



Warrant of control

How do I ask for a warrant of control?

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 online from hmctsformfinder.justice.gov.uk. This will help you decide whether asking for a warrant is the best course of action.

A warrant of control will only help if the defendant (debtor) 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 (debtor) 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?

County Court

You can ask the County Court enforcement agent to try to get back any amount up to £5,000. (An agreement regulated under the Consumer Credit Act 1974 can only be enforced in the County Court and the £5,000 upper limit does not apply.) 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 the 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.

Family Court

You can ask the Family Court enforcement agent to try and get back any amount of money. If the judgment you are trying to enforce is from the Family Court you should issue the warrant in the Family Court.

High Court

If you decide to issue a writ 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 control (writ of control is the equivalent to a warrant of control in the High Court). You can get form N293A online from hmctsformfinder.justice.gov.uk, you must complete part 1, and send it to the court where the judgment was made or the County Court Business Centre. 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 the County and Family Court 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 Court hearing centres 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 or Family Court?

You will need form N323 (request to issue a warrant of control). You can get this form online from hmctsformfinder.justice.gov.uk You will find information about how to fill in this form on pages 12-14.

The smallest amount you can ask the enforcement agent to collect is:

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

whichever is greater.

If you started your County Court claim using Money Claim Online you can submit a request for a warrant of control online. Log on to www.moneyclaim.gov.uk for further information.

How much will it cost?

The EX50 leaflet Civil and Family Court Fees has information on fees and, is available online from hmctsformfinder.justice.gov.uk The court will add the fee to the amount the debtor 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 in the booklet 'EX160A – How to apply for help with fees', which is available online from hmctsformfinder.justice.gov.uk

How can I pay the fee?

You may pay the fee by cheque or postal order. Make your cheque out to 'HM Courts & Tribunals Service'.

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

What do I do with the form?

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?

The warrant will be actioned by the enforcement agent covering the debtor's address. You will be told if this is a different court to where the judgment was entered (made).

The enforcement agent will usually send the debtor 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 debtor paid by cheque (to make sure that the cheque has cleared).

If the debtor does not pay within seven days, the enforcement agent will call at the address you gave. The enforcement agent will go to the debtor's address within 15 working days of the warrant being issued. The enforcement agent 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 enforcement agent will visit each address in turn.

If the debtor has goods which can be sold, the enforcement agent 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 enforcement agent will visit the debtor to see if there are any other goods which could be sold. If there are not, the enforcement agent will not be able to take any more action on the warrant.

Can the enforcement agent break into the debtor's property?

Enforcement agents can only enter the debtor's home if they are allowed in by the person there. If there is nobody there, the enforcement agent can enter if a door is left unlocked. Enforcement agents may be able to break into business premises if there is no living accommodation attached and they believe the debtor's goods are inside. They can also enter if the enforcement agent has previously been allowed in and is returning to the defendant's house to collect goods to be sold.

What goods can the enforcement agent take?

The enforcement agent can only take goods which belong to the debtor or are jointly owned. For example, the enforcement agent cannot take goods which are proven to belong exclusively to the debtor's partner.

Any goods which the enforcement agent takes must be likely to fetch money at auction. Enforcement agents 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.

Enforcement agents cannot take:

- items which the debtor needs for his job or business, such as tradesman's tools or books;
- essential household items which the debtor 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 enforcement agents acting under another warrant.

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

Enforcement agents 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 debtor do anything to stop the warrant?

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

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

Form N246A tells you what to do if:

- you agree to the warrant being suspended and accept the debtor's offer of payment;
- you agree to the suspension but think that the debtor 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 debtor's offer, a court officer will look at the information given on the debtor's application and decide how much the debtor 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 debtor 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 debtor 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 debtor 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 debtor 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 online from hmctsformfinder.justice.gov.uk There is no fee for reissuing a warrant which has been suspended.

What if the enforcement agent does not collect any money or take goods?

The court will tell you why the enforcement agent 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 debtor is not at the address you gave; or
- the debtor'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 debtor 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 if you reissue using a new address for the debtor.

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

If you believe that the debtor 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.

Remember, the enforcement agent cannot take goods that do not belong to the debtor. It is also up to you to provide new information. The court cannot trace the debtor for you.

How long does the warrant last?

The warrant lasts for **one year**.

If the warrant has not been paid or if the enforcement agent 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. Otherwise 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 and pay another fee.

Can I speak to the court about my warrant?

Yes. If the warrant has been sent to the debtor's local court, contact the staff at that office. Court information is available online courtribunalfinder.service.gov.uk

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

- the debtor'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.

Give your full name and address.

Give the address you want the enforcement agent 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 enforcement agent 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).

Write in black ink using BLOCK CAPITALS.

Request for Warrant of Control
to be completed and signed by the creditor or their legal representative and sent to the court with the appropriate fee

In the County Court at Barchester
Claim Number *A8123456*

1. Creditor's name and address
*PETER REED
12 MELCHETER ROAD
BARCHESTER
BC2 4PW*

2. Name and address for service and payment (if different from above) Referral No.
Issue date: _____
Warrant applied for at: _____ o'clock
Court code: _____

3. Debtor's name and address
*MRS J PENNY STEVENS
61 CASTERBRIDGE AVENUE
BARCHESTER
BC1 5QY*

4. Warrant details
(A) Balance due at date of this request:
(B) Amount for which warrant to issue:
Issue fee:
Legal representative's costs: _____
Land Registry fee: _____
TOTAL
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 _____

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
Signed *Peter Reed*
Creditor (Creditor's legal representative)
Dated *7TH DECEMBER 2010*

IMPORTANT
You must inform the court immediately of any payments you receive after you have sent this request to the court

You should provide a contact number so that the bailiff can speak to you if they need to:
Daytime phone number: _____
Evening phone number (if possible): _____
Contact name (where appropriate): _____
Debtor's phone number (if known): _____

If you have any other information which may help the bailiff for 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 ECORT.

MS133 Request for warrant of control (04/14) © Court copyright 2014

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 debtor (defendant) has not paid as he or she was told to.

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

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