



BDL County Court - interest on consumer credit judgments

Fact sheet no. BDL22 EW Interest on consumer credit judgments

July 2016

Use this fact sheet to:

- understand whether or not your creditor can add interest to your debt if you have a County Court judgment (CCJ) against you;
- understand what the creditor must do if they want to add interest charges after the CCJ has been made;
- help you ask the court to stop your creditor from adding interest to your debt;
- find out how to make a complaint about the behaviour of your creditor; and
- find out how the unfair relationship test might help you if your creditor has behaved unfairly towards you.

This fact sheet includes:

- information about court fees and whether you have to pay them; and
- some useful contacts and links for you to get further help.

Information:

INFO

check your agreement

This fact sheet covers credit agreements regulated by the **Consumer Credit Act 1974**. Check your agreement to see if it is regulated. If you are not sure, **contact us for advice**.

> How interest is added

There are different ways that creditors can add interest to a county court judgment. We have outlined these below.

Interest included in the agreement

If a creditor takes action against you in the County Court about an ordinary credit agreement regulated by the **Consumer Credit Act 1974**, you may be asked to pay the full balance you owe under the agreement. This would include the balance owed and all the interest payable under the agreement. Once you have paid the full amount owing on the county court judgment, that is normally the end of the matter and you do not have to pay any more interest.

Interest up to the date of the judgment

Alternatively, the creditor may get a county court judgment that includes **court fees and interest up to the date of the judgment**. Once you have paid the full amount owing on the actual judgment, as long as there is no clause in the original agreement that allows the creditor to claim interest **after** the county court judgment, that is the end of the matter and you do not have to pay any more interest.



CCJ before 1 October 2008

If you have a county court judgment that was made **before 1 October 2008** then the rules on how your creditor may add interest to the debt are not very clear. Some credit agreements allow a creditor to add **contractual interest** on to the county court judgment. There **must** be a term in your credit agreement that states that the creditor is allowed to add interest after the judgment is made.

There has been a court of appeal case called **Director General of Fair Trading v First National Bank** in **2001**. This decision said that in some cases while you are paying the county court judgment, contractual interest may be charged on the amount that you still owe on the judgment. **This may not be made clear to you by the creditor.**

If interest is still being added, it may mean that when you have paid the original balance owed on the judgment, you will find that you have an extra amount that the creditor says you owe, even though the judgment has been paid in full. To force you to pay this, the creditor would have to take you to court again. They may not be able to do this. **Contact us for advice.**

Extra advice:



check your payment record

To work out whether you have paid the judgment balance, you should check your own payment record or contact the creditor to ask for written confirmation that the county court judgment amount has been paid in full.

Information:

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can you complain?

You may be able to argue that it is unfair for the creditor to keep adding interest if they have not told you they are doing so. You may be able to complain about this. **Contact us for advice.**

The creditor says they will add interest to the judgment

You should contact us for further advice if:

- you are not sure whether your agreement allows the creditor to seek interest after the county court judgment;
- you do not have a copy of the agreement;
- your agreement does not appear to mention interest after judgment;
- your creditor has told you that they will claim interest after judgment;
- interest after judgment is mentioned in the particulars of claim, which is the statement the creditor has to send with the county court claim form, giving details of their case.

Warning:



judgments made after 1 October 2008

If you have a county court judgment that has been made on or after **1 October 2008**, different rules apply to you. See the next section **Contractual interest on judgments from 1 October 2008.**



CCJ from 1 October 2008

If you have a county court judgment made **on or after 1 October 2008**, there are new rules for creditors to follow if they want to add contractual interest to the judgment.

- Some credit agreements allow a creditor to add **contractual interest** on to the county court judgment. There **must** be a term in your credit agreement that states that the creditor is allowed to add interest after judgment is made.
- Before your creditor can take you to County Court, they **must** send you a default notice. If there is a term in the credit agreement to allow them to add interest after judgment then the creditor **must** include a special statement in the default notice to tell you this. This says:

‘You should be aware that if we take you to court and get a judgment against you requiring you to pay us the money you owe us under the agreement, you may have to pay us both the amount of the judgment and the interest under the agreement on all the sums owed by you at the date of the judgment until you have paid these in full. This means that even if you pay off the whole amount of the judgment, you may still have a further sum to pay’.

- Your creditor must send you a notice to say they intend to charge interest on the judgment. They are not allowed to add interest until they have sent the first notice to you. The notice must tell you the outstanding balance on which interest will be charged. It must also tell you what the rate of interest is and what date the interest will run from.
- All the notices must tell you that you can ask the court to change the interest rate and the instalments you pay. See the later section **Stopping interest being added**.
- The creditor has to send you a new notice every **six months** if they want to keep charging interest. The notice must tell you how much interest has been added and the interest rate.
- If the creditor does not send you a notice within **six months**, they are not allowed to charge interest until a new notice is sent. They are not allowed to add interest back in for the time they have missed.

> Stopping interest being added

You can try to stop any contractual interest being added by asking the County Court to make a ‘time order’. If the court agrees to make the time order, it can revise the rate of payment and alter the rate of interest, from that which is written in the agreement to that which it thinks is just and fair.

This could mean a zero rate of interest, if the court agrees to make the time order in those terms.



Asking for a time order before a county court judgment has been made

If a county court claim has been sent to you, this will arrive with a response pack (N9). This includes an admission form (N9A) which you can use to apply for a time order. The form asks for details of your income and outgoings. Make sure you fill in **Box 11** on the admission form to ask for a time order on the basis of your offer to pay the debt off in instalments. Also ask the court to amend the terms of your credit agreement so that no further contractual interest can be added to the balance by the creditor after the date of judgment.

Extra advice:



sending the form back

The form should be sent back to the creditor within **14 days**.

It is very important that you fill in the reply form (N9A) within the time limit and make an offer of payment that you can afford. If you do not send the form back, the court will usually make a judgment for you to pay the whole amount of money that you owe immediately.

The creditor passes the form on to the court, which should consider your application and send you the county court judgment. This should say if a time order has been granted and what instalments you should pay. If there is no mention of your time order application you can write to the court and ask for a 're-determination'. You should do this within **14 days**. There is no fee to pay.

Important:



asking for a re-determination

You can ask for a re-determination as long as the judgment has not been made by the District Judge at a hearing. **Contact us for advice.**

Asking for a time order if a county court judgment has been made

If a county court judgment has been made, you can ask for a time order to be made in one of two ways.

Complete a N244

You can get a **N244** form from your local County Court. On the **N244** you need to ask for a time order to 'reschedule' payments at the rate you can afford and also ask the court to stop any interest being added. This should be backed up with a copy of your budget sheet, showing what you can afford and mentioning any relevant personal circumstances that affect your offer.

Information:



fees

There is a fee to pay with your application. If you are on a low income or certain benefits you may not have to pay the fee. See **Do I have to pay a court fee?** at the end of this fact sheet.



Write a letter

You can write a letter to the court asking for the court to consider making a time order ‘on its own initiative’. You should include an offer of payment that you can afford backed up with a copy of your budget sheet; ask for interest and charges to be stopped, showing what you can afford and mentioning any relevant personal circumstances that affect your offer.

Because a successful application is not guaranteed with either route, if you are considering applying for a time order, **contact us for advice**.

> What else can I do

If a county court judgment has been made without a time order it is important to check both the amount owing on the county-court judgment and any separate contractual interest that is being added.

- Creditors may keep these two sets of figures in two separate accounts or add them together in one account, ‘to make it easier for customers’. If all the information is held in one account, you need to get a separate breakdown of both how much you owe on the county court judgment and the amount of contractual interest that has been added. **Contact us for advice**.
- Once you have paid the judgment balance, you should write to the creditor stating the judgment has been paid off.
- You should then apply for a certificate of satisfaction on the judgment from the court. There is a fee to pay. If you have problems getting the certificate of satisfaction, **contact us for advice**.
- If you have had a charging order made on your property and you have paid the county court judgment off completely the charging order should be removed from the Land Registry.

> Paying off the judgment

When you think that you have paid the county court judgment in full, you should check this with the creditor. Where the county court judgment has been paid in full you could choose to stop paying. You should write to the creditor explaining why you consider the judgment balance to be paid off. If you did not pay anything further the creditor would have to take you to court again to get the interest back.

If you do continue to pay, the creditor will accept your payment as being towards the interest they have added on to the original judgment. It may be worth trying to negotiate a small settlement figure with the creditor instead.

Information:

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court forms

You can get most court forms from the [HM Courts and Tribunal Service form finder](#), see <http://tinyurl.com/hmctsforms>.

See our fact sheet:



Time order on an unsecured credit agreement.



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If your creditor wanted to recover the interest from you where this has not been included in the county court judgment, we do not think that the creditor can legally do this. Your creditor may say they will take you to court again for the interest. It may be more common for creditors to take further action to recover the interest on judgments made after 1 October 2008. It is very important to get further advice if your creditor says they will go to court again to recover the interest. Contact us for advice.

> Complaints

From **April 2007**, you can complain to the Financial Ombudsman service about how a lender or debt collection agency has behaved when dealing with your account. You will have to follow the lender's complaints procedure first. You can only complain about events that happen from **April 2007** onwards. This means you can only complain to the ombudsman about interest that has been added from **April 2007** (unless your credit agreement is with a bank or building society). You should complain if you do not feel your lender has treated you fairly and added interest to the judgment without letting you know.

Financial Ombudsman Service

Exchange Tower

London

E14 9GE

Phone: 0800 023 4567

www.financial-ombudsman.org.uk

> The unfair relationships test

If you feel the interest rate charged on your agreement is excessively high or that the terms and conditions of the agreement are unfair, you may be able to take action against your lender. This may also apply if your lender has behaved unfairly in the way in which they have dealt with your agreement. It will be up to the lender to prove that the agreement is not unfair. The court will have wide powers to alter the terms of the agreement or even order the lender to pay money back to you.

You may be able to use the new 'unfair relationships test'. This has replaced the idea of 'extortionate credit' in the **Consumer Credit Act 1974**. This applies to all agreements from **April 2008**, even if they are not regulated under the **Consumer Credit Act** and it doesn't matter when your agreement was first taken out. You can apply before your lender takes you to court. You can also ask for the court to look at this issue as part of an existing court case.

The rules cannot be used for regulated mortgage contracts. Regulated mortgage contracts include first charge mortgages and secured loans. The rules can be used for some secured loans that were taken out before **21 March 2016**, **contact us for advice**.

> Using a code of practice

The creditor may be a member of a trade association that has a code of practice. You may be able to use this to negotiate an agreed settlement on the interest. This might take the form of a complaint about unfair behaviour by the creditor.

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There are pros and cons to doing this. Asking a trade association to help is an alternative to further court action. However, it may be a process that binds you to the outcome, even if you do not like the result. For example the trade association may suggest a compromise figure between the amount the creditor wants and what you think you should pay. In addition, you may be barred from taking action in the court by choosing this route. If you are interested in this approach, **contact us for advice**.

> Do I have to pay a court fee?

You may be able to get help with court fees, but you need to pass two tests to qualify.

See our fact sheet:

Help with court fees.



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