





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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An administration order is a county court order that prevents individual creditors taking enforcement action without permission from the court and enables all the debts of a person to be dealt with together. ¹ An administration order can include a composition under which the client is required to only pay a percentage of their debts (see here).

The client must have at least two debts, including one judgment against them in either the county court or High Court. Although debts registered in the county court for enforcement as if they were payable under a court order, such as traffic penalties registered for enforcement in the Traffic Enforcement Centre, are defined as 'judgments or orders' for the purposes of some parts of the Civil Procedure Rules, and some courts have accepted them as a 'judgment' for the purposes of the client meeting the qualifying conditions for an administration order application, strictly, they are registered for enforcement 'as if' they were a county court order. If this practice was challenged, it might be difficult to satisfy a judge that the debt met the definition of 'judgment' for this purpose. Debts registered for enforcement in the county court can, however, be included in an administration order.

The client makes a single monthly payment to the court, which then distributes it equitably among the creditors after deducting their fee.

The client must apply for an administration order on Form N92, which can be downloaded from the gov.uk website. There is no up-front fee, but a fee is added to the sum the client repays, at 10 pence for each pound repaid. Clients can make payments towards an administration order by cheque/postal order made payable to HM Courts and Tribunals Service, or in cash at their county court hearing centre counter.

Once the administration order is completed, any outstanding balance of any debt is no longer payable.

An attachment of earnings order is usually made if the client is employed, unless they ask the court not to make one on Form N92, setting out their reasons – eg, if their employment will be affected once their employer finds out about the administration order. See here for more on the advantages and disadvantages of attachment of earnings orders.

Once an administration order is granted, it is unlawful for any creditor to approach the client for payment of any debt included in it without the court's permission (including resorting to 'self-help' remedies such as deductions from benefits). Interest and charges are effectively frozen on all debts included in the order. The court charges a percentage administration fee (currently 10 per cent) for all the money collected and distributes this quarterly. Provided the client makes all the payments required by the administration order, they are discharged from all the debts in it, including any debts subject to a judgment.

Administration orders are registered at the Registry Trust and will probably affect a client's

ability to get credit.

1 s112 CCA 1984

Completing the application form

Form N92 requires a list of all the client's debts. These must not exceed £5,000. Administration orders can only be given to individuals, but debts that are jointly owed must be included. If a person is jointly and severally liable, they should include the whole value of the debt. Even if finances are shared, couples cannot apply together and should make individual applications if both want to deal with their debts in this way.

Guidance (Form N270) on completing Form N92 requires the applicant to:

- list all monthly payments made towards regular expenses in column (a) of section 7 in Part A;
- if they are in arrears with any of these items, list the total arrears in column (b) and the amount of any regular payments being made towards these arrears (eg, by arrangement with the creditor or under a court order) in column (c);
- include under 'Others' any regular payments for items not listed (examples quoted are loan repayments, hire purchase instalments and credit card payments);
- include full details of all these debts in the list of creditors in Part B.

Where the client has a mortgage and/or secured loan and there are no arrears, the guidance only appears to require that the monthly repayments be listed in column (a) of section 7 in Part A. However, where there are arrears, these should be listed in column (b) and also in Part B (list of creditors). Proof of the debts listed in Part B is needed, along with Form N92.

Where the client is making regular payments towards a mortgage/secured loan or rent arrears (eg, under a suspended possession order), you could consider adding a note to Part B asking the court not to include these arrears in the administration order on the basis that the client will continue making the payments listed in column (c) of section 7 in Part A (which, of course, need to be affordable). The same applies to fuel arrears. **Note:** the amount of client's total debts listed in Part B would still need to be within the £5,000 limit.

Courts' practice in this matter appears to differ, so you should make yourself aware of local practice to enable you to advise clients appropriately. Some courts have queried the inclusion of debts, such as council tax arrears, and debts that would not be covered by bankruptcy, such as fines, but these can all be included. ¹ Some local authorities object to the inclusion of council

tax arrears in an administration order on the grounds that they have an attachment of earnings order and that this continues regardless. This is incorrect and should be challenged. ²

Social fund loans and benefit overpayments can be included in an administration order even if the client is in receipt of a benefit from which deductions can be made, since deductions cannot be made while the administration order is in force unless the court gives permission (which, in practice, never seems to be asked for).

1 *Preston BC v Riley*, *The Times*, 19 April 1995; see also *Various v Walker*, Walsall County Court, 3 January 1997 (*Legal Action*, May 1997); *Various v MM, HW and CE*, Birmingham County Court, 23 October 1997 (*Legal Action*, January 1998)

2 *Various v MM, HW and CE*, Birmingham County Court, 23 October 1997 (*Legal Action*, January 1998); *A v Fenland District Council*, Kings Lynn County Court, August 1997 (*Adviser* 64 abstracts). The decision to the contrary in *Lane v Liverpool City Council*, Liverpool County Court, 19 May 1997 (*Adviser* 69 abstracts) appears wrongly decided in light of the decision in *Re: Green* [1979] 1 All ER 832 that an attachment of earnings order is not an assignment of the debt. See also *Nolan v Stoke on Trent City Council* (*Adviser* 118 abstracts), in which the court held that continuing to receive money under an attachment of earnings order was a 'remedy' and ordered the local authority to refund the sums deducted since making the administration order.

The proposed order

Some administration orders are decided by court officers without a hearing. A notice of the application and a calculation (the 'proposed order') is sent to creditors, explaining what they can expect to receive. A district judge is only involved if the amount offered by the client is insufficient to repay the debts in a 'reasonable time'. Guidance to court staff suggests this is three years.

If court staff cannot make an order, a district judge decides the matter. They can either propose a longer repayment period or make a composition order (see here). They can do this with or without a hearing. **Note:** while a court officer can make a proposed order, they cannot dismiss an application for an administration order, but must refer it to the court where a district judge can make a proposed order without a hearing – but they cannot dismiss an application for an administration order or exclude any debts from the order without a hearing. ¹

If a court hearing is required, the client and all the creditors are sent notice, details of the debts and the proposed terms of the order. The creditors must send a corrected balance to the court, if required. See here for details about the hearing.

If a proposed order is made without a hearing (either by a court officer or a district judge), a copy is sent to the client and all the creditors, who then have 14 days in which to object to the administration order being granted. This is an opportunity for the client to object to the level of instalments, as well as for the creditors to object to their being included. If no objections are received, a 'final order' is made. If objections are received, a hearing must be arranged to consider them.

1 rr5(5), (6), (7) and (8) CCR 39

Composition orders

A district judge can order that a client pay only a proportion of their debts. This is known as a 'composition order'. This should be considered if the debts cannot be cleared in a reasonable time (see above for what this means). **Note:** an application for a composition order can only be decided by a district judge and cannot be rejected without a hearing.

You should help the client work out the monthly amount available to offer creditors. If this amount will not clear the debts plus the 10 per cent charge made by the court in three years, suggest that a composition order be made in the box in section C of Form N92.

The percentage of each debt offered is calculated by establishing the total time available for payments (ie, 36 – the number of months in three years) multiplied by the monthly payment offered, deducting 10 per cent from this total, and then dividing the resulting figure by the total of the debts owed, and finally showing this as a percentage.

Example

Sean has £75 a month available income and owes a total of £4,500. A suggested composition would be to offer:

$36 \times £75 = £2,700$ total amount to be paid

Less 10% administration (£270) = £2,430

$2,430 \div 4,500 = 0.54$ (the proportion to be paid)

$0.54 = 54\%$ (the percentage to be paid)

In this case, the following wording can be inserted in the box: 'I ask that the court consider making a composition order at the rate of 54 pence in the pound.' The client should also use this box to explain their reasons for not wanting an attachment of earnings order, where applicable.

In many cases, the actual order is not opposed, but a composition may be. However, provided you are prepared with facts and figures to justify the financial necessity of what you argue, such orders are increasingly acceptable to the courts.

The court hearing

There will be a court hearing if a district judge thinks one is necessary – eg, if they refuse the application, or either the client or a creditor objects to the terms of the proposed order. Creditors may attend the hearing (but rarely do), at which a district judge decides whether or not to grant the order. The court normally grants an administration order unless the information given is incorrect or it appears that the order would unreasonably deny a creditor another type of remedy. If creditors object merely because they want to take action in pursuit of their debt, you should argue that this would result in other creditors being treated less fairly.

Reviewing an administration order

An administration order can be reviewed at any time by the court. The client, any creditor included in the order or the court itself can request a review. Some orders contain a provision for periodic reviews. If the client wants to apply for a review, they should write to the court explaining why the review is being requested (usually because of a change in circumstances) and enclose a financial statement. The court then arranges a hearing.

On review, the court may: ¹

- reduce the payments;
- suspend all payments for a specified period of time;
- add or vary a composition order, including theoretically varying it to 0 pence in the pound;
- reinstate a revoked order (but see here);
- make an attachment of earnings order to secure payments due under the order;
- revoke the administration order.

Although creditors can apply to be added to an administration order, there is no specific provision allowing clients to add a creditor. New creditors can sometimes be included by a review on the basis that there has been a change of circumstances, although some courts apply the rules strictly and only allow the creditors to apply.

1 r14 CCR 39

Revoking an administration order

Once made, an administration order is not invalidated if the debts are found to exceed the £5,000 limit, but the court can revoke the order. The court might take this step if it thought the client had 'abused' the administration order by obtaining further credit. ¹

If a client misses two consecutive payments or persistently fails to pay on time, the court should send a notice requiring either:

- payment;
- an explanation;
- an application for a variation;
- a proposal for payment of arrears.

If the client fails to do one of the above, the administration order is revoked in 14 days. If the client replies, the matter is referred to the district judge, who may either order a hearing or revoke, suspend or vary the order. If the order is revoked, suspended or varied without a hearing, creditors or the client can object within 14 days and a hearing must be held.

At a hearing, the district judge considers all the circumstances of the case and makes one of the decisions listed above.

If the district judge decides to revoke the order, the court no longer collects and distributes payments. The creditors are informed that they are free to pursue their debts individually. In practice, only a small proportion of creditors contact clients following the revocation of an administration order. In theory, when an administration order is revoked on the ground of failure to make the payments required under the order, the court may impose the same restrictions on the client as would apply to an undischarged bankrupt for a period of one year (see here), but, in practice, these powers do not seem to be used. ²

1 s112(5) CCA 1984

2 s429 IA 1986

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.