

In this era of austerity, public spending cuts and economic downturn, entities from large commercial organisations to private schools are finding themselves faced with debtors who, perhaps due to changing financial circumstances, have fallen into the “can’t pay, won’t pay” category.

The conclusion of a successful claim for recovery of a debt through the Civil Courts is a sealed court judgment that obliges the judgment debtor to pay within a set time limit – usually fourteen days. The question is, what steps can a judgment creditor take if the judgment debtor fails to pay?

There are a host of enforcement methods currently available to judgment creditors, all of which have been used successfully by Hewitsons:

### High Court Enforcement Officers/County Court Bailiffs

A warrant or writ of execution will allow bailiffs to act on behalf of the judgment creditor to take goods to auction to the value of the judgment debt. Hewitsons has used this effectively for the recovery of small to medium sized debts for a number of judgment creditors. We recently recovered more than £3,600 for an IT recruitment firm and over £12,000 for a private school.

### Attachment of Earnings Order

If your debtor is employed and paid via the PAYE system an Attachment of Earnings Order allows the judgment creditor to take a monthly cut of their salary (subject to a protected earnings level, which permits the debtor to retain a minimum income). Hewitsons used this method effectively when acting for a private school and helped them recover a judgment of just below £5,000 through monthly instalments.

### Third Party Debt Orders

If the judgment creditor knows the debtor has money in a bank account or is due payment from a third party, a Third Party Debt Order will allow the judgment creditor to intercept those funds. Hewitsons acted on behalf of an agricultural feed supplier to successfully intercept funds of over £2,500 from a debtor’s bank account as part enforcement of a judgment.

### Charging Order

A court order providing the judgment creditor with security in the form of a charge over the debtor’s property. Hewitsons recently acted on behalf of a Dutch Receiver to help secure a judgment of around £2.5million with a charging order over the debtor’s only asset, an apartment in Greenwich.

### Voluntary Charge

The debtor may be willing, in order to avoid further enforcement action, to voluntarily give a creditor a charge as security, which can be coupled with monthly instalment payments. Hewitsons used this effectively in a number of instances for private schools, where existing arrears and future unpaid school fees were secured against property.



To assess the best enforcement method, a judgment creditor may apply for an Order to Obtain Information. This obliges the judgment debtor to attend court for questioning on their financial circumstances.

A last resort measure for a judgment creditor may be the presentation of a bankruptcy petition against an individual, or a winding up petition against a company. The threat of bankruptcy or winding-up proceedings through the service of a statutory demand, which gives a debtor twenty-one days to pay before a petition is presented, can be persuasive and bring pressure to bear on a debtor.

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