

Success Starts Here Free Information Guide

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Family Law



This free information guide explains what you can do when your ex-partner refuses to comply with a court order.

Failing to comply with a court order

When you reach a settlement in relation to your finances, either by agreement or by court order, for some people that is only half of the story. It is not uncommon for one party to fail to comply with the order particularly if they have been ordered to do something they don't agree with or feel very strongly about. An example of this may include selling a property they have lived in for a long time.

Hopefully your solicitors will have thought about any likely enforcement issues in advance and built as many safeguards in as possible.

Types of enforcement

There are many different methods of enforcing an order; some are more effective and cheaper than others.

Obtaining information from a debtor

If you do not know the current financial situation of your ex partner a good place to start is with an application to obtain information from them. You have the opportunity to ask your ex-partner questions and request copies of documents. This can be a very useful early step as it will help your solicitor understand whether it is worth pursuing the debt or whether it is likely to be a waste of time and money.

Attachment of Earnings

If your ex-partner is supposed to be paying you maintenance on a monthly basis and is refusing to do so, provided they are employed in the UK, it may be possible to apply for an order that forces their employer to remove your maintenance from their income before they are paid and pay it to you. This is called an Attachment of Earnings order.

Charging order

If your ex-partner has failed to pay you an amount of money and they own a property, you could apply to have the money they owe you secured against that property, in some circumstances, you can then force the sale of the property and receive your money. This is called a Charging order.

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Family Law

Third party debt order

If your ex-partner has money in a bank account, you can ask the court to order that bank to pay you money straight from your ex-partner's account to satisfy the debt. This is called a Third Party Debt order.

Judgment summons

If your ex-partner refuses to pay you maintenance or a lump sum they have been ordered to do, then you can apply to have them sent to prison. This is only really used as a last option as the court do not generally send people to prison as punishment until they have been given a lot of chances. You have to show that your ex-partner has refused or neglected to pay. This is called a judgment summons.

Undertakings or agreements

Sometimes in a financial order there are agreements or promises to the court, these are set out in the top part of the order. If the undertaking or agreement relates to the payment of money it can be enforced like any other order. Undertakings or agreements to do with anything else are enforced as contempt of court and the punishment is a prison sentence, usually short.

There are some other less frequently used options available which your solicitor can discuss with you.

My ex-partner is not complying with a court order. What should I do?

If your ex-partner is not co-operating with the terms of an order, you should call a solicitor as soon as possible as a delay in enforcing the order could be prejudicial to you.

It is difficult to enforce arrears of maintenance over 12 months old and you need the permission of the court so act quickly.

Fisher Meredith has a team of specialist Finance lawyers who can help you with these issues.

Useful links

Court website
<http://www.justice.gov.uk>

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