

PRACTICE DIRECTION – ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTORS

THIS PRACTICE DIRECTION SUPPLEMENTS PART 71

Application notice – rule 71.2

- 1.1 An application by a judgment creditor under rule 71.2(1) must be made by filing an application notice in Practice Form N316 if the application is to question an individual judgment debtor, or N316A if the application is to question an officer of a company or other corporation.
- 1.2 The application notice must –
 - (1) state the name and address of the judgment debtor;
 - (2) identify the judgment or order which the judgment creditor is seeking to enforce;
 - (3) if the application is to enforce a judgment or order for the payment of money, state the amount presently owed by the judgment debtor under the judgment or order;
 - (4) if the judgment debtor is a company or other corporation, state –
 - (a) the name and address of the officer of that body whom the judgment creditor wishes to be ordered to attend court; and
 - (b) his position in the company;
 - (5) if the judgment creditor wishes the questioning to be conducted before a judge, state this and give his reasons;
 - (6) if the judgment creditor wishes the judgment debtor (or other person to be questioned) to be ordered to produce specific documents at court, identify those documents; and
 - (7) if the application is to enforce a judgment or order which is not for the payment of money, identify the matters about which the judgment creditor wishes the judgment debtor (or officer of the judgment debtor) to be questioned.
- 1.3 The court officer considering the application notice –
 - (1) may, in any appropriate case, refer it to a judge (rule 3.2); and
 - (2) will refer it to a judge for consideration, if the judgment creditor requests the judgment debtor (or officer of the judgment debtor) to be questioned before a judge.

Order to attend court – rule 71.2

- 2.1 The order will provide for the judgment debtor (or other person to be questioned) to attend the county court for the district in which he resides or carries on business, unless a judge decides otherwise.
- 2.2 The order will provide for questioning to take place before a judge only if the judge considering the request decides that there are compelling reasons to make such an order.

Service of order to attend court – rule 71.3

3. Service of an order to attend court for questioning must be carried out by the judgment creditor (or someone acting on his behalf), except that in county court proceedings if the judgment creditor is an individual litigant in person the order will be served by the court bailiff.

Attendance at court: normal procedure – rule 71.6

- 4.1 The court officer will ask a standard series of questions, as set out in the forms in Appendixes A and B to this practice direction. The form in Appendix A will be used if the person being questioned is the judgment debtor, and the form in Appendix B will be used if the person is an officer of a company or other corporation.
- 4.2 The judgment creditor or his representative may either –
 - (1) attend court and ask questions himself; or
 - (2) request the court officer to ask additional questions, by attaching a list of proposed additional questions to his application notice.
- 4.3 The court officer will –
 - (1) make a written record of the evidence given, unless the proceedings are tape recorded;
 - (2) at the end of the questioning, read the record of evidence to the person being questioned and ask him to sign it; and
 - (3) if the person refuses to sign it, note that refusal on the record of evidence.

Attendance at court: procedure where the order is to attend before a judge – rule 71.6

- 5.1 Where the hearing takes place before a judge, the questioning will be conducted by the judgment creditor or his representative, and the standard questions in the forms in Appendixes A and B will not be used.
- 5.2 The proceedings will be tape recorded and the court will not make a written record of the evidence.

Failure to comply with order: reference to judge – rule 71.8(1)

6. If a judge or court officer refers to a High Court judge or circuit judge the failure of a judgment debtor to comply with an order under rule 71.2, he shall certify in writing the respect in which the judgment debtor failed to comply with the order.

Suspended committal order – rule 71.8(2) and (4)(a)

- 7.1 A committal order will be suspended provided that the person attends court at a time and place specified in the order (rule 71.8(4)(a)(i)). The appointment specified will be –
 - (1) before a judge, if –
 - (a) the original order under rule 71.2 was to attend before a judge; or
 - (b) the judge making the suspended committal order so directs; and
 - (2) otherwise, before a court officer.
- 7.2 Rule 71.3 and paragraph 3 of this practice direction (service of order), and rule 71.5(1)(a) and (2) (affidavit of service), apply with the necessary changes to a suspended committal order as they do to an order to attend court.

Breach of terms on which committal order is suspended – rule 71.8(4)(b)

- 8.1 If –
 - (1) the judgment debtor fails to attend court at the time and place specified in the suspended committal order; and
 - (2) it appears to the judge or court officer that the judgment debtor has been duly served with the order,

the judge or court officer will certify in writing the debtor's failure to attend.
- 8.2 If the judgment debtor fails to comply with any other term on which the committal order was suspended, the judge or court officer will certify in writing the non-compliance and set out details of it.
- 8.3 A warrant to bring the judgment debtor before a judge may be issued on the basis of a certificate under paragraph 8.1 or 8.2.
- 8.4 The hearing under rule 71.8(4)(b) may take place before a master or district judge.
- 8.5 At the hearing the judge will discharge the committal order unless he is satisfied beyond reasonable doubt that –
 - (1) the judgment debtor has failed to comply with –
 - (a) the original order to attend court; and
 - (b) the terms on which the committal order was suspended; and

(2) both orders have been duly served on the judgment debtor.

8.6 If the judge decides that the committal order should not be discharged, a warrant of committal shall be issued immediately.

Record of examination

(Individual)

In the

Claim No.

Appn. No.

Judgment Creditor:

Judgment Debtor:

1

Personal Information

Full Name

Your age?

Present address

National insurance no.

Are you

☐ married?☐ single?☐ separated?☐ divorced?☐ living with partner?

Phone numbers:

home

work

mobile

other

Do you intend moving to another address?

☐ Yes☐ No

If Yes, what will your new address be and when are you moving?

Date

Do you have any dependant children?

☐ Yes☐ No

If Yes, what are their names and ages?

Do you have other dependants living with you, eg. elderly relatives?

☐ Yes☐ No

If Yes, what are their names and ages and to what extent are they dependant?

2**Employment Status**

Are you ☐ employed?
Go to section 3
below

☐ self employed?
Go to section 4
page 3

☐ unemployed?
Go to section 5
page 5

☐ retired?
Go to section 6
page 5

3**Employment Details**

What is your
occupation?

Where is your
place of work
if different?

What is the
name and
address of your
employer and
your employee
number?

employee number

What is your gross pay
*ie. before tax, national
insurance deductions?*

£ per

What is your average take
home pay including
overtime and commission?

£ per

How often are you paid?

☐ weekly ☐ monthly ☐ other

On which day are you
paid?

Is your pay paid

☐ in cash ☐ by cheque ☐ direct to bank or building society account?

If direct to bank or building
society account what is
the name and address of
the branch and account
number?

account
number

Do you have any jobs other
than your main job?

☐ Yes
☐ No

If Yes, ask for all the above details in relation to
all other jobs and set out information below.

2

—[Go to Section 7 page 5]—

4

Self Employed

How long have you been self employed?

What work do you do?

What is the name of your business?

Do you have business premises? eg. shop, yard, lockup

☐ Yes
☐ No

If Yes, what is their address?

What is your annual turnover?

£

What amount of profit did the business make over the last year?

£

How much do you draw from the business?

£ per

What were your total drawings in last 12 months?

£

Are you a

☐ sole trader? ☐ partner? If a partner,

(a) How many partners are there?

How many employees do you have?

(b) What is your share of the partnership ?

%

Do you complete Inland Revenue self assessment?

☐ Yes ☐ No

Do you have accounts?

☐ Yes ☐ No

Do you employ an accountant?

☐ Yes
☐ No

If Yes, what is the accountant's name and address?

If you don't have an accountant are accounts audited by a third party?

☐ Yes
☐ No

If Yes, give name and address and say when audit takes place?

Will you allow the creditor to approach your accountant or auditor or Inland Revenue to verify the information you have given in this section?

☐ Yes
☐ No

Date of audit

Are you working on any contracts at the moment?

☐ Yes
☐ No

If Yes, give details below

Name and address of customer	Nature of work	Contract price £	Amount outstanding £	Date payment expected
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Is any money still due to you for work already done? ☐ Yes ☐ No

If Yes, give details below

Name and address of customer	Nature of work	Contract price £	Amount outstanding £	Date payment expected

If money (see above) is overdue what steps are you taking to recover it?

Do you have contracts for work in the future? ☐ Yes ☐ No

If Yes, give details below

Name and address of customer	Nature of work	Expected price £

—[Go to Section 7 page 5]—

5 Unemployed

How long have you been unemployed?

What is your trade / training / profession?

What steps are you taking to obtain employment?

Do you have any outstanding job interviews?

☐ Yes

If Yes, when?

☐ No

What state benefits do you receive?
(Housing benefit, if any should be included section 8b on page 7)

Type of benefit	Amount	Frequency of payment	DSS/BA ref.

—[Go to Section 7 below]—

6 Retired

When did you retire?

By whom are your pension(s) paid, how much is paid and when?
(include both state and private pensions)

Pension from	Amount	Frequency of payment

—[Go to Section 7 below]—

7 Other Income

Is there anyone else in your household who is employed? (Do not include tenants/lodgers. See section 8 on page 6)

☐ Yes

☐ No

If Yes, how much do they contribute to the running of the home?

£ per

—[Go to Section 8 page 6]—

8**Residence**

Is your home

☐ your own property?
Go to 8a below

☐ lodgings?
Go to 8b page 7

☐ rented from a council or housing
association?
Go to 8b page 7

☐ rented unfurnished from
a private landlord?
Go to 8b page 7

☐ rented furnished from
a private landlord?
Go to 8b page 7

☐ other _____
(e.g. mobile home) Go to 8b page 7
8a**Your own property**

Are you the sole owner?

☐ Yes

☐ No

If No, name joint owner(s)

Do you own the

☐ freehold?

☐ leasehold?
When did you
buy the
property?

Is your home a

☐ house?

☐ bungalow?

☐ flat?

Is it

☐ detached?

☐ semi-detached?

☐ terraced?
How many of the following
rooms does it have?
☐ living rooms?

☐ kitchens?

☐ bedrooms?

☐ bath/shower rooms?
How much Council Tax do
you pay per year?

£

What was the purchase
price of property?

£

What is its value now?

£

Is your home mortgaged?

☐ Yes

☐ No
If Yes, what is the name and
address of your mortgage
lender?
How much are your
mortgage payments per
month?

£

What type of mortgage do
you have? eg. *repayment*,
endowment etc.

How long is the mortgage
for?

years

When did you take out the
mortgage?
How much is currently
owed under the mortgage?

£

Is some or all of the
interest paid by the Benefits
Agency?
☐ Yes

☐ No
If Yes, how much is paid
each month?

£

Do you let any part of your home?

☐ Yes

☐ No

If Yes, give names of the tenants/lodgers and details of rent received

Do you have any loans secured on your home? (e.g. further mortgage)

☐ Yes

☐ No

If Yes, give the same details as for the first mortgage

—[Go to Section 9 page 8]—

8b

Rented property

Do you rent

☐ on your own? ☐ jointly?

What is the name and address of your landlord?

How long have you lived at the property?

____ months ____ years

Do you share parts of your home with someone unconnected with you?

☐ Yes

☐ No

Do you pay any additional service charges in connection with the premises?

☐ Yes

☐ No

If Yes, give details

£ per

How much rent do you pay?

£ per

none ☐

How much Council Tax do you pay a year?

£

none ☐

Do you sub-let any part of your home?

☐ Yes

☐ No

If Yes, give names of tenants/lodgers and details of rent received.

Do you receive housing benefit?

☐ Yes

☐ No

If Yes, give details

£ per

paid to

—[Go to Section 9 page 8]—

9**Savings, Investments and other Assets**

Do you own any property other than your home?

☐ Yes☐ No

If Yes, give the address and value and details of any mortgages and lettings

Do you have any bank, building society or other accounts?

☐ Yes☐ No

If Yes, give details below

Name & Address of Bank Building Society	Account No.	Type of Account	Balance	Sole or joint A/c	Name(s) of joint account holder(s)

Do you have any shares, investments (eg. ISAs, Tessas etc.), insurance/assurance policies or premium bonds?

☐ Yes☐ No

If Yes, give details below

Are you making contributions to a pension scheme?

☐ Yes☐ No

If Yes, give details

Do you have any of the following items and how long have you had them?

Is it owned by you, on hire purchase

If not owned by you, give;

Age credit sale or rented? Name of Creditor Amount still owed Payments

<input type="checkbox"/> Microwave					
<input type="checkbox"/> Hi-fi / surround sound					
<input type="checkbox"/> Television (No.)					
<input type="checkbox"/> Video					
<input type="checkbox"/> Camcorder					
<input type="checkbox"/> Computer					
<input type="checkbox"/> Dishwasher					
<input type="checkbox"/> Camera					
<input type="checkbox"/> Dining Room suite					
<input type="checkbox"/> Caravan					
<input type="checkbox"/> Mobile telephone					
<input type="checkbox"/> Musical instruments..					
<input type="checkbox"/> Other items....					

Do you own a motor vehicle?

☐ Yes

☐ No

If Yes, give age, make, model value and registration number. State whether it is owned by you, or subject to a hire purchase/ rental agreement.

--

Do you have any assets not previously mentioned?

☐ Yes

☐ No

If Yes, give details

Assets	Value

Does anyone owe you money, which is not a business debt or for work you have done?

☐ Yes

☐ No

If Yes, who owes you money and how much do they owe?

	Value

10 Other Debts or regular payments and court orders

Expenses

Do not include payments made by other members of your household out of their own income or priority debts listed opposite

Mortgage	£	per
Rent	£	per
Council tax	£	per
Gas	£	per
Electricity	£	per
Water charges	£	per
Housekeeping, food, school meals	£	per
Travelling expenses	£	per
Children's clothing	£	per
Maintenance/child support payments	£	per
Student loan repayments	£	per
Mail order payments	£	per
HP repayments	£	per
Digital/satellite TV subscriptions	£	per
Telephone	£	per
Mobile phone	£	per
Other expenses	£	per
(not court orders, priority debts or credit debts listed left)	£	per
Total Expenses	£	per

Priority Debts

This section is for arrears only. DO NOT include regular expenses listed left

			Total arrears outstanding
Rent arrears	£	per	£
Mortgage arrears	£	per	£
Council tax/Community charge arrears	£	per	£
Water charge arrears	£	per	£
Fuel arrears: Gas	£	per	£
Electricity	£	per	£
Other	£	per	£
Maintenance arrears	£	per	£
Income tax	£	per	£
VAT	£	per	£
National Insurance	£	per	£
Others (give details below)	£	per	£
	£	per	£
	£	per	£
	£	per	£
Total Priority Debts	£	per	£

Have any court orders been made against you? ☐ Yes ☐ No

If Yes, give details below

Name of court and case number	Date of Judgment or order	Amount of Judgment or order	Instalments payable per month	Name of creditor	Total still owed	Are payments up to date? (yes/no)	If no, how much in arrears?
TOTALS							

Do you owe money on credit cards or any other loans (not mortgage or business)? ☐ Yes ☐ No

If Yes, give details below

Name of Creditor	Total amount owing	Instalments payable per month	Are payments up to date? (yes/no)	If no, how much in arrears?
TOTALS				

Have any bankruptcy proceedings been issued against you? ☐ Yes ☐ No

If Yes, what is the court name and case no.

Is the petition

☐ still pending? ☐ order made but discharged?

☐ order has been made but not discharged? ☐ other outcome? (give details below)

Has an Individual Voluntary Arrangement been made? ☐ Yes ☐ No

If Yes, give the date

If No, is there a current proposal for one?

☐ Yes ☐ No

Give details of Trustee/ Insolvency Practitioner/ Administrator, supervisor

11 Offer of Payment

Can you make an offer of payment? ☐ Yes ☐ No

What is your offer of payment?

Pay in full by day of

Instalments of £ per to start on

Method of payment ☐ postal order ☐ cheque ☐ direct debit
☐ standing order ☐ payment book ☐ cash

I certify that this is a correct record of the answers I gave to the questions in this document.

Signed _____ Judgment Debtor

Print name _____

Date _____

The judgment debtor refused to sign this record of evidence.

Signed _____ Court Officer

Print name _____

Date _____

The following costs of the examination have been allowed and added to the judgment debt £

12 Documents produced

The judgment debtor produced the following documents:

Record of examination

(officer of company or corporation)

In the

Case No.

Appn. No.

Judgment Creditor:

Judgment Debtor:

1

Personal Information

Full Name

Present Address

Phone numbers:

Home

Mobile

Work

Other

Your position in
the company**2**

Company Information

Name of company

Company registration
no.

Business address

Telephone no.(s)

Is the company
the sole occupier?☐

Yes

☐

No

Registered office

Telephone no.(s)

Name and address
of other company
officers

Name and address of
company solicitors

Name and address of
company accountants

Where are the
company trading
records held?

Where are the
company's statutory
books held?

3

Current operational status

What is the nature of
business?

Is the company still
trading?

☐ Yes

☐ No

If No, when did the
company cease
trading?

How were assets
disposed of?

2

Have you any current contracts? ☐ Yes ☐ No

If Yes, what are they and what is their total value?

	Value
--	-------

Are there any staged payments? ☐ Yes ☐ No

Have you any future contracts? ☐ Yes ☐ No

If Yes, what is the date and amount of the next and future payments?

--

If Yes, what are they and what is their total value?

	Value
--	-------

4

Current financial status

Does the company hold any cash? ☐ Yes ☐ No

If Yes, say how much and where held e.g. named bank or other?

--

Does the company have any overdraft facilities? ☐ Yes ☐ No

If Yes, please provide details of overdraft facility

--

What is the name and address of the branch, account number and type?

--

type of account

--

account number

--

How much of the overdraft facility have you used?

☐ All

☐ Part

If Part, say how much?

Have you approached the bank to increase the limit?

☐ Yes

☐ No

If No, why not?

If Yes, what was the response?

Is your overdraft secured?

☐ Yes

☐ No

If Yes, how?

☐ fixed charge

☐ fixed and floating charge

☐ floating charge

☐ personal guarantee

What assets are affected by the charge?

What is the current turnover of the company?

5

Assets

What assets, excluding property, are owned outright by your company? - description, value and in the case of vehicles, registration numbers

What assets are
subject to hire
purchase?

--	--	--	--

value

--	--	--	--

last payment date

--	--	--	--

What assets are
subject to lease
purchase?

--	--	--	--

value

--	--	--	--

last payment date

--	--	--	--

What assets are on
lease?

--	--	--	--

Are these debts due
to your company?

☐ Yes

☐ No

If Yes, give details

Name and address of debtor	Invoice no.	Total amount owing?	Are amounts owed disputed? Yes/No

Are any goods supplied to the debtor subject to a retention of title clause? ☐ Yes ☐ No

If Yes, describe the goods and enter the amount owed by the debtor

	amount owed
--	-------------

Does your company own livestock? ☐ Yes ☐ No

Does your company have/own

investments ☐ Yes ☐ No

shares ☐ Yes ☐ No

Has the company sold any assets within the last 12 months? ☐ Yes ☐ No

If Yes, on what date

--	--	--	--

description of asset sold

--	--	--	--

buyers name and address

--	--	--	--

purchase price

--	--	--	--

6**Property**

Does your company
own any real
property?

☐

Yes

☐

No

If Yes, please give
address(es) and value

--	--	--

Value

--	--	--

Are the premises
mortgaged?

☐

Yes

☐

No

☐

Yes

☐

No

☐

Yes

☐

No

If Yes, give details
of lender's name and
address

--	--	--

amount borrowed

--	--	--

amount outstanding

--	--	--

date borrowed

--	--	--

purchase price

--	--	--

current value of
property

--	--	--

details of any
subsequent charges

--	--	--

Does your company
rent any premises
from a landlord?

☐

Yes

☐

No

If Yes, how much is
paid for

rent?

council tax?

service charges
etc.?

Is the rent in arrears?

☐

Yes

☐

No

If Yes, how much?

What action is being
taken to recover the
debt?

--

7

Liabilities

Please list all
Creditors

--	--	--

amounts owed

--	--	--

What actions are the
creditors taking to
recover the debts?

--	--	--

Are the amounts
disputed by the
company?

☐ Yes

☐ No

☐ Yes

☐ No

☐ Yes

☐ No

Are any of the debts
secured?

☐ Yes

☐ No

If Yes, how?

☐ fixed charge

☐ fixed and floating charge

☐ floating charge

☐ personal guarantee

Does the company
have court order(s)
against it?

☐ Yes

☐ No

If Yes, please provide
details of

date of judgment

--	--	--

name of court

--	--	--

case number

--	--	--

name of creditor

--	--	--

total amount owing

--	--	--

amount now due

--	--	--

rate of payments
being made

--	--	--

are payments in
arrears?

☐ Yes

☐ No

☐ Yes

☐ No

☐ Yes

☐ No

If Yes, by how much?

--	--	--

Is the company able to
pay its debts as they
fall due?

☐ Yes

☐ No

8

Other information

Are there any
associated or
subsidiary
companies?

☐

Yes

☐

No

If Yes, please provide
names

--	--	--

place of business

--	--	--

other trading
addresses

--	--	--

What accounting
records are kept?

--

Have accounts been
submitted to
Companies House?

☐

Yes

☐

No

Do you or any other
director/personnel
hold a loan account
with the company?

☐

Yes

☐

No

If Yes, what is the
current status?

overdrawn by

--

in credit by

--

Have any assets been
transferred to you or
any other director/
personnel personally

☐

Yes

☐

No

If Yes, please give
description

--	--	--

value

--	--	--

Other information

Have you or any other ☐ Yes ☐ No
member of the
company received
benefits other than by
way of salary?

If Yes, please give
details

Additional information

9 Offer of Payment

Can the company
make payment in full
now?

☐

Yes

☐

No

If No, why?

When can the
company make
payment in full?

Have you any other
proposal for payment?

10 Declaration

I certify that this is a correct record of the answers I gave to the questions in this document.

Signed _____ Officer of Judgment Debtor Company/Corporation

Print name _____

Date _____

The officer of the judgment debtor company refused to sign this record of evidence.

Signed _____ Court Officer

Print name _____

Date _____

The following costs of the examination have been allowed and added to the judgment debt £

11 Documents produced

The officer produced the following documents: