

DEBT RECOVERY GUIDE FOR DEBTS OF UP TO £100,000

This Guide details the steps and fees where you are seeking to recover a **debt**. The debt might be for one or more unpaid invoices for goods or services, recovery of an overdue loan or rent. A debt is a fixed sum of money which is overdue.

Stage (1) - a formal letter claiming repayment of the debt (before a court action is commenced)

The first step is for us to send a formal letter before action demanding payment within a certain period of time, failing which court action will be taken, typically at least 7 days where the debtor is a corporate debtor and 30 days in the case of an individual or a sole trader. Depending on *why* the debtor has not paid, some debtors may pay in response to this.

We need from you an accurate and up-to-date statement of account, showing the debtor's correct name or corporate identity, contact details, the total debt and any interest claimed. Where a business claims a debt from an *individual* (including a sole trader), additional background detail must be included in the letter under the ***Pre-action Protocol for Debt Claims*** issued by the courts. Such a letter is often called a "***pre-action protocol letter***".

Stage (2) - Debts pursued in the county court leading to a CCJ

If the debt is not paid in consequence of the letters sent at stage (1), the next step is to issue court proceedings. There will be a court issue fee (footnote 1) to pay subject to the amount in dispute.

It often takes about a week for a Claim Form to be processed and sent by the court, and officially "served" on the debtor after the court receives the papers from us. If the debtor disputes the debt, it must say so during this stage and give reasons in a written Defence document, which the debtor must send to the court.

Stage (3) – Entry of a county court judgment (the CCJ)

After a Claim Form is issued by the court:-

- if the debtor does not return the prescribed ***Acknowledgment of Service Form*** to the court within 14 days from service of the Claim Form, or
- if the debtor returns that form, but does not thereafter send a written ***Defence*** document within a further 14 days of doing so (i.e. within about 5 weeks or so of the date of issue of the Claim Form)

we can then apply to the court to enter ***Judgment in Default*** (i.e. a CCJ).

Once you have a Judgment, there are enforcement processes upon which we can advise to recover the monies due under the CCJ if the debtor does not pay. For example, the instruction of bailiffs to execute the CCJ (for example, by seizing and selling a debtor's goods) or insolvency processes may be needed.

Recovery of our fees and court fees from the debtor

You cannot generally recover our fees from the debtor, even if the debtor pays the debt during stage (1) or stage (2). However, this may depend on any applicable terms and conditions.

Normally, however, if the debtor pays during stage (2), the debtor must also pay:-

- the court issue fee in full, plus
- a fixed *contribution* towards our fees in bands ranging between £50 and £100, depending on the amount of the debt.

If stage (3) is reached, the CCJ will include:-

- the court issue fee in full, plus
- a fixed *contribution* towards our fees in bands ranging between £77 and £185, again depending on the amount of the debt and at what stage the CCJ is entered.

If your business is registered for VAT, you may be able to reclaim all or part of the VAT on our fees via your VAT return in the usual way. This is why we show fees exclusive of VAT payable.

Timescales?

This will depend on *why* the debtor is not paying, about which we will have no information.

- The time taken to recover payment will depend on the extent and severity of any financial problems the debtor has. If the debtor goes into liquidation or bankruptcy, your debt (along with our fees and any court fees) may never be recovered.
- If non-payment was merely an oversight and the debtor values you as a supplier, payment may be made within days of receipt of the first letter from us at stage (1).
- Assuming the debtor has no major financial problems and does not defend the debt, we often find that payment (or an instalment proposal) may be to hand within 2 to 4 weeks of the letter being sent at stage (1).
- If court action is taken, sometimes a debtor will pay during stage (2) rather than allow a CCJ to be entered against it (which harms its credit-rating). In that case, payment may typically be to hand within 5 weeks or so of issue of a Claim Form at stage (2).
- With debtors who are individuals or sole traders, because of the ***Pre-action Protocol*** referred to above, the process will take much longer. In such cases, if the debtor does not dispute the debt but is struggling financially to pay, it may be as long as 10 weeks before court proceedings can even be commenced at stage (2).
- Likewise, if enforcement action is needed because the debtor does not have the funds to pay the debt or ignores the CCJ, payment will take much longer.

Our team

Debt recovery is handled by Patrick Farrington and headed up by Joanne Davies, Partner.