



Steeles Law
Solicitors



**A guide to the debt recovery process when
you have an unpaid invoice**

1 Consider your options

- Give the debtor additional time to pay
- Send a Letter Before Action warning that you will take legal action to recover the debt



2 Day 1: Letter Before Action

The letter should:

- Contain details of the outstanding invoices and terms and conditions of payment;
- Request payment of the outstanding balance together with interest;
- State the time frame for the payment;
- Threaten legal action if payment is not made.

You should check whether the Pre-Action Protocol for Debt Claims applies as the Court will expect you to follow it where it does. Give the debtor additional time to pay.



3 Negotiation/settlement

In response to your Letter Before Action the debtor may seek further information; payment by instalments; additional time to pay; additional time to obtain advice.

You may then negotiate an agreement with debtor without the need to issue court proceedings.



4 Day 14 – 30 (depending on date given in Letter Before Action): Issue Court Proceedings

If the debt remains unpaid, no response is received to the Letter Before Action or no agreement has been reached the next step is to issue proceedings in the County Court. You will need to submit a paper claim form. Alternatively, you can claim online through Money Claim Online.

The court application fee depends on the amount of the claim.

5 Debtors Response

Once the claim has been issued the debtor has 14 days to respond in one of the following three ways:

- Acknowledgement of Service – the debtor will confirm whether they intend to admit or defend the claim. This gives the debtor a further 14 days from the date of service to submit a full response i.e. they have a total of 28 days; or
- Admission – the debtor admits the debt and offers payment in full on a certain date or by instalments; or
- Defence – the debtor submits their counter to the claim.

Q What if the debtor does not respond?

Day 14: You can apply for a County Court Judgment against the debtor for the outstanding balance, interest and fixed costs.

Q What if the debtor files an admission?

You can apply for a County Court Judgment against the debtor for the outstanding balance, interest and fixed costs.

Q What if the debtor files a defence?

If the debtor files a defence a Directions Questionnaire will be sent to both parties to find out more about the Claim. Once these have been returned to the Court, the case will then be allocated to a "Track". There are three tracks: The Small Claims Track, The Fast Track and The Multi-Track.

6 County Court Judgement

If a Judgment is made it will be registered on the Central Register of Judgments, Orders and Fines if it is not paid within 30 days. It will stay registered for six years (only being marked as satisfied if paid after 30 days) and is likely to affect the debtor's credit rating.

Allocation

- The Small Claims Track is for all money claims up to £10,000.00.
- Fast Track is for all money claims between £10,000.01 and £25,000.00.
- Multi Track is for all money claims over £25,000.01.

Further details of the defended court process and the above-mentioned tracks will be provided should your case be defended.

There are various stages to the court process, and it is important to remember that you can still agree a settlement with the debtor at any time before the end of the final hearing.

If the claim makes its way to a final hearing the Judge may issue Judgment in your favour.

Q What if the debtor does not pay the Judgment?

There are several enforcement options available including:

A High Court Enforcement Officers or County Court Bailiffs

who can seize certain goods and chattels as required to satisfy the Judgment debt, interest, costs and fees.

A Attachment of Earnings Order

This compels an employer to make regular deductions from the debtors' earnings and pay them to the court

A notice of application for an attachment of earnings order is served on the debtor, usually by the Court, together with a questionnaire regarding his means which the debtor must complete. If the debtor completes and returns the questionnaire, Court staff may make an attachment of earnings order and send copies of it to the parties and to the debtor's employer.

An attachment of earnings order will specify the normal deduction rate and the protected earning rate, the latter being the amount which the Court decides the debtor must be allowed to retain out of his earnings.

A Charging order

This only applies if the debtor owns property or land and provides you with the equivalent of a mortgage over the land specified in the order

To obtain a charging order an application notice must be filed at Court. An interim charging order is usually made without notice to the judgment debtor and a date set for it to be made final. This is now undertaken on paper and without a hearing unless the debtor files an objection to the order being made final. The interim order should be registered against the land and copies of the order and application notice must be served on the judgment debtor and any other creditors.

In deciding whether to grant a charging order, the Court will take into account the position of other creditors of the judgment debtor and also any trustee or person beneficially entitled to the land in question. If at the hearing the charge is made final, the Land Registry should be informed that a final charging order has been made.

A Third party debt order

If the judgment debtor is himself a creditor of another person, it is possible to obtain an order that his debtor pay you direct. Third party debt proceedings cannot be issued for a judgment sum of less than £50 or the foreign equivalent.

It is possible to find out at an information hearing whether the judgment debtor has any debts due to them.

A Bank or Building Society account in credit can also be the target of a Third Party Debt Order.

Protecting your cash flow is vital if you want to keep your business afloat. If you are owed money, we can provide a tailored debt recovery service on a fixed fee, or percentage of recovery basis.

For more information on how the team can support you and your business, please call 01603 598000 or email info@steeleslaw.co.uk and a member of the team will contact you.

www.steeleslaw.co.uk

- **Norwich** Lawrence House, 5 St Andrews Hill, Norwich Norfolk NR2 1AD.
Tel 01603 598000
- **London** Level 17, Dashwood House, 69 Old Broad Street, London EC2M 1QS.
Tel 03304 339643
- **Diss** St Nicholas House, 3 St Nicholas Street, Diss, Norfolk IP22 4LB.
Tel 01379 652141



Steeles and the symbol are registered trademarks of Steeles Law Solicitors Limited authorised, regulated and licensed by the Solicitors Regulation Authority as an Alternative Business Structure (ABS). SRA number 592311. Steeles Law Solicitors Limited is a limited company registered in England and Wales registered no. 08294222. Registered office: Lawrence House, 5 St Andrews Hill, Norwich NR2 1AD. A full list of directors is available from the registered office.