

## OUR GUIDE TO COUNTY COURT JUDGEMENTS AGAINST INDIVIDUALS

NOTE This advice applies to England and Wales only. There are different Court processes in Northern Ireland and Scotland. Please seek advice relevant to your location.

### What is a County Court judgment (“CCJ”)?

A CCJ is a Court Order telling you to pay your debt. The person or company you owe a debt to (called your “Creditor”), or that thinks that you owe a debt, will have applied to Court for the Order.

### How does a Creditor apply for a CCJ?

First the Creditor will have sent you a “letter of claim” setting out the details of the debt. All businesses (including sole traders) must act in accordance with the Pre-Action Protocol for Debt Claims (“the Protocol”). You have thirty days to respond using a Reply Form that will be included with the letter. If the Creditor doesn’t receive the Reply Form within thirty days, they can then take Court action against you.

The Reply Form is used to confirm that:

- you admit you owe the debt;
- you admit to owing some of the debt;
- you’re not sure whether you owe the debt; or
- you dispute the debt entirely.

If you admit to owing some or all of the debt then you can either agree to pay the debt in full immediately, in which case no Court action is necessary, or confirm that you will pay, but need time to do so. The Creditor will expect you to complete a Standard Financial Statement if you are asking for time to pay the debt and to confirm whether you are taking debt advice.

Once you have returned the Reply Form to the Creditor, you both have thirty days to try and agree a settlement before the Creditor is permitted to apply for a CCJ.

You can also use the Reply Form to request documents or information from the Creditor. If you do so, the Creditor must wait at least another thirty days after providing what you request before taking you to Court.

If the Creditor does eventually apply for a CCJ then the Court will expect both them and you to have complied with the substance of the Protocol. The Court will take into account non-compliance but is unlikely to be concerned with only minor issues.

Creditors whose debts are regulated by the Consumer Credit Act must issue a default notice before they can start Court action.

### What does a claim for a CCJ look like?

There should be four forms in total:

1. N1 - Claim form;
2. N9 - Response pack;
3. N9A - Admission (specified amount); and
4. N9B - Defence and counterclaim.

The top right corner of the N1, N9A and N9B should state:

- the name of the Court;
- your name;
- the creditor’s name and their account or reference number; and

- a “claim number” which is allocated by the Court.

The N1 claim form should state what you owe and there may be a section called the particulars of claim, which explains the debt, although the creditor may have sent this to you separately.

### **Why is the paperwork I have received from Northampton?**

Some creditors make simultaneous applications against a lot of debtors. They do this through the County Court Judgement Bulk Processing Centre in Northampton.

### **How long do I have to take advice and reply to the documents I have received?**

You have fourteen days to complete either the N9A or N9B and return it to the creditor, not the Court.

The Court will also allow extra days for postage, so the exact deadline depends on which Court the claim was issued in. For:

- Northampton County Court Business Centre the deadline is nineteen days from the issue date printed on the N1 claim form; but
- in any other County Court the deadline is fourteen days from the day you are deemed to have received the form, allowing two working days for forms to arrive by post. In effect, this gives you sixteen days from the postmark on the envelope.

Form N9A asks for details of your:

- income;
- living costs;
- other debts; and
- your offer of payment.

If you need more time, you can apply for an extension by using the acknowledgement of service form. You will then get an additional fourteen days beyond the original deadline.

You can use the Money Claim Online website to avoid posting forms, which can be useful when time is pressing.

### **What happens next?**

If you admit the debt and return form N9A the creditor and / or the Court will look at the information you have provided and set a repayment amount which may be in monthly instalments.

The creditor can ask the Court for a CCJ with payments at a rate they choose, although this may be full payment immediately.

If the creditor does not agree with the repayment plan you are offering they send the admission form to the Court for a Court officer or District Judge to decide a reasonable rate of payment.

You must keep up with these repayments to avoid any further legal action from the creditor.

If you own a property the creditor can apply for a charging order, which secures the debt you have admitted to. This can include your home.

If you do not reply then the Court may set an unaffordable payment amount in your absence.

### **I admit the debt but have no money left over to pay my CCJ**

If you don't have any money left over once you've paid your priority bills and debts, then you should make a token offer of whatever you feel you can afford, no matter how small.

If the Court decides that you can't afford a monthly instalment, then it will record the CCJ as a *judgement forthwith*.

This means:

- a Court decided you must pay the full amount owed immediately; and
- the creditor can now take action to get it, possibly by taking further Court or bailiff actions.

It is, therefore, sensible always to offer something, even £1, as leaving matters to the Court will likely result in *judgment forthwith*.

### **What are the effects of a CCJ?**

A CCJ will show on your credit file for six years and is publicly available on the Register of Judgments, Orders and Fines, operated by the Registry Trust, for the same period.

Anyone can check if you have an outstanding CCJ for a fee of £4.

This may impact on whether you can obtain further credit at a later date.

### **My circumstances have changed and I can't meet the CCJ repayments**

You can apply to change the repayment terms.

Missed payments and default notices will be recorded on your credit file.

### **Redetermination**

Redetermining a CCJ allows you to ask the Court to review the payments you were told to make and change them if they're too high.

This is free to apply for, but is only available if the following conditions are met:

- the CCJ was a *judgment after determination*. This wording will be stated on the Judgment letter and means that you returned your paperwork on time, the creditor refused your offer and the Court made a *determination* about the rate of repayment;
- you apply for redetermination immediately and the paperwork is received by the Court no later than sixteen days from the date of Judgment on the CCJ letter; and
- you enclose a copy of your budget showing the amount you can afford to pay.

If your original CCJ payment was decided by a Court officer then, when you apply for redetermination, a District Judge will review your case and decide what the rate of payment should be, usually without a hearing.

If the original CCJ payment was decided by a District Judge without a hearing, you will be asked to attend your local County Court hearing centre for a hearing to decide the new rate of payment. However, if the CCJ payments were decided by a District Judge at a hearing, you cannot apply for free redetermination.

### **Variation**

The Court can be asked to change the level of repayment instalments if they're unaffordable.

You can apply for variation at any time if your circumstances change, but there's a Court fee of £14.

To apply for variation, you need to fill in court form N245 with details of your income, living costs and debts. You will also need to make an offer of payment.

The completed N245 form is then sent to the Court with payment of the fee, or with proof that you're exempt from payment.

The Court will send the N245 form to the creditor to check if they agree with the new instalments. If the creditor doesn't agree the Court will decide a fair payment; usually without a hearing.

The Court will then write to you with details of the new instalment plan, although there is no guarantee that the CCJ instalments will be set at the amount you have offered.

To avoid the risk of your creditor starting further enforcement action, if you're applying to vary a CCJ you will need to pay the instalments ordered in the original CCJ Judgment letter until the Court writes to you with details of the new payments. This could take a few weeks.

## **I didn't reply to the claim documentation and a CCJ has been entered against me that I dispute**

It is not too late to apply to have the CCJ set aside, but you will need to return a N244 form to the Court that made the CCJ to apply.

You could apply to *set aside* the CCJ if:

- you were unaware of the CCJ because it went to an old address first or there was some other delay with the post;
- the debt is for the wrong amount, had been paid in full before the CCJ was issued, or was *statute barred*;
- the creditor did not follow the right process when applying for the CCJ; or
- you did respond to the claim, but the creditor ignored your response or didn't provide the information or documentation you asked for.

There is a fee payable to the Court, whether or not you are successful in setting aside the CCJ.

When a CCJ is set aside, it is removed from your credit history entirely. However, setting aside the CCJ only cancels the Judgment. It does not:

- release you from the debt; or
- stop all other court action.

Once the CCJ is set aside the position is restored to where it was before the CCJ. This then gives you a second chance to object to the claim.

If your application is rejected then the judge will make another Judgment, which may be the same amount and payment terms as before.

### **The set aside application**

Form N244 is used to explain why the CCJ should be set aside. The form is sent to the Court with a fee of £275, although this fee may be reduced if you are on a low income.

You should also inform the creditor that you are applying to set aside the CCJ and provide some explanation as to why you believe you are entitled to do so.

In most cases you will have to attend a Court hearing, which will be at your local hearing centre. The hearing is often in a private room and the only people there will be:

- you;
- a representative of the creditor, if they choose to send someone; and
- the Judge.

The judge is impartial.

### **I've just found out that there is an old CCJ in my name**

Occasionally you may only find out about a CCJ when:

- you checked your credit score;
- you applied for and were turned down for new credit; or
- you were contacted by a bailiff.

You can still apply to set aside the CCJ, however, simply not knowing about a CCJ is not enough of a reason to be successful.

If you know that you owe the money, but cannot afford the CCJ, it is better to ask the Court if you can pay by instalments by varying the Judgment.

### **Can I remove a CCJ from my credit file?**

Yes, but only if you pay in full within a month of the Judgment. If you pay off the CCJ more than a month after the Judgment then it will stay on your file for six years.

If you have repaid the debt within the month then can apply for a *certificate of cancellation* from the County Court that issued the Judgment by sending a form N443 Application with proof of payment and a £14 fee.

Once satisfied, the Court will tell the Registry Trust to remove the Judgment from the public Register of Judgments, Orders and Fines.

If you repay the CCJ after a month, but want to evidence that the debt is satisfied then you can apply to the Court for a *certificate of satisfaction* by using the same process as above. This might make it easier to apply for credit before the CCJ automatically is removed from your credit file after six years. A CCJ is removed from the Register and your credit file after six years, even if you have not paid it.

### **What can happens if I do not pay a CCJ?**

A creditor with an unpaid CCJ has the option to:

- send bailiffs;
- obtain an attachment of earnings order; or
- a third party debt order;
- ask the Court for a charging order; or
- make you Bankrupt.

### **Information Order**

The Court can order you attend a hearing to discuss your income and ways to pay the debt. If you do not attend this hearing, the Court will find you in *civil contempt* and you will have to pay what is owed immediately.

### **Bailiffs**

A Bailiff may initially contact you by phone, but can also visit you at home.

They should give you another opportunity to pay what is owed and can agree to affordable payment plans.

You do not have to let them in to your home, but they may obtain a controlled good agreement from the Court, which will allow them to remove your assets. They will not have such a Court Order when they visit you for the first time.

### **Attachment of earnings**

An attachment of earnings order takes fixed instalments directly from your wages or salary before you receive the net sum from your employer.

The Court will issue you with a *statement of means* form N56 to assess your ability to repay the debt.

### **Third party debt order**

The Court can order third parties to freeze funds that belong to you, including your bank accounts.

### **Charging orders**

A charging order secures a debt against any property you own. It puts the property at risk of being sold and can cause issues when you come to sell it.

### **Bankruptcy**

If you owe more than £5,000 a creditor can apply to Court to make you Bankrupt.

### **Our conclusion**

It's often a distressing time when you receive a letter before action or a claim form from a creditor. It is important to take clear, practical advice at the earliest opportunity. The situation rarely improves on its own without taking positive actions.

If you would like specific guidance, talk to Sadlers today.