

## PRACTICE DIRECTION 71

# 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 may be carried out by –
  - (a) the judgment creditor (or someone acting on the judgment creditor's behalf)
  - (b) a High Court enforcement officer; or
  - (c) a county 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.

# Appendix A

## 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?

## Employment Status

☐ retired?

Go to section 6  
page 5

## Employment Details

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

If Yes, what is their address?

☐ No

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

If Yes, give details below

☐ No

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

If Yes, give details below

☐ No

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

If Yes, give details below

☐ No

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

What other 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 8 page 6 ] —

5



## 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?☐ at?

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☐ NoIf 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? yearsWhen did you take out the  
mortgage?How much is currently  
owed under the mortgage?£ Is some or all of the  
interest paid by the Bene0ts  
Agency?☐ Yes☐ NoIf 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 ] —

7

# 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, Tesses 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?

	Age (years)	Is it owned by you, on hire purchase credit sale or rented?	If not owned by you, give; Name of Creditor	Amount still owed	Payments
<input type="checkbox"/> Microwave					
<input type="checkbox"/> Hi- / 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 (not court orders, priority debts or credit debts listed left)	£	per
<b>Total Expenses</b>	<b>£</b>	<b>per</b>

### Priority Debts

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

Rent arrears	£	per	Total arrears outstanding
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	£
<b>Total Priority Debts</b>	<b>£</b>	<b>per</b>	<b>£</b>

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

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

If No, please explain why

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 £

The judgment debtor produced the following documents:

# Appendix B

## 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

--

**3**

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

4

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 there any 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

--	--	--	--

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

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:

**12**

