





## 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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## 3. How enforcement agents are instructed

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Whatever the type of enforcement agent (bailiff) or debt involved, the process of taking control of goods starts by issuing an instruction (a liability order, writ or warrant) to the agent for the specific sum due from the client. How these are issued (and how they can be stopped) depends on the type of order, writ or warrant.

## High Court writ of control

If a High Court judgment (and county court judgments transferred to the High Court for enforcement – see here) is unpaid, it may be enforced by issuing a 'writ of control'. This instructs the High Court enforcement officers to take control of sufficient goods to cover the full amount of the judgment debt, plus interest and costs. Unlike in the county court (see here), no part warrants are possible: the writ is issued for the whole judgment.

If the client has a judgment debt, they should apply immediately on Form N244 for a 'stay' of the High Court execution in order to suspend the writ, and then for a variation of the terms of payment of the county court judgment using Form N245. See here for how to do this.

## County court warrant of control

A creditor can apply to the county court for a warrant of control when a client has defaulted on the terms of payment of a judgment debt (see here). A warrant may be issued for the whole of the balance due under the judgment, or for just a portion of the arrears (known as a part warrant). If the judgment was payable by instalments, the enforcement agent may be asked to take action for one-monthly instalments (or four-weekly instalments, as appropriate) or for not less than £50, whichever is the greater.

Some lenders often prefer to apply for part warrants, as these are considered more likely to be effective. As a result, creditors may repeatedly use the threat of taking control of a client's goods following their default on an instalment order.

At any time after the issue of the warrant, the court can suspend or 'stay' its execution. The client can also apply to the court to vary the judgment. An application for both can be made on Form N245 (see here).

## Road traffic penalties

If a penalty imposed by a parking attendant or traffic camera is not paid, the relevant local authority can obtain an order from the Traffic Enforcement Centre, based at the county court in

Northampton, confirming liability. The local authority can enforce this by issuing a warrant of control to private certificated enforcement officers with whom it has a contract.

It can often be difficult to negotiate instalment repayments with the agents, as they are usually instructed to collect the whole debt and not to accept instalments. Although the order is made by the county court, it cannot intervene to suspend the warrant. Normally, the only way of challenging the warrant is to challenge the original charge or order, initially through the Traffic Enforcement Centre, and then through the Traffic Penalty Tribunal or London Tribunals.

The Civil Procedure Rules, which set out the procedures in the county court and High Court, specify that, if the order is cancelled, the agents' warrant 'shall cease to have effect'.<sup>1</sup> Further enforcement is, therefore, not permitted. Local authority parking departments must ensure that when they receive notification of a challenge to a penalty by the debtor, they notify their enforcement agents and instruct them to place all recovery action on hold. Even more importantly, wherever an order is revoked by the Traffic Enforcement Centre, the authority must ensure that instructions are withdrawn from its agents and that all enforcement action ceases.<sup>2</sup>

When an order is revoked by the Traffic Enforcement Centre, it is not clear whether costs incurred previously are also rendered null and void. In the past, local authorities and enforcement agents took the position that fees already charged had been added to a warrant in good faith and were therefore lawfully due. However, since 2016, the Local Government and Social Care Ombudsman has ruled in at least half a dozen cases that cancelling a court order revokes all fees added to the penalty.<sup>3</sup> These must be refunded if the debtor has paid them. Seeking a reimbursement of the costs from the local authority or even threatening to issue a claim for a refund may persuade the agents to reimburse the client.

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<sup>1</sup> Part 75 CPR

<sup>2</sup> LB Lambeth (19 007 392); LB Islington (19 004 664)

<sup>3</sup> See, for example, LB Harrow (15 010 743); LB Hackney (16 001 711)

## Commercial rent arrears

A landlord of commercial premises can instruct enforcement agents to act on their behalf as soon as a tenant has accrued the minimum level of arrears. This is an amount equal to seven days' rent (not including any interest or VAT that may be charged). The landlord or their managing agent issues a warrant of control containing the prescribed information to their chosen enforcement agents.

## Income tax

The issue of a warrant of control for income tax arrears does not have to be sanctioned by a court. Initially, demands for payment are made from computer collection centres and then by the local collector. If the client is still seen to be 'neglecting or refusing' to pay, a warrant is issued by a senior HMRC officer.

If you are dealing with the threat of enforcement agents for unpaid tax, you should contact the relevant tax office. If the client's offer is accompanied by a financial statement, the collector will probably accept a reasonable proposal to clear the debt (though possibly only over a period of between six and 12 months) and 'stay' (suspend) the warrant. The collector may also be persuaded to take no action if a debt is clearly unrecoverable.

## VAT

HMRC may take control of goods to recover arrears of indirect taxes, such as VAT, or to close down a business in order to prevent the problem reoccurring. Little warning is given once the final demand for payment has been ignored, and it is often difficult to negotiate anything but the severest terms of repayment.

The enforcement process is started when a VAT return is made by a trader without enclosing full payment of the VAT due or, if a return has not been made, they have been assessed as owing over a minimum prescribed figure of £200. At this stage, the HMRC officer collecting VAT arrears often tries to negotiate directly with the client. If this fails, a final demand notice is issued. If the client still neglects, or refuses, to pay and at least £200 is still due, a warrant is issued. In either case, the adviser may be able to agree that enforcement is 'stayed' (suspended) while instalment payments are made, although the timescale allowed to negotiate may be short.

## Local taxes

If the client has defaulted on paying their council tax or business rates, the magistrates' court issues a liability order (see [here](#)) to enable the local authority to use a variety of enforcement measures, including taking control of goods. If the client is liable for the tax, the court has no power to intervene in the enforcement, either at this stage or in setting terms of payment.

The local authority instructs the enforcement agents with whom it has a contract to collect the amount due. You can either come to an agreement directly with the agents or try to persuade the local authority to withdraw its liability order. Many local authorities want to come to reasonable arrangements with clients if these are likely to result in regular payments. Bear in mind the local

authority's own code of practice on council tax enforcement when negotiating on these debts, especially when seeking to have the instruction withdrawn. Most authorities have some sort of statement of guidance or service-level agreement. These often give more favourable payment terms to those on means-tested benefits. You should also consult the guidance that was issued by the Department for Communities and Local Government, *Council Tax: guidance to local councils on good practice in the collection of council tax arrears* <sup>1</sup> and, in Wales, the *Council Tax Protocol* that was issued in January 2019. <sup>2</sup>

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<sup>1</sup> Available at [gov.uk/government/publications/council-tax](https://gov.uk/government/publications/council-tax)

<sup>2</sup> Available at [gov.wales/council-tax-protocol](https://gov.wales/council-tax-protocol)

## Magistrates' court order

If a client defaults on a magistrates' court order for payment, the whole sum ordered to be paid falls due and may be enforced by taking control of goods. The enforcement agents are normally instructed to collect the whole debt immediately and not to agree instalment payments.

Decisions about how and when to enforce a fine are taken by the fines officer at each magistrates' court. A 'further steps notice' is issued after a client defaults in making payments and this determines how the fine is then pursued.

If the court allowed time to pay or set instalments, or if the client was absent at the hearing, a warrant cannot be issued until the court serves written notice on them stating the total balance due, the instalments ordered and the date when payment begins. Once these conditions have been satisfied, a warrant may be issued on default.

If there is a hearing before a warrant is issued, either because a review date has been set by the court or because the client is required to be present (eg, if the hearing involves maintenance), the client may have a chance to prevent their goods being taken. They can apply to have the warrant postponed by the magistrates' court at the hearing – eg, by agreeing revised payment terms. It is, however, almost impossible for the court to suspend or withdraw a warrant once it is with the enforcement agents. Although they have no legal power to intervene with the enforcement agents, some fines officers may agree to do so.

**Note:** if the procedure before the warrant of control is issued is unlawful, the warrant itself is also unlawful. For instance, in one case, it was decided that a distress warrant had been illegally issued because the preceding further steps notice was invalid. <sup>1</sup>

See also Chapter 14 for more information.

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**1**     *R (Guest) v Woking Metropolitan Council* [2008] EWHC 2649 (Admin)

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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.