

What is a charging order?

A charging order is an option a creditor can look to take to further safeguard an account they have that has already been granted with a county court judgement.

This means that the lender can now turn an unsecured debt into a secured debt, as long as there is enough equity in the property to cover the outstanding amount of the debt.

The debt will then be secured against the asset, for example a property, to ensure that payments will be maintained as agreed.

As long as the payments that the courts have ordered you to pay are maintained then there will be no further action taken against you. But if you fail to maintain the payments as agreed, then there could be a risk of the lender looking to force further action, which could include the sale of the asset.

If you are looking to sell the asset then if there is a charging order already in place on this account, then the debt would be cleared before you received any excess funds from the sale of the asset.

If a creditor intends on applying for a charging order you will first receive an interim charging order from the courts. This basically stops you from selling the asset before a charge is placed against it. You will then receive notification of a hearing to attend a county court to discuss whether to grant a final charging order.

A charging order will normally be granted if you fail to maintain your instalment arrangement previously agreed by the courts. But it is worth bearing in mind that if you are invited to a hearing to consider a final charging order that you need to attempt to stop this from happening and giving the reasons to the court why you feel this shouldn't happen.

An example of this is if a charging order is granted to a specific creditor, it would give them an unfair advantage over your other unsecured creditors. Or that the lender had the option to offer secured lending initially, but granted the decision to offer unsecured lending at the time.

The lender that wants to apply for a charging order is required by law to notify the courts of all of the client's unsecured credit outstanding that they are aware of, so the courts can make an informed decision and the correct outcome.

If the courts decide to they can send a copy of the interim charging order to all known unsecured creditors so they are able to object to the final charge being granted, but this is not a requirement of law currently.

You may also be able to apply for a time order if the courts decide that a final charging order is required, but the amount that the courts are asking for per month is more than you can afford.