





## The content

# Debt Advice Handbook 15th edition

## Description

With living costs and unemployment rising, budgets squeezed and problem debt on the increase, no adviser should be without this essential guide to the practice and process of giving money advice in England and Wales.

Who's this book for?

It is essential for debt advisers, welfare rights advisers, lawyers, local authority and housing association staff, social workers and union official.

What does it do?

The handbook provides the most comprehensive information needed by advisers on the key stages of money advice, including interviewing clients, establishing liability, prioritising debts, preparing a financial statement, negotiating with creditors and dealing with bailiffs. Fully indexed and cross-referenced to law, regulations and official guidance, and to court and tribunal decisions Includes tactical guidance and examples

What's new?

Fully updated to cover all recent changes to legislation, caselaw and court procedure and practice Emphasis is placed on taking due care of vulnerable clients and making sure that any payment arrangements agreed are appropriate. There is a focus on sustainable credit arrangements that do not affect a client's abilities to pay essential living expenses and priority debts.

## Properties

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## Setting aside a judgment

If there has been a hearing in the county court, the client can apply to have the order 'set aside' (see here) and the matter reheard if they did not attend the hearing and an order was made in their absence. The court must consider whether the client:

- acted 'promptly' – ie, with all reasonable speed once they found out that the court had made an order against them; *and*
- had a good reason for not attending the hearing; *and*
- has a reasonable prospect of success at any rehearing.

The court is unlikely to order a rehearing if the client deliberately failed to attend or if the court is satisfied that there is no real prospect of the original order being changed. <sup>1</sup>

The court will not allow an application for a rehearing purely because the client did not receive notice of the hearing date without enquiring why they did not receive it. On the other hand, the court should not refuse an application for a rehearing just because the client failed to provide the creditor or lender with a forwarding address. In general: <sup>2</sup>

- if the client is unaware that proceedings are imminent or have been served, they have a good reason for not attending any hearing;
- if the client knows of the existence of proceedings but does not have a system in place for receiving communication about the case, they are unlikely to have a good reason for not attending any hearing;
- although it is possible to apply to set aside a judgment made at a possession hearing even if the client did attend, this requires very compelling reasons for setting the judgment aside and you should seek specialist advice about orders made at a possession hearing. <sup>3</sup>

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<sup>1</sup> rr3.1(7) and 39.3(5) CPR; *Hackney LBC v Findlay* [2011] EWCA Civ 8

<sup>2</sup> *Estate Acquisition and Development v Wiltshire* [2006] EWCA Civ 533

<sup>3</sup> *Forcelux Ltd v Binnie* [2009] EWCA Civ 854

## Suspending a warrant of delivery

If the client wants to keep goods that are the subject of a hire purchase or conditional sale agreement, they can apply on Form N244 (see here) to suspend the warrant of delivery. A

financial statement should be supplied. Form N244 should be sent to the enforcing court. A fee of £15 (court fee 2.7) currently remains payable on the basis that this is 'an application to vary a judgment or suspend enforcement'. See [here](#) for details about full or partial fee remission. An offer of payment must be made that will realistically repay the agreement and arrears. A court is unlikely to agree to very small payments compared with the original contractual sum. If this is not possible, try to renegotiate with the creditor the payments due under the agreement, or consider a time order ([see here](#)).

## Varying the terms of a suspended or postponed possession order

If the repayments under a suspended order, or any other terms of an order, require a change, the client can apply back to the court for the order to be changed or varied. Application is on Form N244 ([see here](#)) and a fee of £15 (court fee 2.7) currently remains payable on the basis that this is 'an application to vary a judgment or suspend enforcement'. See [here](#) for details on applying for full or partial fee remission. It is always better to apply to vary an order if circumstances have changed, rather than be served with a warrant and have to apply to suspend it. For example, if the client is on maternity leave and has a reduced income for a period, she could apply for a reduction in payments, or if a client unexpectedly finds employment, they can apply for a possession order to be suspended because they can now make payments.

## Suspending a warrant of possession

Following the issue of a warrant, a notice of eviction on Form N54 is sent or delivered from the court, stating a date and time when the enforcement agents (bailiffs) will evict the client from the property. The client can apply for a warrant of possession to be suspended at any time before the date and time specified on the warrant, although it is preferable to apply as early as possible. <sup>1</sup>

If the possession order was made on a mandatory ground (such as ground 8 for assured tenants) or following the section 21 procedure, execution of the warrant can only be delayed for up to 42 days from the date of the original possession hearing. In practice, 42 days have normally elapsed before the warrant is due to be executed and so no further stay can be granted.

Form N244 should be completed ([see here](#)), showing:

- how the client's circumstances have changed since the possession order was made;
- that the equity or rental revenue of the creditor is not threatened by a suspension;
- a well-supported offer of payment and a lump sum (or first payment), if possible;
- if the client does not wish to remain in the property, that arrangements are in hand for sale of

the property or rehousing, but that this will take time.

A financial statement should accompany Form N244. A fee of £15 currently remains payable. <sup>2</sup> See here for details on applying for full or partial fee remission. If possible, take the form to the court rather than posting it as there will be little time available.

If the lender or landlord issued the possession action and the warrant using the 'possession claim online' process, then the client can make their application to suspend online, provided it is made at least five days before the date set for eviction. <sup>3</sup> Any court fee must be paid by debit card or credit card. The possession claim online website contains a list of organisations through which the client can claim full or partial fee remission online. Otherwise, Form N244 must be filed at the County Court hearing centre where the possession order was made and any application for fee remission must be made in person.

A hearing is granted almost immediately and the client must attend. You should always try to negotiate directly with the creditor before the hearing and ensure that if an agreement has been reached, the details are communicated to the solicitor or agent who will be representing the creditor at the hearing. If possible, arrange for written confirmation so the client can take this to the hearing in case of any dispute. If no agreement can be reached, the matter must be presented clearly before the district judge, using similar arguments to those covered on here. At the same time, it may be necessary to ask for the payment order to be varied (reduced) to a level the client can afford.

In theory, there is no limit to the number of applications that can be made to suspend a warrant, but if the client persistently applies and then fails to make payments, the application may be refused and they may be told that they cannot make any further applications without leave of the court. In this case, assuming that the application is realistic, the client must ask for leave of the court to apply, on Form N244, before continuing on the same application to explain the reasons. The court usually considers granting leave to apply first. If granted, it then considers the application for suspension in the same hearing. Should the client fail to comply with the terms of suspension or the period of suspension expires, the creditor must apply to the court to reissue the warrant on Form N445, allowing the client to apply for a further suspension, if appropriate.

If the application is refused, the eviction usually takes place on the date and time on the warrant. The client may ask for a short suspension (eg, two weeks) to find alternative accommodation. Alternatively, in mortgage cases, if repossession is granted, the client could ask to stay in the property while the lender sells it. <sup>4</sup> After the execution of the warrant of possession (ie, the eviction), no order for its suspension can be made unless:

- the possession order itself is set aside; *or*
- the warrant was obtained fraudulently; *or*

- there had been an abuse of the process or oppression in the execution of the warrant. <sup>5</sup> It appears that 'oppression' is not limited to conduct by the creditor but can extend to conduct by the court – eg, misleading information from court staff on the procedure for suspending a warrant. <sup>6</sup>

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<sup>1</sup> For issues to consider when dealing with warrants of possession for rent arrears, see M Robinson, 'Hard times', *Adviser* 149; see also J Luba and D Malone, 'Staying, suspending and setting aside possession warrants', *Legal Action*, June 2012

<sup>2</sup> Civil Proceedings Fees Order 2008 as amended by Court and Tribunal Fees (Miscellaneous Amendments) Order 2024 No. 476, Fee 2.7. This fee is payable on an application 'to vary a judgment or suspend enforcement, including suspending a warrant of possession'.

<sup>3</sup> CPR PD 55B, para 13.1

<sup>4</sup> *Cheltenham and Gloucester Building Society v Booker* [1996] 29 HLR 634

<sup>5</sup> *Hammersmith and Fulham LBC v Hill*, *The Times*, 25 April 1994; see also *Cheltenham and Gloucester Building Society v Obi* [1994] 28 HLR 22

<sup>6</sup> *Hammersmith and Fulham LBC v Lemeh* [2001] 33 HLR 23; *Lambeth LBC v Hughes* [2000] All ER(D) 622

## Appealing to a judge

If a client disagrees with a judgment or order made by a district judge and none of the options discussed on here—here are applicable, they must appeal if they wish to challenge the judge's decision.

If the judgment or order with which the client disagrees was made in their absence, they should consider applying to set aside the order and for a rehearing, as described on here. An appeal might be appropriate if, for instance, the client did not act 'promptly' or did not have a good reason for not attending the hearing but not, for example, if the case has no reasonable prospect of success. <sup>1</sup>

In a possession case, an appeal can normally only be brought on a point of law or procedure. If the judge has exercised discretion, the appeal court is unlikely to interfere with the decision even if it would have made a different decision. **Note:** an appeal does not automatically operate as a stay of execution of the judgment or order. <sup>2</sup> However, the court does have discretion to grant a stay of execution pending the hearing of the appeal and this should be applied for in the notice of

appeal. In coming to a decision on the application, the court will likely consider the merits of the appeal.

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**1** *Bank of Scotland v Pereira* [2011] EWCA Civ 241

**2** r52.16 CPR

## Adjournment

An adjournment is a court order to delay a hearing for a specified period or indefinitely. The county court can, at any time, either adjourn or bring forward the hearing date. It can decide to do this itself or because one or both parties have applied.

Court staff may waive the application fee for an adjournment of a hearing because of Covid. Ultimately, the judge will decide whether the hearing will be adjourned or can still go ahead. **1**

If a client unsuccessfully applies for an adjournment and the case is dealt with in their absence, they should normally apply to set aside the judgment or order and apply for a rehearing on the grounds discussed above rather than appeal. However, the client could appeal a refusal to set aside the judgment or order, provided there are grounds.

See here for more information.

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**1** Guidance is available at [gov.uk/guidance/courts-and-tribunals-living-with-covid-19](https://gov.uk/guidance/courts-and-tribunals-living-with-covid-19)

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Please be aware that welfare rights law and guidance change frequently. This page was printed on Friday, October 17, 2025 and may go out of date.