

## Fight back advice against **vexatious** litigants

By **David Oakes**, senior legal advisor of specialist debt litigation law firm Drydens

In recent months we have worked on several cases where creditors have taken decisive steps to fight back against the increasing nuisance caused by vexatious litigants - litigants in person who attempt to stall court proceedings and create mountains of paperwork in the hope that they will create such confusion so that a case is not worth the effort to pursue or seize the benefit of some procedural oversight caused by the volume of paper filed at court.



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Allied with the “more paper causes confusion” litigant are those who issue spurious claims and counterclaims against their creditors running up huge bills for the lender who has to address such actions.

When dealing with these individuals we have found the use of Extended Civil Restraint Orders and General Civil Restraint Orders has proven very effective.

The Extended Civil Restraint Order requires a formal application together with supporting witness statements. Our experience is that most judges will grant the Order where there is evidence of conduct by the litigant in person that demonstrates a clear contempt for the court process and previous judgments. The Order usually bans the litigant from further applications within that court’s jurisdiction for a period of 2 years.

However, all judges are cautious about depriving an individual of their rights under the Human Rights Act and the Order allows the litigant to seek leave of the Presiding Civil Procedure Judge to issue a fresh application/claim.

A General Restraint Order is usually considered where a party continues to make hopeless applications. This Order can prohibit any application or claim by an individual in any county court or the High Court (again, the litigant can still seek leave of a nominated High Court Judge to issue a claim or application).

The message is clear. Lenders need not endure endless action from such individuals and the process to stop these claims is proving both timely and effective.

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