

## Warrant of execution - How do I ask for a warrant of execution?

### What should I do?

Read the leaflet called - '**EX321 - I have a judgment but the defendant hasn't paid - What can I do?**', which is available from any county court office or from our website at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) This will help you decide whether asking for a warrant is the best course of action for you to take.

A warrant of execution will only help if the defendant has:

- enough goods at the address you give which could be sold at auction to raise money for you; or
- all the money you are claiming for on the warrant (to stop goods being sold).

Before the court can issue a warrant, the defendant must have:

- failed to pay the amount he or she has been ordered to pay; or
- fallen behind with at least one of his or her payments.

This is called 'being in arrears'.

### How much can I issue a warrant for?

You can ask the county court bailiff to try to get back any amount up to £5,000. (This does not apply if you are enforcing an agreement regulated under the Consumer Credit Act 1974. These agreements can only be enforced in county courts.) You cannot ask the county court to issue a warrant for more than this, but you can transfer your judgment to the High Court. You can then ask an Enforcement Officer to enforce the judgment.

If the amount you are owed is £600 or less, you cannot ask the Enforcement Officer to try and get back your money.

But if the amount you are owed is between £600 and £5,000 (unless you are enforcing an agreement regulated by the Consumer Credit Act) you have the choice of issuing a warrant in a county court or in the High Court. However, court staff cannot tell you which of the two options is more likely to get your money. You must make the decision. You may be able to get free advice from a law centre.

A Citizens Advice Bureau or consumer advice centre can also help you decide.

**Remember, bailiffs and the Enforcement Officer cannot take action if the defendant has no goods to sell.**

If you decide to issue a warrant in the High Court, you will need a 'certificate of judgment'. This has details of your case and says how much you are owed. To request this you need form N293A, a 'combined certificate of judgment to enforce the judgment by a writ of fi fa' (fi fa is the name for a warrant in the High Court). You can get form N293A from any county court office, or from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) When you get form N293A, you must complete part 1, and send it to the court where the judgment was made. If you do not complete it fully, the court may have to return it to you. You must state:

- the date of judgment and the amount the order was made for, including any additional costs allowed by the court since judgment; and
- the total of any interest that has accrued on the judgment, and if appropriate, the daily rate.

Please read the notes on both sides of the form.

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.

Before you decide how to go ahead, you need to consider whether you are likely to get back the money owed and the court fee from the defendant. Remember, no court can guarantee that you will get your money back.

## **What will I need to issue a warrant in the county court?**

If you want to issue a warrant in the county court, you will need form N323 (request to issue a warrant of execution). You can get this form free of charge from any county court office, or from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) You will find information about how to fill in this form on pages 12-14.

If you started your claim using Money Claim Online you can submit a request for a warrant of execution online. Log on to [www.moneyclaim.gov.uk](http://www.moneyclaim.gov.uk) for further information.

## **How much will it cost?**

The fee you have to pay will depend on the amount you want to get from the defendant. This can be:

- the whole amount you are owed; or
- part of the amount you are owed.

The smallest amount you can ask the bailiff to collect is:

- one monthly instalment;
- four weekly instalments; or
- £50;

whichever is greater.

The staff at any county court will be able to tell you how much you will have to pay. You can get more information from court staff or the County Court Fees leaflet, which is available from any county court office, or from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) The court will add the fee to the amount the defendant already owes. **But they cannot refund the fee if the warrant is not successful.**

**Remember**, if you cannot afford the fee, you may not have to pay it in full. Further information is available from court staff, or in the leaflet called 'Court Fees - do you have to pay them', which is available from any county court office, or from our website [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

## How can I pay the fee?

You may pay the fee in cash, by postal order or cheque. Make your cheque out to HMCS. For your own safety, do not send cash through the post.

If you are using Money Claim Online to issue your request for a warrant of execution, you will be asked to pay the fee by credit card or debit card.

Please note that credit cards and debit cards can only be accepted online. If you wish to make a payment at a county court office, credit and debit cards are **not** accepted.

## What do I do with the form?

Take or send the filled-in form and fee to the court where the judgment was entered (made). If the claim has been transferred since judgment, you should take or send it to that court. The court will issue the warrant within five to 10 working days of receiving your form and fee.

If you want confirmation that the warrant has been issued, and to know the warrant number, you should also send the court a stamped, addressed envelope.

If the defendant sends you any payments after you have sent the form to the court, you must tell the court immediately.

## What does the court do?

If the defendant does not live within the court's area, the court will send the warrant to his or her local court.

The bailiff will usually send the defendant a letter saying that a warrant has been issued and that he or she must pay within seven days.

If the defendant pays, the court will send you the money. This could take up to 15 days if the defendant paid by cheque. (This is necessary to make sure that the cheque has cleared.)

If the defendant does not pay within seven days, the bailiff will call at the address you gave. The bailiff will go to the defendant's address within 15 working days of the warrant being issued. The bailiff will try to identify goods which they could sell at auction or collect a payment to prevent goods being sold.

If you gave more than one address, the bailiff will visit each address in turn.

If the defendant has goods which can be sold, the bailiff will take the cost of taking, storing and selling the goods from the amount they raise. The court will send you the rest after this has been done.

If this amount does not repay the amount you are owed, the bailiff will visit the defendant to see if there are any other goods which could be sold. If there are not, the bailiff will not be able to take any more action on the warrant.

## Can the bailiff break into the defendant's property?

Bailiffs can only enter the defendant's home if they are allowed in by the person there. If there is nobody there, the bailiff can enter if a door is left unlocked or through a window that is already open. Bailiffs may be able to break into business premises if there is no living accommodation attached and they believe the defendant's goods are inside. They can also enter if the bailiff has previously been allowed in and is returning to the defendant's house to collect goods to be sold.

## What goods can the bailiff take?

The bailiff can only take goods which belong to the defendant or are jointly owned. For example, the bailiff cannot take goods which belong to the defendant's partner. (Partner is someone the defendant lives with as if they were married.)

Any goods which the bailiff takes must be likely to fetch money at auction. Bailiffs will not remove goods if they think that they will not fetch enough to pay something towards the warrant after the cost of removing and selling them at auction have been paid.

Bailiffs cannot take:

- items which the defendant needs for his job or business, such as tradesman's tools or books;
- essential household items which the defendant and his family need such as clothing or bedding;
- items which are leased, rented or are on hire purchase agreements; or
- goods which may have already been seized by bailiffs acting under another warrant.

**Remember**, the bailiff will not usually take items such as second-hand furniture or electrical items if they are not likely to fetch very much at auction.

Bailiffs also cannot take:

- cars which are bought on hire purchase; or
- equipment which does not belong to a business.

(For example, office furniture, machinery and vehicles may be leased.)

There may be nothing belonging to a company at its registered office. If you can, give an address where the company is actually carrying on its business.

## Can the defendant do anything to stop the warrant?

Yes, the defendant can pay a fee and ask for the warrant to be suspended (stopped).

The court will send you a copy of the defendant's application to suspend the warrant and form N246A (your reply to the defendant's application to suspend the warrant).

Form N246A tells you what to do if:

- you agree to the warrant being suspended and accept the defendant's offer of payment;
- you agree to the suspension but think that the defendant could pay more than he or she has offered; or
- you do not agree to the warrant being suspended.

If you agree to the suspension but not the defendant's offer, a court officer will look at the information given on the defendant's application and decide how much the defendant can afford to pay. The court will send an order to the defendant telling him or her how much to pay and when. You will be sent a copy.

If you do not agree to the warrant being suspended, an appointment will be arranged and you and the defendant will be told when to come to court. You can write to the court saying why you object. But, if you do not go to the appointment, the district judge may make an order anyway.

## Do I have to accept the court officer's decision?

No, you can ask for a district judge to decide what would be a fair rate for the defendant to pay.

To do this, you need to write to the court saying why you object to the court officer's decision and give reasons.

You must send the form or your letter to the court **within 16 days** of the date of the postmark shown on the envelope in which the order came. An appointment will be arranged and you and the defendant will be told when to come to court. There is no fee for this appointment.

If you do not go to this appointment, the district judge may make an order anyway.

If the warrant is suspended but the defendant does not pay as he or she said (or as ordered), you can use form N445 (request for reissuing warrant) to ask the court to issue the warrant again. This is called 'reissuing the warrant'. You can get form N445 free of charge from any county court office. There is no fee for reissuing a warrant which has been suspended.

## What if the bailiff does not collect any money or take goods?

The court will tell you why the bailiff has not collected any money. If you have not been told anything one month after you issued the warrant, you should contact the court.

If a warrant is unsuccessful it is usually because:

- the defendant is not at the address you gave; or
- the defendant's goods are not worth enough to pay anything towards the amount you are owed and the cost of taking and selling them at auction.

If you are sure that the defendant lives at the address you gave or you have found another address, you can use form N445 to ask the court to reissue the warrant. But you will have to pay a fee in these circumstances.

If the warrant is being sent to the same address, you should give a description of the defendant if you can. You must also give the reason why you think the defendant is still there.

If you believe that the defendant does own something which could be worth selling, you can use form N445 to ask the court to reissue the warrant. Give details of the item or items in question. You will have to pay a fee for this.

**Remember**, the bailiff cannot take goods that do not belong to the defendant. Remember, that it is also up to you to provide new information. The court cannot trace the defendant for you.

## How long does the warrant last?

The warrant lasts for **one year**.

If the warrant has not been paid or if the bailiff has not made a final report within this time, it is no longer valid. You can ask the court to 'extend the warrant's life'. You will have to pay a fee for asking the court to do this. You should try to do this before the year is up. You can also do this after the year is over, but you will have to give reasons why you did not do so sooner.

If the court does not agree, and you still want to use this form of enforcement, you will have to ask for a new warrant. You will have to pay another fee.

## Can I speak to the court about my warrant?

Yes, make sure you have the defendant's name and address handy before you phone. If the warrant has been sent to the defendant's local court, contact the staff at that office. The court which issued the warrant will give you the name and phone number of the defendant's local court if you do not already have it.

Before contacting the court, you should have the following details to hand:

- the defendant's name and address;
- the warrant number (if you know it); and
- the claim number.

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

## Filling in the warrant request form

Write in black ink using BLOCK CAPITALS.

Give your full name and address.

Give the address you want the bailiff to visit. It does not have to be the same address you gave on the claim form.

Try to give as much information as possible.

Give the total amount of the money still owed to you, including the fees paid for the claim form and any other type of enforcement.

Do not include the fee for this application.

You can ask the bailiff to collect:

- the whole amount owed; or
- part of the amount owed:
- one monthly instalment;
- four weekly instalments; or
- £50

whichever is the biggest amount.

Add the fee for the warrant to the amount of the warrant (the figure at B).

You must give your claim number so that the court can find your file. The court will not be able to deal with your application without it.

You must sign this part of the form to say that the defendant has not paid as he or she was told to.

Write down anything you know about the defendant that might help the bailiff. For example, details of any goods which you know belong to the defendant, or a different business address.

If you think the bailiff may find it difficult to carry out the warrant, you should say so here and say why. The bailiff may find it helpful if you can describe the defendant or give times when you think he or she will be at home.

### Request for Warrant of Execution

to be completed and signed by the claimant or his solicitor and sent to the court with the appropriate fee

<p><b>1 Claimant's name and address</b></p> <p>PETER REED 52 MELCHESTER ROAD BARCHESTER BC2 4PW</p>	<p><b>In the</b> BARCHESTER <b>County Court</b></p> <p><b>Claim Number</b> AB212345</p>								
<p><b>2 Name and address for service and payment</b> (if different from above) Ref/Tel No.</p>	<p><i>for court use only</i></p> <p><b>Warrant no.</b></p> <p>Issue date:</p> <p>Warrant applied for at o'clock</p> <p>Foreign court code/name:</p>								
<p><b>3 Defendant's name and address</b></p> <p>MRS PENNY STEVENS 61 CASTERBRIDGE AVENUE BARCHESTER BC1 5QY</p>	<p>I certify that the whole or part of any instalments due under the judgment or order have not been paid and the balance now due is as shown</p> <p><b>Signed</b> <i>Peter Reed</i> Claimant (Claimant's solicitor)</p> <p><b>Dated</b> 7<sup>th</sup> DECEMBER 2002</p> <p><b>IMPORTANT</b> You must inform the court immediately of any payments you receive after you have sent this request to the court</p>								
<p><b>4 Warrant details</b></p> <p>(A) Balance due at date of this request 256 61</p> <p>(B) Amount for which warrant to issue</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Issue fee</td> <td style="width: 20%; text-align: right;">45 00</td> </tr> <tr> <td>Solicitor's costs</td> <td></td> </tr> <tr> <td>Land Registry fee</td> <td></td> </tr> <tr> <td><b>TOTAL</b></td> <td style="text-align: right;"><b>301 61</b></td> </tr> </table> <p>If the amount of the warrant at (B) is less than the balance at (A), the sum due after the warrant is paid will be</p>		Issue fee	45 00	Solicitor's costs		Land Registry fee		<b>TOTAL</b>	<b>301 61</b>
Issue fee	45 00								
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<b>TOTAL</b>	<b>301 61</b>								

**You should provide a contact number so that the bailiff can speak to you if he/she needs to:**

Daytime phone number: \_\_\_\_\_ Evening phone number (if possible): \_\_\_\_\_  
 Contact name (where appropriate): \_\_\_\_\_  
 Defendant's phone number (if known): \_\_\_\_\_  
 If you have any other information which may help the bailiff or if you have reason to believe that the bailiff may encounter any difficulties you should write it below.

MRS STEVENS IS AT HOME ON FRIDAY AFTERNOONS.  
SHE OWNS A BLUE FORD ESCORT.

NS23 Request for warrant of execution (4.99)