

Business Law:

Debt Collection

The late payment or non-payment of debts causes damage to any business, large or small. An effective method of debt collection is therefore a fundamental cornerstone of any commercial enterprise.

How Can Your Business Help Itself?

You should take steps to ensure that you know your customer. Who will be liable for the debt that is being created: is it the person who has ordered the goods or is that person acting as an agent of a Company or other person? Often placing or asking for confirmation of orders in writing will be of assistance.

A simple system should be established whereby debts fall due within say thirty days of the invoice. The invoice should also make clear reference to a rate interest that will accrue if the invoice is not paid on time. We shall be pleased to consider your standard form of invoice and advise if necessary.

After the first invoice a reminder should be given after thirty days and sixty days. A final reminder should be issued at say ninety days, stating that legal action will be taken if settlement is not received by return. Such a system needs no more than careful diary entries and regular credit control checks.

In addition to this system contacting a customer by telephone to remind them of the outstanding account can often be effective. The value of human contact is too often overlooked in these days of computer-generated invoices and reminders. Equally if payment of previous invoices is not forthcoming you should stop the supply of goods and services. Inform the customer that you are doing this and the reason why. This will limit the amount of credit that you are extending to any single creditor.

Instructions To Us

Some businesses are reluctant to instruct lawyers in respect of debt collection, being afraid that future business from the debtor customer will be lost. A customer who does not pay, however, is surely not a customer that any business would want to retain? If you instruct us promptly after the final reminder, however, the efficiency of the debt recovery system reflects the efficiency of your business.

You should provide us with a clear statement of the amount due and the circumstances in which the debt arose. Remember that proceedings can only be brought against a person or persons or an incorporated body such as a Company.

What Happens When We Receive Instructions?

On receipt of your instructions we may need to discuss the circumstances surrounding the debt with you. We will contact you by telephone on the same day as your instructions are received if any queries arise. A "seven day letter" will be issued to the debtor making formal demand for

payment of the debt and £40.00 in costs within seven days, failing which proceedings will be issued.

Often an offer of payment in full or by way of instalments is received following receipt of this letter. If no payment or offer is received a Summons will be issued. If the debt is for less than £10,000.00 the proceedings will be brought before the Petty Debts Court. If the debt exceeds £10,000.00 the action will come before the Royal Court.

Proceedings

The Summons will require the debtor to appear before either the Petty Debts Court on a Wednesday morning or the Royal Court on a Friday afternoon. If the debtor fails to appear or otherwise does not choose to defend the action we will ask the Court to grant a Judgement in respect of the amount of the debt and the legal costs that you have incurred. If costs are ordered to be paid by the debtor they will generally be ordered on a taxed cost basis, that is to say at a rate approved by the Court.

How You Can Enforce The Judgement?

Briefly, the usual form of Judgement gives you, the creditor, the power to arrest a proportion of the wages of the debtor or his belongings. By making a separate application the Court may also order the debtor to be lodged in prison. A Judgement of the Royal Court can also be registered as a charge against the debtor's real property.

The Viscount's Department, which is the executive arm of the Court, is responsible for the enforcement of the Judgement. A charge is made by the Department for its services, details of which can be provided on request. If enforcement is successful the Viscount's costs may be recovered from the debtor. Registration of a Royal Court Judgement against the debtor's real property will incur duty payable in Treasury stamps varying according to the amount of the debt.

Payment is made to us from the Viscount's Department and we will in turn forward the sum recovered to you following the deduction of our charges and disbursements. Naturally we provide an individual statement itemising those costs and disbursements.

What Will It Cost?

If no special circumstances apply the Court has a discretion to order that the debtor pay costs at a rate fixed by the Royal Court known as "taxed" rate. Details of this rate are available on request. If the proceedings are undefended the taxed costs ordered in your favour are usually sufficient to cover the costs you will actually incur. If it is not possible to recover these costs from the debtor, however, you will be liable to settle the costs incurred.

As no two debt collection situations are the same it is impossible to provide a firm quote. Please [contact us](#) for a guide to our debt collection costs or for more information on how Benest & Syvret can assist you.

We are of course happy to advise specifically in relation to any debt collection matter. The contents of this guide are only intended to give an outline of the service that we provide and we shall advise you in relation to each matter individually when instructions are received. This guide should not be considered as a substitute for specific legal advice.[Disclaimer](#).