

LEGAL COSTS

- 1 In cases where proceedings are issued through the County Court, Leeds City Council applies for a Costs Order against any named Defendant. Where an Order for costs is made against a number of named Defendants, each individual is jointly and severally liable for the full extent of the Costs Order.
- 2 It is not possible to enforce a Costs Order against persons unknown.

Enforcement

- 3 There are various methods of enforcement of Orders that the Defendant pay the Council's legal costs including a writ of fieri facias / warrant of execution, attachment of earnings, charging order, third party debt orders, order to obtain information from judgment debtors.

Oral Examination

- 4 Where insufficient information is known about a Defendant it is possible to apply for oral examination of the Defendant, the debtor is required to attend Court and provide details about his assets and income.

Attachment of Earnings

- 5 The Claimant can apply for an attachment of earnings order, to recover payments by instalments by deduction from earnings where the debtor is in regular employment but not where they are unemployed or self-employed.

Charging Order

- 6 The Claimant can apply for a Charging Order against land. When a charge has been obtained, an application can be made for sale of the land. This is at the discretion of the Judge. It is unlikely the judge will order sale if the defendant is willing to pay by instalments.
- 7 The Court fee for applying for the Charging Order is £100.00; there is a Land Registry fee to register the charge of £50.00 and £4.00 for a Land Registry search fee. There will also be legal costs incurred in preparing the necessary applications and attending Court Hearings. There will be an additional court fee on applying for an Order for sale.
- 8 Legal are currently applying for charging orders to secure costs on traveller possession claims against 2 defendants.

Writ of fieri facias/warrant of execution

- 9 A writ of fieri facias (in the High Court) or a warrant of execution (in the County Court) enables the bailiff to enter the Defendant's premises and take possession of his goods to the value of the judgment debt plus costs and expenses of enforcement (but see restrictions below). The goods are then sold at public auction and the proceeds of sale (minus costs and expenses) sufficient to discharge the judgment debt are paid to the Claimant.
- 10 It may be that the Defendant has goods of insufficient value to justify the cost of removal and sale, or a Defendant may enter into an agreement of walking possession and make arrangements to pay.
- 11 A bailiff cannot enter a property to seize goods unless he has first been allowed to enter and has taken walking possession.
- 12 It is possible to levy against vehicles registered to a named Defendant. It is not possible to enforce against a vehicle which is not owned by the Defendant (eg subject to a hire purchase agreement or was obtained through the mobility scheme) or is used for towing a caravan or used as a work vehicle.
- 13 The bailiff gives five days notice of his intention to levy the vehicle, during which the vehicle is left with the Defendant. The Defendant can challenge the levy on the basis that the vehicle is not a vehicle against which the bailiff is entitled to levy. Alternatively, the owner can contest ownership of the vehicle by writing to the Council. The Council would then have to take the matter to Court to determine ownership of the vehicle.
- 14 A bailiff cannot recover white goods, beds, bedding, the necessities needed to maintain day to day living eg. the caravan in which he lives, generators if needed for power supply / charging of batteries for their caravan.
- 15 There would be no additional court fee payable should we instruct the bailiff to enforce in this manner. There would be additional costs incurred by legal and the bailiff's time and any DVLA searches, etc.

Conclusion

Save in respect of a Charging Order where we are aware that travellers own land, taking enforcement action is likely to increase the costs incurred with little or no benefit.

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