

Debt Recovery Process Pathways & Charges

Debt Recovery options for a Limited Company, LLP, Partnership, charity or government body

Pathway 1

Letter Before Action £25 plus VAT*

If we send a Letter Before Action (LBA) on your behalf the debtor has seven days to reply with payment, an offer of payment or to enter into negotiations.

We add Late Payment Compensation, Interest and Recovery Costs to the original debt (rates will either be as per your Terms & Conditions or under Late Payment of Commercial Debts Act 1998).¹

The LBA also states that County Court Proceedings will be started if there is no payment or response.

IF NO RESPONSE OR PAYMENT THEN:

County Court Proceedings in small claims court £150 up to £250 plus VAT* on debts up to £10k.

You do not have to start Court proceedings after issuing an LBA, and we will advise you on the best course of action if there is no response to the LBA.

If we do start Court Proceedings then we will usually ask the Court to serve the claim (unless the debtor resides anywhere other than the UK). At this point the debtor is referred to as the Defendant. Once the Defendant receives the claim they have the following options:

- Admit the whole claim and make an offer of payment
- Admit part of the claim and make an offer of payment for the that amount
- Dispute part of the claim
- Dispute the whole claim

Again, you will be advised on what response is received as to what the next step is.

The Court have a sliding scale for Court fees and this is dependent upon the size of your debt, and all costs and will be discussed with you before action is taken. The Court fees and a fixed cost allowed by the Court gets added to the debt.

IF NO RESPONSE OR PAYMENT THEN:

County Court Judgment £22 up to £75 plus VAT*

Once the Court has granted a County Court Judgement (CCJ) the debtor then has 30 days to pay

Pathway 2

Threat to Liquidate £250 plus VAT*

An alternative to a LBA / County Court pathway is the insolvency route. In this respect we can issue a letter which is known as a Threat to Liquidate letter (TTL).

In order to use this letter however you need to make sure of the following:

- The debt is over £750
- The debt is not disputed
- The debtor company is still active

The TTL demands payment in 48 hours and promises that if no payment is received, a winding up petition will be presented. A TTL is very effective and we will quickly establish whether payment will be made or there are reasons why payment will not be made.

The charge for this is much higher than an LBA but we will look to reclaim this and any other costs from the debtor.

IF NO RESPONSE OR PAYMENT THEN:

Winding Up Petition

Our litigation team can discuss options relating to issuing a Winding Up Petition. This is only taken as a last resort and is both costly and has a significant impact on the debtor (including your future relationship with them, if it is to remain).

We will discuss all options and costs with you before acting on your behalf.

NOTE REGARDING STATUTORY DEMANDS:

Statutory Demands £250 plus VAT*

A statutory Demand is an alternative insolvency option to a TTL. This is also a formal written request that a debt must be paid, and again there must be no dispute to the debt. The main difference is that the debtor has 21 days rather than two days to:

- Settle the debt
- Secure the debt by reaching an agreement for payment
- Issue an application to set aside the Demand if there is a dispute

in full from judgement date. If the amount is paid within that time then the entry is moved from the Register and will not show on the Defendant's credit file or history.

If the CCJ is not paid within the month of it being registered, the CCJ will stay on the register and will show on any credit search performed against the Defendant. If the defendant does subsequently pay, it will not be removed but will show on any search as "satisfied". A CCJ will stay on the Defendant's credit file for 6 years and this means you have 6 years to take any enforcement action against the Defendant.

Enforcement of a CCJ

The enforcement action you can take will depend on what information you know about your debtor. This is why it is important to **know your debtor** at the outset of the claim should you need to enforce. The various enforcement options and charges are briefly outlined below. The Court fee is added to the debt but our charges are not. The Court do allow a fixed cost for some enforcement and this will be confirmed to you before we proceed:

	Court Fee / Our Fee**
Charging Order	£110 / £300
Attachment of Earnings	£110 / £300
Third Party Debt Order	£110 / £350
High Court Enforcement	£66 / £200
County Court Bailiff	£110 / £100
Information Order	£55 / £300

*** Our fees are exc. VAT*

Note you can proceed with more than one enforcement option at a time.

We work very closely with several High Court Enforcement Agents and we also work closely with a tracing agent should you need to locate your debtor.

If you have already obtained a CCJ and need assistance with how to enforce it please give us a call and we can discuss the various options with you.

If not paid, as detailed above, the creditor may then present a petition to the court for a winding-up order for debts of a limited company. This is used instead of the TTL as in some cases it would not be realistic to request payment in 48 hours and 21 days give the debtor time to put things into place in order to pay the debt.

* These are standard costs which may vary if additional work is required or it is a complex case. All costs will be shared and agreed with you prior to any action being taken

Debt Recovery options for Sole Traders and Individuals

Pathway 1

Letter Before Claim up to £75 plus VAT*

If we send a Letter Before Claim (LBC) on your behalf the debtor has 30 days to reply with payment, an offer of payment or to enter into negotiations.

If the debtor is a sole trader then we add Late Payment Compensation, Interest and Recovery Costs to the original debt (rates will either be as per your Terms & Conditions or under Late Payment of Commercial Debts Act 1998).¹

If the debtor is an individual we cannot apply Late Payment Compensation, but can apply Statutory Interest at a rate of 8% and any Recovery Costs you may have specified in your terms. If you do not have any provision in your terms then we cannot add any further charges.

The LBC also states that County Court Proceedings will be started if there is no payment or response.

IF NO RESPONSE OR PAYMENT THEN:

County Court Proceedings £150 up to £300 plus VAT*

You do not have to start Court proceedings after issuing an LBA, and we will advise you on the best course of action if there is no response to the LBA.

If we do start Court Proceedings then we will usually ask the Court to serve the claim (unless the debtor resides anywhere other than the UK). At this point the debtor is referred to as the Defendant. Once the Defendant receives the claim they have the following options:

- Admit the whole claim and make an offer of payment
- Admit part of the claim and make an offer of payment for the that amount
- Dispute part of the claim
- Dispute the whole claim

Again, you will be advised on what response is received as to what the next step is.

The Court have a sliding scale for Court fees and this is dependent upon the size of your debt, and all costs and will be discussed with you before action is taken. The Court fees and a fixed cost allowed by the Court gets added to the debt.

Pathway 2

Threat to Bankrupt £250 plus VAT*

An alternative to a LBC / County Court pathway is the insolvency route. In this respect we can issue a letter which is known as a Threat to Bankrupt letter (TTB).

In order to use this letter however you need to make sure of the following:

- The debt is over £5000
- The debt is not disputed
- The debtor is not in an IVA or in the process of bankruptcy already

The TTB demands payment in 48 hours and promises that if no payment is received, we will commence bankruptcy proceedings. A TTB is very effective and we will quickly establish whether payment will be made or there are reasons why payment will not be made.

The charge for this is much higher than an LBC but we will look to reclaim this and any other costs from the debtor.

IF NO RESPONSE OR PAYMENT THEN:

Bankruptcy Proceedings

Our litigation team can discuss options relating to issuing a Bankruptcy Proceedings. This is only taken as a last resort and is both costly and has a significant impact on the debtor (including your future relationship with them, if it is to remain).

We will discuss all options and costs with you before acting on your behalf.

NOTE REGARDING STATUTORY DEMANDS:

Statutory Demands £250 plus VAT*

A statutory Demand is an alternative insolvency option to a TTB. This is also a formal written request that a debt must be paid, and again there must be no dispute to the debt. The main difference is that the individual has 21 days rather than two days to:

- Settle the debt
- Secure the debt by reaching an agreement for payment
- Issue an application to set aside the Demand if there is a dispute

IF NO RESPONSE OR PAYMENT THEN:

County Court Judgment £22 up to £75 plus VAT*

Once the Court has granted a County Court Judgement (CCJ) the debtor then has 30 days to pay in full from judgement date. If the amount is paid within that time then the entry is moved from the Register and will not show on the Defendant's credit file or history.

If the CCJ is not paid within the month of it being registered, the CCJ will stay on the register and will show on any credit search performed against the Defendant. If the defendant does subsequently pay, it will not be removed but will show on any search as "satisfied". A CCJ will stay on the Defendant's credit file for 6 years and this means you have 6 years to take any enforcement action against the Defendant.

Enforcement of a CCJ

The enforcement action you can take will depend on what information you know about your debtor. This is why it is important to **know your debtor** at the outset of the claim should you need to enforce. The various enforcement options and charges are briefly outlined below. The Court fee is added to the debt but our charges are not. The Court do allow a fixed cost for some enforcement and this will be confirmed to you before we proceed:

	Court Fee / Our Fee**
Charging Order	£110 / £300
Attachment of Earnings	£110 / £300
Third Party Debt Order	£110 / £350
High Court Enforcement	£66 / £200
County Court Bailiff	£110 / £100
Information Order	£55 / £300

** Our fees are exc. VAT

Note you can proceed with more than one enforcement option at a time.

We work very closely with several High Court Enforcement Agents and we also work closely with a tracing agent should you need to locate your debtor.

If you have already obtained a CCJ and need assistance with how to enforce it please give us a call and we can discuss the various options with you.

If not paid, as detailed above, the creditor may then present a petition to the court for a bankruptcy order for personal debts, including debts incurred as a sole trader or when trading in partnership with someone else. This is used instead of the TTB as in some cases it would not be realistic to request payment in 48 hours and 21 days give the debtor time to put things into place in order to pay the debt.

FAQs

What happens if the LBA doesn't result in payment of the debt?

If we do not recover the fees and legal costs from the debtor we charge you a fixed fee of **£25 plus VAT**.

¹ What is the Late Payment of Commercial Debts (Interest) Act 1998?

The Late Payment of Commercial Debts (Interest) Act 1998 is an Act of the United Kingdom Parliament enabling businesses to charge other business customers interest on overdue accounts and to obtain compensation. The Act extends to Scotland and NI too.

Legislation allows the following compensation amount against each outstanding invoices:-

Amount of debt	What you can charge
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

The Act also allows you to claim Late Payment Interest and Recovery Costs.

Our Team:



Chris Else
Partner
Head of Debt Recovery
01283 526209
chris.else@elselaw.co.uk



Laura Charles
Team Leader & Paralegal
Debt Recovery
01283 526210
laura.charles@elselaw.co.uk



Charlotte Osborne
Litigation Executive
Debt Recovery
01283 526234
charlotte.osborne@elselaw.co.uk



Beth Marsh
Paralegal
Debt Recovery
01283 526231
beth.marsh@elselaw.co.uk