

L.E. LAW INFORMATION SHEET NO. 5

GUIDE TO DEBT COLLECTION

1. Preliminary Considerations

- Is there likely to be a dispute about the amount of the debt?
- Has the debtor got means to pay?
If unsure, it may be worth investigating the debtor's means by way of a credit reference agency and/or enquiry agents. Avoid throwing good money after bad.
- Does the debtor have assets in the UK?
If based abroad (especially if outside the EC) it may be difficult to enforce a UK judgement through the foreign Courts.

2. Court Proceedings or Statutory Demand?

- A Statutory Demand is quicker and cheaper to serve (there are no Court fees) but if there is a genuine dispute we will need to issue Court proceedings anyway to get a Court decision on whether the debt is owed or not.
- A Statutory Demand is a preliminary step to insolvency proceedings (bankruptcy proceedings for an individual, winding up proceedings for a company). This involves high Court fees and if an Order is made for a liquidator or receiver to be appointed the matter is thereafter outside of your control. Insolvency proceedings tend to take at least a year or two, and usually result in little if any recovery for unsecured creditors.
- Nevertheless if the Debtor is solvent he will probably be very anxious to avoid an Order. If insolvent he may not care (or may be in no position to avoid such an Order). It is sometimes worth threatening insolvency proceedings (including serving a statutory demand) but seldom worthwhile following up by actually issuing insolvency proceedings.

3. Court Proceedings

- Debtors can be sued in any County Court in the country (usually the creditor will choose his local Court).
- If the debtor does not defend, the Claimant may enter judgment and proceed quickly to enforcement.

For further information contact Neil Lloyd-Evans at:
L.E. Law Solicitors, Vogel House, 127 High Road, Loughton, Essex, IG10 4LT

T: 020 8508 4691 – F: 020 8508 6359 – E: enquiries@lelaw.co.uk – W: www.lelaw.co.uk

- If the debtor does defend:
 - Is the Defence arguable? If not, we would usually apply for summary judgment.
 - If it is arguable the case follows usual steps to trial (see our Guide to Litigation).
 - If the debt is less than £5,000 remember there is usually a no costs rule. Is the debt still economic to pursue? Solicitors charges will almost certainly not be payable by the debtor, apart from the charges for preparing the initial court claim (i.e. as set out in section 4 below).

4. **Our Charges**

Our charges are calculated as follows:-

- For standard 7 day letters - £5 per letter
- For all other letters - £10 per letter
- For routine telephone calls (up to 6 mins.) - £5 per call
- For non-routine telephone calls (over 6 mins) – at the hourly rates set out below
- For undefended court proceedings – limited to the fixed costs allowed under the court rules which will be added to the judgment payable by the defendant
- For defended court proceedings – based on the following hourly rates according to the size of the debt (exclusive of interest)

Up to £5,000	£100
£5,000 - £15,000	£125
Over £15,000	£150

- For undefended Court proceedings – limited to the fixed costs allowed under the Court rules (which will be added to the judgment payable by the Defendant) the current amounts to issue proceedings are set out below. Further costs may be applicable when judgment is entered, and when any enforcement proceedings are taken:

Amount of debt	Fixed cost on issue
Up to £500	£50
£500-£1000	£70
£1000 - £5000	£80
Over £5000	£100

VAT at the applicable rate will be added to all the above charges.

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Please note that we cannot guarantee the solvency of any particular debtor, and therefore our charges are payable whether the debt is recovered or not. If you are unsure whether a debtor is worth pursuing or not, we can obtain a status report on the debtor from a third party (e.g. Dunn and Bradstreet). The cost of this will be provided on request.

5. **Interest on debts**

We would strongly recommend that your terms of business set out clearly when payment of invoices is due and that interest at a specified rate will be added in the event of late payment. It is then a matter for you whether you insist on payment of interest or not in each individual case.

Please note that if a debt is paid late, it is still possible to bring proceedings for contractual interest only if you so wish.

If your terms of business do not specify a rate of interest on late payment, you may still be able to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. This can be relied on by any business with 50 or less employees. The rate presently applicable is 8% above Bank of England base rate.

Please let us know if you would like us to review your terms of business and redraft them where appropriate. We will usually provide this service for a fixed fee.

6. **How to instruct us**

We accept instructions by telephone, e-mail, letter or fax. To send a 7-day letter, all we need to know are the following details:-

- The debtor's name and correspondence address
- The amount of the debt
- Whether you wish us to claim interest, and if so whether contractual or under the 1998 Act

Please ask for our pro forma instruction sheet, which you can use if you wish.

In order to issue proceedings, we will also need the following:-

- Copies of the invoices and any relevant correspondence
- A cheque for the relevant court fee payable to Miller Evans & Co

7. **Keeping you informed**

We will report to you weekly on all current matters, and more often when necessary in any particular case. Our weekly report can be delivered by letter, fax or e-mail, as you prefer.

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8. **Disclaimer**

This information sheet is for guidance only and does not remove the need to take professional legal advice relevant to the specific facts of any individual case. No responsibility will be accepted for any losses occasioned as a result of any action taken in reliance on the contents of this document.

For further details please contact Neil Lloyd-Evans

Contact Details

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