

What can creditors do?



Court action

Creditors have the right to issue court proceedings against you should you fail to make repayments.

However, this is usually the last resort after failure to recover your debt, if previous default notices were ignored. However, a warning must be sent advising that court action is pending. Court action is a way for creditors to ensure repayment but your circumstances should also be taken into consideration when ruling what should be paid and when.

CCJs

A County Court Judgement (CCJ) means that your creditor has taken legal action to recover unpaid debt from you.

This will stay on your credit file for 6 years. If the debt is repaid within this time then a certificate of satisfaction can be granted, at a cost of £10 to cover legal fees. A CCJ can be prevented if the debt is repaid in full within 1 month of receiving the written notification.

Charging orders

A charging order allows the court to place an order on the property of the debtor to the value of the monies owed.

This means that when the property is sold, the creditor will receive his money before the debtor does. A charging order is the next step after a CCJ, if the debt remains unpaid. The lender can force the sale of the property but this is very rare and an application to do so must be first approved by the court.

Default notice

This formal letter is sent to a borrower from his lender after 3-6 repayments have been missed.

It is a notification of how much is needed to bring an account up to date, usually allowing 14 days to make this payment. If the payment is not made, the account will be 'defaulted' and if it is a card or overdraft facility it will be stopped with immediate effect. If the amount is repaid within 14 days then no further action will be taken. When an account has been defaulted, the creditor can sell the debt to a collection agency, recover the goods (if the defaulted agreement was a hire purchase), demand full repayment of the debt or begin court action. A default notice can affect future borrowing as it remains on your credit file for 6 years.

Debt collection

Being in long term arrears may result in your debt being transferred to a debt collection agency.

A letter will be sent informing you of this. The debt collection agency will either work on behalf of the creditor in recovering the debt, making their money as a percentage of the amount owed, or they will buy the debt from the creditor for a reduced amount, making their money by recovering the full amount from the borrower. Debt collection letters may threaten court action or bailiffs, but this is unlikely unless you ignore the debt. The best thing to do is contact the debt collection agency with a list of your debts and budget to show that you are paying as much as you can, and make sure that a payment is made every month.

Attachment of earnings

If your debt has still not been repaid following a CCJ, then the court may order an attachment of earnings against you.

This obligates your employer to deduct the amount from your wages, which also gives them the right to deduct another £1 for administrative costs. This order will stay in place until the debt has been repaid in full.

Bailiffs

A bailiff, or enforcement officer, can be called upon to recover the debt on behalf of the lender.

The bailiff does this by visiting your home and recovering the value of the debt, plus their costs, by taking your property and selling it at auction. You can give the bailiff money when they arrive, but make sure you get a receipt. You must be notified that a bailiff will be recovering the debt at least 14 days beforehand. They must only visit during daylight hours and must show identification if asked. Bailiffs have the legal right to remove any non-essential items from your home such as televisions and game consoles, up to the full value of the debt.