

## Enforcement of a Judgment

If a Claimant wins at court and the Defendant is ordered to pay damages, the court will specify the time period in which the damages must be paid.

If the Defendant fails to pay the damages within the period specified the Defendant will need to take enforcement action against the Creditor for the monies owed. Enforcement action is effectively new proceedings which will involve additional time and cost for the Claimant.

At the start of any claim an assessment of the Defendant's ability to pay damages should have been made. Nevertheless, it is advisable to make accompany search or appoint an enquiry agent to ensure the Defendant has sufficient means to pay the judgment before beginning enforcement proceedings.

### EXECUTION

Several methods of enforcement are available. Execution involves the appointment of High Court Enforcement Officer's or County Court bailiff's to seize moveable property of the Defendant and sell it at auction. Whilst being a relatively cost effective option of enforcement it can be limited as enforcement officers and bailiffs are not empowered to force their way into property.

### CHARGING ORDER

Alternatively a charging order can be applied for to place a charge over the Defendant's property providing security for the Defendant. Once the charge is secured an application for an order for sale can be made allowing the Claimant to recover the damages. However, this is a relatively expensive option requiring several court appearances and if the property is jointly owned an order for sale will not be granted.

### ATTACHMENT OF EARNINGS ORDER

In the County Court an attachment of earnings order can be applied for requiring money to be paid directly out of the Defendant's wages to the Claimant. This moves the responsibility for paying the damages to the employer, but if the Defendant changes job a new order will need to be sought.

### INSOLVENCY

If the Debtor is a company a winding up petition can be made, which petitions the court to place the company into administration or liquidation. If the Defendant is an individual a bankruptcy petition can issued requesting a court to make the Defendant bankrupt. The threat of such proceedings can be enough to encourage the Defendant to pay the damages owed. However, such proceedings are expensive and once the Defendant is made bankrupt the Claimant simply joins the pool of other creditor's also owed money and as such it is often difficult to recover the full sum claimed.

Enforcement of a judgment can be expensive and time consuming. Consequently, a Claimant may wish to consider settlement by way of instalment payments or otherwise to avoid further proceedings.

