrange a private hearing for you and the claimant to discuss your application with the district judge.

What will happen if I do nothing?

If you do not pay anything once you have received the judgment, or you do not keep up with the payments, the claimant can ask the court to enforce the judgment. The claimant will have to pay a fee for this and this will probably be added to the amount you owe.

If you do nothing now, you may have to pay more later.

The claimant can try to get the money you owe in several ways. The most common ways are:

- a warrant of execution; or
- an attachment of earnings order.

What is a warrant of execution?

A warrant of execution gives a county court bailiff the power to visit your home or business to

- collect the money you owe; or
- see whether you have goods to the value of the money you owe.

If you cannot pay, the bailiff will look at your belongings and decide whether you own anything which could be sold at auction to pay the debt.

If the claimant asks for a warrant of execution, you will usually be sent a letter saying that if you pay the amount of the warrant to the court within seven days, the bailiff will not come to your home or business. If you do not pay, the bailiff will come to your home or business to collect payment or take goods to sell at auction.

If you can arrange a way to pay the warrant, the bailiff will not usually take any belongings straightaway. The bailiff will still have to come to your home or business.

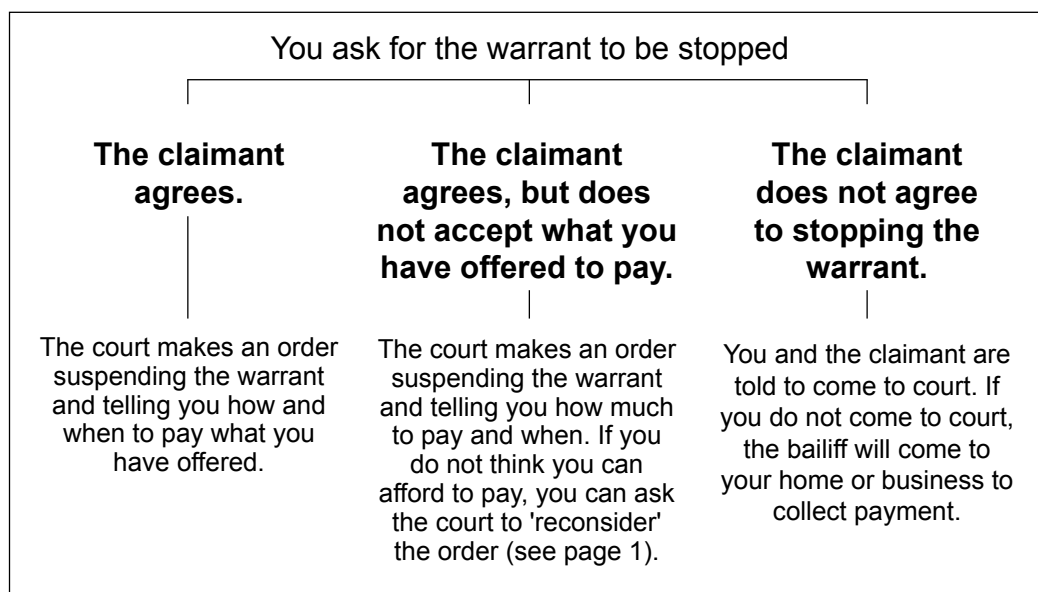
Paying by instalments

If you can pay the warrant in two or three weeks, the bailiff may not take your goods.

But if you need more time to pay, you may need to ask for the warrant to be **suspended** (stopped) and for an instalment order to be made. If you already have an instalment order which you have not been able to pay, you can ask the court to reduce the amount of the instalments.

Fill in Form N245 to ask for an instalment order. The procedure for asking for an instalment order is the same as we have explained on page 1 to ask for a varied order. You will also have to pay a fee. This diagram shows you what might happen to your request.

If the warrant is suspended but you still do not pay as you said you would, the claimant can ask the court to 'reissue' the warrant. This means that the bailiff will visit you again and may take your belongings to sell at auction to pay the debt.



What is an attachment of earnings order (AEO)?

An AEO is sent to your employer. It tells your employer to take money from your wages each pay day and send it to the court. The court then sends the money to the claimant. If the claimant asks for an AEO, you must:

- pay all the money you owe straightaway; or
- fill in a statement of means form giving information about your employment, income and spending.

Tell the court if you are:

- unemployed;
- self-employed;
- in the armed forces; or
- a merchant seaman.

The court cannot make an AEO against you if you are one of the above. You may need to provide proof, such as your unemployment benefit number or your service number. If you pay the amount you owe straightaway, the court will not send an order to your employer.

You must fill in the statement of means and send it to the court immediately. If you do not, the court can send you to prison and may also contact your employer to find out how much you earn.

A court officer will look at the information you have given on your statement and decide whether to make an AEO. The court officer will also decide how much you can afford to pay each week or each month.

The officer will take into account how much you need to live on and to pay regular bills. This is called the 'protected earnings rate'. If you earn more than the protected earnings rate, the court will make an AEO.

The court will send the order to your employer saying how much to take out of your wages and when to take it. The court will send you a copy of the order. Your employer may take an extra £1 each time he or she takes money from your wages to cover his or her expenses.

If you do not want the court to send an AEO to your employer, you can use the statement of means to ask the court to suspend the order. You must still fill in the statement of means and you must say why you want the court to suspend the order. If the court agrees, the court will tell you to pay a certain amount each week, or each month, direct to the claimant. The claimant's address is on the order.

Remember, if you do not keep up with these payments, the court will send the order to your employer.

What if I already have other attachment of earnings orders?

If you already have a county court AEO, you can ask the court to 'consolidate' (join) the orders. A consolidated AEO means that your employer will make one payment from your wages to cover all the orders and can only take £1 per deduction towards expenses.

You can ask for a consolidated AEO by writing to your local court. Remember to give the case numbers of all the AEOs you want consolidated and, if the orders are not in your local court, the names of the courts. You cannot include an attachment order made to collect maintenance for a partner or for children. You do not have to pay a fee to ask for a consolidation attachment of earnings order. But you will have to pay a fee for the court to look after the order for you. This will be added to the money you already owe. You do not have to pay the whole fee in one go.

What other types of enforcement can the claimant use?

The claimant may also ask for a 'third party debt order' or a 'charging order'. These terms are explained in the chart on page 7.

When the claimant applies for a third party debt order or a charging order, the court will arrange a hearing. If you don't want the court to make the order, you must go to the hearing to give your reasons. You may ask the court to transfer the case to your local county court for hearing if it is not taking place there.

Can the claimant take any other action against me?

If the claimant is not sure which type of enforcement to use, an order to obtain information from you might help. This is a way of finding out about your income and spending to help decide what to do next. The claimant can apply for an order to obtain information at any time, even if you are not behind with your payments.

The court will tell you when to come for the hearing. You will need to bring any documents about your finances, such as:

- pay slips;
- bank statements;
- rent books or mortgage repayments;
- court orders on which you still owe money;
- hire-purchase or other hiring agreements;
- building society, post office or trustee savings books;
- bills which you owe; and
- any bills which are owed to you.

<p>You must go to the hearing. If you don't go you can be arrested and sent to prison for up to two years.</p>
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What will happen at the hearing?

The hearing is held in private. First you will be asked to promise to tell the truth ('swear an oath' or 'affirm'). A court officer will then ask you questions about your financial situation. The claimant may also go to the hearing to ask you questions.

Because you are 'under oath' you must give truthful answers to all the questions you are asked. If you can, back up what you say with written evidence. You may be sent to prison if you do not tell the truth about your finances.

What if I already have other judgments or debts to pay?

If you have other judgments or debts to pay and find it difficult to organise your payments, you can ask the court for an 'administration order'. **To get an administration order, you must have at least one judgment and your total debts must not be more than £5000.**

If the court allows you to have an administration order you can pay **all your debts** (including those where there is not a judgment against you) by making one payment to the court each week or each month. While you are paying an administration order, the people you owe money to (your creditors) can't take any further action against you to get their money without asking the court first. Also you will not have to pay any interest.

You will have to pay a fee for an administration order, but this will be added to the money you already owe. You do not have to pay the whole fee in one go.

When the court makes an administration order, it enters the order on the Register of County Court Judgments. This will make it difficult for you to get credit until you have paid all your debts.

You can get more information about an administration order from any county court office or your local advice centre. Ask for form N270 (notes for guidance - completing an application for an administration order).

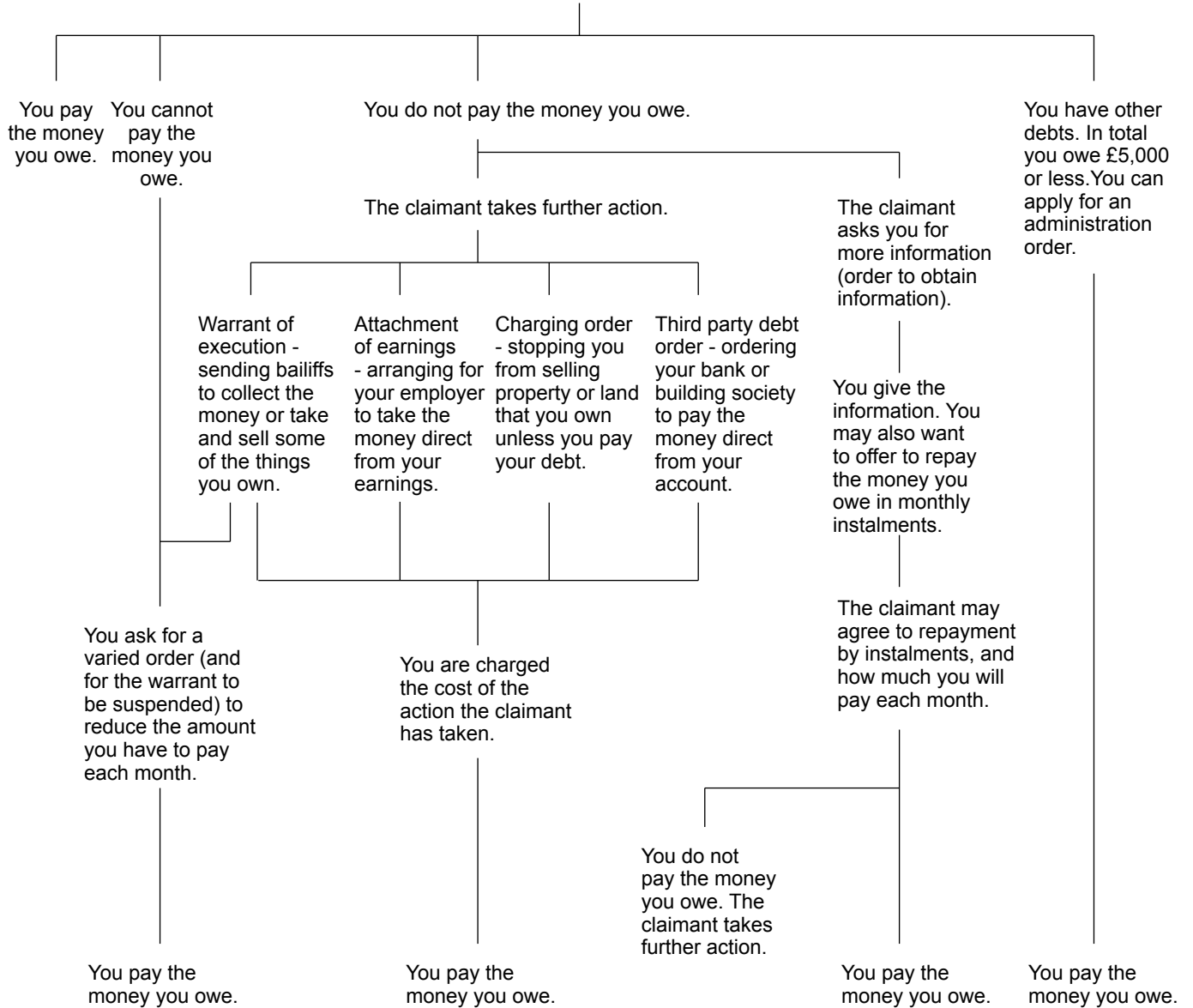
If the court makes an administration order, you must keep up with the payments or the order may be cancelled ('revoked'). Ask the court what to do if you can't pay.

Remember:

- If you have a county court judgment against you, you must **do something**, even if you cannot afford the amount you have been told to pay.
- **If you do nothing**, the claimant will probably take more steps to make you pay. **This will cost you more money, time and inconvenience.**

You owe money to a person or company (the claimant). The claimant goes to court because you have not paid.

The court makes a judgment ordering you to pay the money. The diagram shows what you or the claimant can choose to do.



If the claimant takes further action against you or if there is a hearing, you may have to pay further costs.

These will be added to the amount you owe.