

COSTING GUIDE

Enforcement Action

KEY CONTACT



Sam Cook

Partner

t: 01279 712517

e: scook@nockolds.co.uk

The below costs are indicative only. Please contact us for a more accurate cost estimate, dependent on your circumstances.

If a judgment is obtained, this does not guarantee payment and it may be necessary to take steps to enforce payment by the judgment debtor.

There are various options available, depending on the circumstances of the debtor.

Seizure of Goods

You can instruct a bailiff or High Court Enforcement Officer to seize goods to the value of the outstanding debt. There are two options:

BAILIFF

County Court Bailiffs are employed by the court and have powers to enforce debts owed up to £5,000 by use of a warrant for control.

We offer a fixed fee service for £400 +VAT to apply for the warrant of control, instruct the bailiffs and to report to you with progress updates throughout enforcement.

In addition to our fees, there is a court fee of £110 payable to obtain the warrant. There are no other fees for the bailiff however they are entitled to recover their fixed costs from the debtor, if successful.

Time frames will depend on whether payment is obtained on the first visit or if further visits are required and if a payment plan is agreed.

HIGH COURT ENFORCEMENT OFFICER

High Court Enforcement Officers are officers employed on a private basis to enforce judgment debts. They are paid based upon the amount of money they recover.

To instruct a High Court Enforcement Officer to enforce a debt, the County Court judgment must be transferred up to the High Court for enforcement by way of a High Court writ.

We offer a fixed fee service for £400 +VAT to instruct High Court Enforcement Agents to obtain the High Court writ and to enforce the judgment debt and to report to you with progress updates throughout enforcement.

In addition, there is a court fee of £66 payable to the court to transfer the matter to the High Court for enforcement.

The High Court Enforcement Officers offer their services based upon recovery. If payment is recovered or a payment plan is entered into, they do not charge any additional fees and these fees are recovered from the judgment debtor subject to statutory controls.

If, however, no payment or payment plan is elicited and the High Court Enforcement Officers abort enforcement, there would be an abortive fee of £75 +VAT payable by you to the High Court Enforcement Agency.

Time frames will depend on whether payment is elicited on the first visit or if further visits are required and if a payment plan is agreed.

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Third Party Debt Order

You can seek an order that requires a third party who holds money on behalf of the debtor to make payment to you in satisfaction of the judgment debt.

Typical examples are where a bank holds money in a bank account belonging to the debtor or a professional advisor holds money on behalf of the debtor.

If a third party debt order is granted, the third party is ordered to make payment of such sums to you as opposed to the debtor.

An application must be made to the court with evidence on the prescribed form. The court will then deal with the matter in two stages:

- » **An interim Third Party Debt Order** will be made and served upon the third party requesting them to confirm if funds are held to satisfy the judgment debt and to provide details of any funds held by them. The third party will be prevented from disposing of the funds contrary to the order from the time that this is served upon them.
- » **A Final Third Party Debt Order** will be made, following the provision of information from the third party, requiring the third party to make payment to the judgment creditor within a certain time frame, typically 14 days.

Typically, if the application is not contested, the application is dealt with on paper. Costs in respect of a paper application are likely to be in the region of £500 - £750 +VAT.

In the event that the application is contested and a hearing is required, costs in respect of a contested application are likely to be in the region of £1,000 - £1,500 +VAT and disbursements for a barrister to represent you. A barrister fees for a hearing of this nature are likely to be in the region of £500- £750 +VAT.

Typically applications for a third party debt order can take between one to two months to complete. If, however, the application is contested, the matter will be subject to the court timetable and can take longer.

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Attachment of Earnings Order

If the debtor is employed it is possible to seek an attachment of earnings order requiring the employer to make deductions directly from the judgment debtor's wages and to pay such sums into court to be paid to the judgment creditor.

To pursue this option, information as to the judgment debtor's employment status must be known. An attachment of earnings order cannot be sought against unemployed or self-employed persons.

The amount to be deducted is calculated by the court, based upon an assessment of the judgment debtor's earnings and outgoings.

The process involves:

- » An application made to court for an attachment of earnings order on the prescribed form;
- » The judgment debtor will be required to provide details of their income and outgoings within a stipulated time. The court can arrange for personal service by a bailiff if the debtor fails to respond;
- » The court will assess the means of the debtor and make an order that the employer make the stipulated deductions;
- » The order will be served upon the employer who has statutory obligations to comply with the terms of the order.

Costs in respect of an application of this nature are likely to be in the region of £300 - £400 +VAT.

In addition, there is a court fee payable to the court at the time of issuing in the sum of £110.

Typically applications for an attachment of earnings order can take between one to two months to complete. The period over which deductions are to be made will vary from debtor to debtor based upon their financial circumstances and the size of the judgment debt.

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Charging Order

If the judgment debtor owns property or shares, it is possible to seek a charging order to secure the debt against the value of the property or shares.

The processes are different depending on the type of asset.

Property

If the judgment debtor owns property, either jointly or solely, it is possible to secure the judgment debt against the debtor's interest in the property. This will secure the debt (plus interest) against their interest in the property and the charge will be realisable upon sale of the property (subject to any earlier charges and their being sufficient equity in the property at that time).

The process involves:

- » Application on paper, with evidence, on the prescribed form;
- » The court will make an interim charging order which will be served upon the judgment debtor and will identify a date by which the order will be made final. The judgment debtor will have a period of time in which to respond and contest the application;
- » It is necessary to register the interim charging order at the Land Registry to protect the priority of the charge as against future purchasers;

- » If the application is not contested, the court will order a final charging order which will need to be served upon the judgment debtor and registered at the Land Registry in the same manner as the interim charging order;
- » If, however, the application is contested the court will list a hearing to determine the application.

If the application is not contested, our fees are typically in the region of £500 +VAT. In addition, the following disbursements will be incurred:

Disbursement	Fee
Land Registry search	£3 per property
Land Registry registration of interim charging order	£40
Land Registry registration of final charging order	£40
Court fee	£110

If the application is defended, typical costs are likely to be in the region of £1,000 - £1,500 +VAT and disbursements as above and for a barrister to represent you at a hearing. Typical barrister fees for an application of this nature are £500 - £1,000 +VAT.

It should be noted that obtaining a charging order does not secure payment immediately. It will be necessary for the property to be sold to recover payment. It may be that the judgment creditor is willing to wait until the property is sold in light of the interest which will accrue however it may be necessary to take steps to apply for an order for sale if the judgment debtor refuses to sell and payment is required promptly. The costs of obtaining an order for sale are not included in the above and are charged separately (please see below).

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Typically applications for a charging order can take between one to two months to complete if uncontested. However, if the application is contested, the matter will be subject to the court timetable and will take longer to complete.

Shares

If the judgment debtor owns shares in a limited company it is possible to secure the judgment debt against the debtor's interest in the shares. This will secure the debt (plus interest) against their interest in the shares and the charge will be realisable upon sale of the shares (subject to any earlier charges and their being sufficient equity in the shares at that time).

The process involves:

- » Application on paper, with evidence, on the prescribed form;
- » The court will make an interim charging order which will be served upon the judgment debtor, the company and all other shareholders and which will identify a date by which the order will be made final. The judgment debtor will have a period of time in which to respond and contest the application;
- » If the application is not contested, the court will order a final charging order which will need to be served upon the judgment debtor, the company and all other shareholders;
- » If, however, the application is contested the court will list a hearing to determine the application.

If the application is not contested, our fees are typically in the region of £500 +VAT. In addition, the following disbursements will be incurred:

Disbursement	Fee
Court fee	£110

If the application is defended, typical costs are likely to be in the region of £1,000 - £1,500 +VAT and disbursements as above and for a barrister to represent you at a hearing. Typical barrister fees for an application of this nature are £500 - £1,000 +VAT.

Typically applications for a charging order can take between one to two months to complete if uncontested. However, if the application is contested, the matter will be subject to the court timetable and will take longer to complete.

It should be noted that obtaining a charging order does not secure payment immediately. It will be necessary for the shares to be sold to recover payment. It may be that the judgment creditor is willing to wait until the shares are sold in light of the interest which will accrue however it may be necessary to take steps to apply for an order for sale if the judgment debtor refuses to sell the shares and payment is required promptly. The costs of obtaining an order for sale are not included in the above and are charged separately (please see below).

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Order for Sale

If a charging order is secured and you wish to enforce a sale of the property and / or shares, it may be necessary to apply to the court for an order that the property and/or shares be sold and that you be entitled to have conduct of the sale.

The process involves:

- » Making a claim to the court supported by evidence in the form of witness statement;
- » Providing evidence of the value of the property and/or shares and the equity available.

Typically costs in respect of a contested claim for an order for sale can be in the region of £4,000 - £8,000 +VAT and disbursements depending on the points of dispute and complexity of the issues raised in defence for example, interests held in property by third parties, bankruptcy, the number of witnesses relied upon by the other party.

In addition, disbursement will be incurred in respect of barristers fees to represent you at any final hearing which are likely to be in the region of £1,000 - £1,500 +VAT and to obtain a valuation of the asset (likely to be in the region of £100 - £200 in respect of a property, valuation costs to be notified for companies dependent on size and the nature of the business).

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

Typically applications for an order for sale can take nine to 18 months to complete.

Application for Debtor to Attend Court for Questioning

If information as to the debtors financial circumstances and assets are not known, it is possible to apply to the court for an order that the debtor attend court for questioning.

The debtor will be required to attend court to answer, under oath, questions about their finances and assets and such information will then be shared with you.

Whilst this does not recover payment, it is a tool which can be utilised to elicit information to identify appropriate enforcement methods.

We offer a fixed fee of £350 +VAT to make such an application. This includes arranging service and reporting to you with the findings following the hearing.

In addition, the following disbursements will be payable:

Disbursement	Fee
Court fee	£55
Personal service by process service (urgent within 24 hours)	£120 +VAT
Professional service by process service (within 2 - 3 days)	£85 +VAT

The above price is exclusive of VAT. VAT is charged in addition to the above at 20%.

If additional questions are to be asked in addition to standard questions or you wish for a barrister to attend to question the debtor or the debtor avoids service and additional steps are required to secure bailiff service, these services will be charged in addition to the above. Typical fees for a barrister to attend any hearing would be in the region of £750 - £1,000 plus VAT.

Statutory Demand and Insolvency Proceedings

Once a judgment is obtained, the debt is a liquidated debt.

It is therefore possible to serve a statutory demand requiring payment of the debt.

Please see our Insolvency Proceedings Cost Sheet for further information as to the typical costs for issuing and serving a statutory demand and insolvency proceedings.

Meet the Team

All work will be carried out by one of our specialist Enforcement Team. Regardless of who works on your matter, they will be supervised by Sam Cook, Partner and Head of our Debt Recovery Team.

- » **George Burton**, Associate
- » **Gemma Dudmish**, Senior Associate
- » **Lucy Slatter**, Senior Associate
- » **Sam Cook**, Partner