



FACT SHEET NO. 13

MAGISTRATES COURT FINES

WHAT HAPPENS WHEN I HAVE A FINE IN THE MAGISTRATES COURT?

The magistrates court may fine you for committing a driving offence, not paying a fixed penalty notice, not having a television licence or many other criminal offences. They can also order you to pay compensation to any injured party and award costs against you.

The fine may be set at an initial hearing or as a result of a fixed penalty notice where the level of the fine is set automatically.

“ ” ADVICE

It is very important to make sure the court has all the information about your circumstances that you can. This may affect the level of the fine you are ordered to pay and whether you are given time to pay the fine back in instalments.

! WARNING

You can also be fined if you do not give the court details of your income and outgoings when ordered to do so.

! WARNING

Fines are a priority debt because the magistrates court has the power to send you to prison for non-payment.

WHAT IS THE PROCEDURE?

The procedure for collecting fines is as follows.

- After you have been fined, the court will make a 'collection order' that contains details of how the fine should be paid. The notice of

the fine and the payment rate (if one has been set by the court) is sent out to you.

- If you agree, then an attachment of earnings order or deduction from benefits order can be made immediately.
- If you are what the court calls an 'existing defaulter', an attachment of earnings order or deduction from benefits order **must** be made.

i INFORMATION

You will be treated as an existing defaulter if you have another fine outstanding and you have not made payments as set out in the collection order for that fine.

The collection order will set out what payments should be made on your fine. This may allow you time to pay in instalments or ask for payment in full within ten days.

! WARNING

Be careful: the court has the power to search you and remove all the money you have with you to pay the fine.

The court can also order you to be kept in the court for the rest of the day or even order you to do unpaid work in some circumstances, with your agreement.

THE COLLECTION ORDER

The court must send you a copy of the collection order which should tell you the following information:

- the amount of the fine, any costs or compensation order;

- whether you will be treated as an ‘existing defaulter’;
- if the court has made an attachment of earnings order or deduction from benefits order;
- tell you what the payment terms are on the fine; **and**
- where to pay the fine and how to contact the fines officer.

If you cannot afford to pay you can apply to the fines officer for:

- further time to pay;
- to pay by instalments; **or**
- to change the instalments you have been ordered to pay.

WARNING

You can only do this if you can prove you have had a change in your circumstances or you can give the court extra information about your financial position.

If the fines officer refuses your request you can appeal to the magistrates court within ten days. This should lead to a hearing with the magistrates.

WHAT IF I MISS PAYMENTS?

If you miss payments and have not made an application to the fines officer to reduce your payments, the fines officer **must** make an attachment of earnings order or a deduction from benefits order. If neither of these orders is possible then the fines officer may take ‘further steps’.

WHAT FURTHER STEPS CAN THE FINES OFFICER TAKE?

If you have defaulted on payments the fines officer can refer your case back to the

magistrates court for a hearing or send you a notice telling you what steps they intend to take.

INFORMATION

You have ten days to appeal against the decision to the magistrates court.

The further steps that the fines officer can take are:

- issuing a bailiffs warrant;
- registering the debt in the Register of Judgments, Orders and Fines;
- making an attachment of earnings order;
- making a deduction from benefits order;
- making a clamping order; **or**
- applying for the fine to be enforced in the county court or High Court.

Attachment of earnings orders

The amount the court can order you to pay is on a sliding scale based on your take home pay.

It is possible to have more than one fine through a consolidated attachment of earnings order.

Phone us for advice.

INFORMATION

There is a table showing how the deductions are worked out at the end of this fact sheet.

Deductions from benefit orders

If you are on Income Support, Jobseeker’s Allowance or Pension Credit the court can order weekly direct deductions to be taken from your benefit to pay the fine. **From 18 December 2004** the set deduction rate is **£5** per week.

County court or High Court enforcement

If the fines officer decides you can afford to pay your fine in one lump sum and have not done so, they can apply to the county court or High Court for a third party debt order or a charging order to be made against you. **Phone us for advice.**

Clamping orders

A clamping order can only be made if the fines officer decides you:

- are able to pay the fine; **and**
- the value of your vehicle would cover the fine **plus** the costs of clamping and sale.

The court must send you a notice of the clamping order and give you a date to pay. A private clamping company will then be asked to carry out the order. You can get your vehicle released if you pay the full clamping charge and the fine in full.

If you do not pay within seven days the vehicle can be removed. After ten days the fines officer can ask the magistrates for an order to sell the car. You should get **21 days** notice of the hearing. It is very important that you go to the hearing. The vehicle cannot be sold for three months from the date of the original order.

ADVICE

At the hearing you can ask the court to return the vehicle particularly if you can prove the sale would not cover the costs. Ask the court to consider writing off the charges and fees if they are not reasonable.

Registration of fines

The fines officer can include the fine on the Register of Judgments, Order and Fines which

may affect your ability to get credit. This information is not currently passed on to credit reference agencies. This may change in the future. **Phone us for advice.**

FACT SHEET

We have a fact sheet on 'Credit reference agencies', which may be of assistance to you. **Phone us for a copy.**

Unpaid work order

This is a new power. An unpaid work order can only be made if you agree and other types of enforcement are 'impractical or inappropriate'. This option may be worth considering where the alternative is going to prison.

BAILIFFS

Most courts now use private firms of bailiffs to collect fines by taking your goods and selling them to pay the fine. This is called a 'warrant of distraint'. If your fine is passed to bailiffs you need to be aware of these points.

Do I have to let the bailiffs in?

From **July 2005** bailiffs collecting fines have the power to break in to your home and other premises to take your goods even if they have not been into your home before. The new rules say this is power should only be used if it is reasonable to do so. It is not likely that bailiffs will use force to break in but it is possible under the rules. They are more likely to gain entry by peaceful means such as by getting through an open door or window or by you letting them in. It is no longer safe to try to avoid bailiffs coming into your home by refusing to let them in.

If they do get into your property they will usually take 'walking possession' of your belongings. This means that the bailiff will make a list of goods that they intend to take and get you to

sign the list. Some household items like beds and bedding, clothes, books and/or tools of your trade are exempt and cannot be taken. Goods that belong to other people cannot be taken either. You must then either pay the debt or arrange instalment payments with the bailiff (if possible). If no payment arrangement is made the bailiff can return to take your goods and they may then break in if necessary.

If for some reason the bailiffs are unable to gain entry or take goods then the fine will eventually go back to the court to take further action. You will usually have to attend court for a hearing and make an offer to repay the debt, (see the section on 'Hearings at the magistrates court'.)

and asking them whether they will accept instalment payments. Send a copy of your letter and personal budget to the magistrates court.



ADVICE

If the bailiffs will not accept the payments, save up the money to take to any hearings in the magistrates court to prove you are willing to pay.



WARNING

Any money you pay to the bailiffs may come off their costs first before going towards the fine. However, when a fine is returned to the court the bailiffs costs will not be enforced by the court, so the balance will go down to the amount of the original fine.



WARNING

From **July 2005** bailiffs collecting magistrates court fines, have the power to break into your home and other premises to take your goods, even if they have not been into your home before. The new rules say this power should only be used if it is reasonable to do so. It is not likely that the bailiffs will use force to break in but it is possible under the rules. If bailiffs threaten to break into your home, **phone us for advice**.

Bailiffs' costs

Bailiffs can charge for a number of things including administration costs, handling fees and making visits to your property. There is no national set scale you can look at. Local courts have their own agreements with individual bailiffs firms.

You should complain to the clerk for the justices at the magistrates court if you feel that the costs charged are very high and unreasonable. It is unlikely that these charges will be reduced as they are set locally between the magistrates court and the bailiffs. However, if the bailiff is unable to gain entry and seize goods, the fine will eventually be returned to the court and the costs removed.



WARNING

If you own a car which is parked on the street outside your home this could be at risk. Bailiffs do not have to gain entry to your house in order to take a car parked outside. From **November 1999** there is a rule that says vehicles needed for use in employment or business cannot be taken (but you would have to prove that this is the case.)



INFORMATION

Bailiffs' costs cannot be enforced by the magistrates court and they would effectively be written off when the fine is returned to the court.

Instalments

Some bailiff firms are able to accept instalments on the fines outstanding, and some will only accept payment of the total amount owed. Try writing to the bailiffs, enclosing a personal budget

WHAT IF I CANNOT AFFORD THE REPAYMENTS ORDERED?

You may find that you cannot afford to pay the amounts ordered for a reason, such as a drop in income, multiple debts, a relationship breakdown, a new baby or due to illness.

- Write to the fines office at the court which holds the fine. Tell them about your situation and make an offer of repayment. It is also very helpful to enclose a copy of your personal budget.
- You may have to attend a court hearing. However, if the court is sent a personal budget and given full details of your circumstances in a letter, then some magistrates courts may accept your offer without a hearing.

WHAT HAPPENS IF I HAVE TO GO TO A HEARING AT THE MAGISTRATES COURT?

You will be sent a 'default summons' which tells you when to go to court.

It is very important that you go to any court hearing. If you do not attend, the court has the power to issue:

- a warrant with bail (private bailiffs will give you another court hearing date;)
- a warrant without bail (private bailiffs could arrest you and bring you before the court;)
or
- a committal warrant to commit you to prison (if there is a suspended sentence already on the fine.) See the section 'What can happen at the hearing?'

WARNING



From **April 2001** the rules have been changed. The magistrates court will usually instruct private bailiffs to enforce most warrants, including arrest warrants and warrants of committal. These activities used to be carried out by the police. Now you could have a private bailiff calling to try to enforce payment by taking your goods or to arrest you to go to a court hearing.

When you attend the court hearing the court will ask for details of your income, expenditure and any other debts you may have. You should take along information about your income and outgoings plus proof such as pay slips, letters from your employer or the DWP etc.

REMEMBER



Make sure you take your completed personal budget sheet to the hearing.

ADVICE



You should check with the fines office at the court if you are unsure about what the procedures are.

WHAT CAN HAPPEN AT THE HEARING?

The magistrates have a range of options at the means enquiry hearing.

- Remit the fine; this means the court can write off all or part of the fine if you have had a change in your circumstances or your circumstances have got worse since the fine was set. They may remit the fine if the court did not have full details of your income, expenditure and debts when the fine was originally set. This is unlikely to happen because of the other powers the court has. The court cannot write off compensation orders or costs.

- Allow you more time to pay.
- Search and remove all the money you have with you to pay the fine.
- Order someone such as a probation officer to supervise your payments. This is called a ‘money payment supervision order’.
- Make an attachment of earnings order.
- Order deductions from your benefit.
- Apply for the fine to be enforced in the county court or High Court.
- Issue a distress warrant.
- Order you to be detained in the court for the rest of the day. This would ‘write off’ the fine.
- Increase the level of the fine by 50% if they think you have not paid due to ‘wilful refusal or culpable neglect’ (see below).
- Make a clamping order.
- Register the fine.
- Make an unpaid work order.
- Consider committal to prison.

WHEN CAN THE COURT DECIDE TO SEND ME TO PRISON?

The court can order imprisonment but only after a means enquiry hearing which you must attend. You cannot be sent to prison without at least one hearing where you have the chance to explain your financial circumstances.

INFORMATION

The court must have tried all other ways of enforcing the fine before they can do this.

ADVICE

It is helpful to take some money to offer to the court, even if it is only your weekly or monthly offer of payment. This will show the court you are not refusing to pay.

The court can give you a suspended prison sentence or send you to prison straight away. Before they can do either of these, the court must establish:

a) ‘**wilful refusal**’ which means the court thinks you have deliberately refused to pay;

or

b) ‘**culpable neglect**’ which means you have been careless or thoughtless in not paying.

If the court imposes a suspended prison sentence or a ‘suspended committal order’, it is essential you keep up with the repayments as ordered by the court. If you fall behind with payments again another court hearing will be set.

INFORMATION

To avoid a prison sentence you must convince the court that you have a genuine reason for not paying. This may be that your circumstances have changed since the fine was set, such as drop in your or your partner’s income, a relationship breakdown, a new baby, illness, or other debts you are paying. This is why it is important to take a detailed personal budget to court and not be frightened to tell the court if you have other debts to pay, but you need to treat the fine as a priority debt.



WARNING

If you do not attend this hearing, the prison sentence will be activated and private bailiffs can be instructed to arrest you and take you into custody. It may be possible to prevent this happening by writing to the court explaining the reason why you did not go to the hearing and why you have not paid. Another court date may then be sent up to consider your circumstances.



WARNING

There is no way of asking the court to allow you to pay in instalments. You need to try to negotiate with the local authority directly.

The next step is for the Traffic Enforcement Centre to instruct private bailiffs to try to collect the debt. Do not let the bailiffs into your home. They do not have a right to enter unless you have let them in before. Be careful to keep your car in a locked garage as bailiffs collecting parking penalties will be particularly keen on taking your car. They can take a car parked on the road or your drive.

If the bailiffs are unable to take any goods then the local authority can ask the county court to enforce the parking penalty typically by taking money out of your wages. This is called an attachment of earnings order.



ADVICE

If you have a hearing coming up and you would like more information, **phone us for advice.**



HELP

Following a case in the European Court of Human Rights in 1996 you are entitled to ask for legal help at a court hearing relating to non-payment of a fine. You may be able to get the duty solicitor at the court to speak on your behalf at the hearing. **Phone us for advice if you want more help with this.**



FACT SHEET

We have a fact sheet on 'Attachment of earnings', which may be of assistance to you. **Phone us for a copy.**

THE PARKING PENALTY SCHEME

Parking penalties in London and many other local authority areas are dealt with differently if the local authority runs a 'decriminalised parking scheme'. It is likely that other areas will follow soon.

The local authority will send you a parking ticket for a fixed amount. The penalty is then registered in the Traffic Enforcement Centre at Northampton county court as a county court judgment.

What you can do

At any stage you can attempt to negotiate repayments with the local authority responsible for issuing the parking penalty charge. You need to write to them with a copy of your personal budget making an offer of payment. If they refuse your offer put the money aside so that you can pay the penalty back as a lump sum.



ADVICE

We can advise you further about the parking penalty charge scheme. **Phone us for advice.**

DEDUCTIONS FROM WEEKLY EARNINGS

Net earnings	% Deduction rate
Not exceeding £55	0
Exceeding £55 but not exceeding £100	3
Exceeding £100 but not exceeding £135	5
Exceeding £135 but not exceeding £165	7
Exceeding £165 but not exceeding £260	12
Exceeding £260 but not exceeding £370	17
Exceeding £370	17% in respect of the first £370 and 50% in respect of the remainder.

DEDUCTIONS FROM MONTHLY EARNINGS

Net earnings	% Deduction rate
Not exceeding £220	0
Exceeding £220 but not exceeding £400	3
Exceeding £400 but not exceeding £540	5
Exceeding £540 but not exceeding £660	7
Exceeding £660 but not exceeding £1,040	12
Exceeding £1,040 but not exceeding £1,480	17
Exceeding £1,480	17% in respect of the first £1,480 and 50% in respect of the remainder.

Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.

Freephone 0808 808 4000 Website www.nationaldebtline.co.uk

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