

# How can I check if a debtor has assets in order to pay a judgment debt?

Before embarking on time consuming and potentially expensive litigation against an individual or company, it is often worth checking if that individual or company has sufficient assets to pay any judgment debt, in the event that you successfully obtain judgment against them.

Whilst obtaining a County Court or High Court monetary judgment would be seen as a success, it is only of any real use, if the debtor then actually pays the money judgment they owe to you. If they fail to make payment, any judgment would only be a pyrrhic victory.

As such, before you embark on the litigation process, it is a good idea to see if the debtor would be able to pay any judgment you obtain. Whilst this process should also be carried out after you have obtained judgment, it is also wise to carry out such a check prior to commencing litigation, as litigation is often expensive.

There are a number of free or low-cost searches that potential claimants can carry out relatively quickly, without having to employ the services of any third parties, in order to see whether their opponent is likely to be able to afford any judgment and/or costs order.

## CLAIMANT'S OWN KNOWLEDGE

Many parties are familiar with the people they bring claims against, either having been in a commercial or other kind of business relationship with them, in either a personal or corporate capacity. As such, it is likely that you would have a good idea of whether your opponent has any assets. You may have visited your opponent's house or business premises and would therefore be aware of what they may own or what other assets may be available to you. If not, a simple drive-by visit to your opponent's house/business premises could establish whether they have any vehicles or other assets that could be used to pay any judgment debt.

## HM LAND REGISTRY SEARCHES

If you know where your opponent lives, you can carry out a search at HM Land Registry (for around £3 per search) to check if they own their property, whether it is owned jointly with another person and whether it is subject to a mortgage or any other charges. You can search by way of property description, which will then reveal the Title Number for that property. Once you have the Title Number, you can then request a copy of the Official Register of Title, which will often reveal details of the price paid for the property and when your opponent purchased it.

You can then compare the price paid against the

current valuation of the property (there are many free valuation sites on the internet) to see if there is likely to be any equity in the property. If so, when you obtain a judgment against your opponent, you may be able to enforce the judgment by way of a charging order against the property.

Unfortunately, the Land Registry will not allow you to carry out a name search to check how many properties an individual may own, unless you have a Court order confirming that such a search can be carried out.

The Land Registry search will also not tell you how much may be left to be paid on a mortgage, but as mentioned above, an up-to-date valuation should be able to reveal whether the price of the property has risen in recent years.

## HM LAND REGISTRY BANKRUPTCY SEARCHES

At HM Land Registry you can also carry out a bankruptcy search against your opponent to see if he or she is subject of any ongoing bankruptcy proceedings. The search will reveal the details of any proceedings, which will then allow you to contact the Court dealing with the bankruptcy to find out further details, such as the name of the creditor and who may be acting for them. You can then decide if you wish to support or oppose the bankruptcy petition. When carrying out the search on the individual, it is useful if you know their full name and the correct spelling, so that the search can be carried out against the correct opponent.

## COMPANIES HOUSE SEARCHES

Where your opponent is a limited company, it is advisable to carry out a search for that company at Companies House. Not only will this show the names and addresses of the directors (and some shareholders), but it will also reveal the last set of filed accounts and whether the company is active or not. It will also reveal whether the company is subject to any funding.

You can also search for details of any other directorships for individual directors at Companies House, to check if there are any related companies against whom you may also have a claim. In particularly complex matters, your corporate opponent may be part of a group of companies, and Companies House should help you work out the corporate structure of the group.

Companies House will also reveal if the company has been dissolved or is in liquidation or administrators have been appointed on its behalf, which may help you decide whether to pursue them or not. If insolvency practitioners have been appointed, their contact details will be at Companies House.

### INSOLVENCY CHECKS

As well as carrying out a bankruptcy search against an individual, it is also worth checking the Individual Insolvency Register to see if your opponent is subject to any insolvency restrictions, such as bankruptcy or an Individual Voluntary Arrangement. Results of bankruptcies or other arrangements also appear in the London Gazette, so it is worth checking their website too.

For companies, you should search the Insolvency Notices section of the London Gazette to find out whether any winding up petitions have been presented against your corporate opponent. Again, this will reveal details of who has presented the petition and you can then decide if you wish to support or oppose the petition.

If you believe the company may be subject to winding up proceedings (which have not yet been advertised), you can contact the Central Registry for Winding Up Petitions (based at the High Court Rolls Building) to find out if a petition has been presented. You can contact them either by telephoning their premium rate phone number or attending in person at the Rolls Building.

### CHECKS ON SOCIAL MEDIA OR OTHER WEBSITES

Searching your opponent's Facebook, LinkedIn, Instagram, Twitter or other social media websites can often reveal a bit more information about their lifestyle and again may provide you with further information about assets they may have. It can also provide you with information about their current employers, which may assist you in a possible attachment of earnings claim.

Even a basic internet search may reveal information about your opponent which you were unaware of.

## GET IN TOUCH



**Mark Ovenell**

**PARTNER**

Dispute Resolution

E: mark.ovenell@bindmans.com

T: +44 20 7833 4433

Review sites can be useful to look at as they may show that your opponent has a history of poor payment or has had similar claims against them (to your own claim) in the past.

### CHECKS FOR ANY ORDERS, FINES OR JUDGMENTS

Registry Trust (via their website at [trustonline.org.uk](http://trustonline.org.uk)) maintain a Register of existing court judgments, orders or fines against an individual or company in England and Wales. For a relatively low fee of around £10, you can see if your opponent has any outstanding judgments that they have failed to satisfy, which may persuade you that there is no merit in pursuing them.

### ASK THIRD PARTIES

If you do not have a relationship with your opponent, you may know someone who has dealt with them in the past. There is no harm in making enquiries of other individuals or companies who may have dealt with your opponent.

### COURT APPLICATIONS TO QUESTION THE DEBTOR

If you have already obtained a judgment and the debtor is refusing to pay, you can make an application to Court for the debtor to attend Court to answer questions about his/her finances, which will then allow you to consider the best enforcement action. Whilst the questioning is usually carried out by a court official (and you are not normally allowed to attend), this route is still relatively straightforward and inexpensive. However, it can only be carried out once you have the benefit of a judgment.

### INSTRUCT AN ASSET SEARCH AGENT

If none of the above reveals any information, you can always instruct an asset search agent to carry out searches for you. They will carry out similar searches to the above, but also may be able to carry out more detailed searches, or in some cases, more bespoke enquiries. However, search agents will charge for their time and therefore, you may wish to carry out your own enquiries first before instructing them.



The lawyers have incomparable client service skills. They are very clear and always make sure they understand the picture, even if it is a complicated one.

**CHAMBERS AND PARTNERS 2022**

**BINDMANS LLP**

236 Gray's Inn Road | London | WC1X 8HB

T: +44 20 7833 4433 | E: [info@bindmans.com](mailto:info@bindmans.com) | W: [bindmans.com](http://bindmans.com)