

debtcollector

LEATHES PRIOR

Efficient. Effective. Enforcement.
www.debtcollector-lp.co.uk

***“The cost is fixed
and the process is
clear”***

Leathes Prior’s debtcollector service is a cost-effective way of enforcing undisputed overdue debts of under £10,000.

Most claims for less than £10,000 are likely to be allocated to the Small Claims Track of the County Court. The usual hourly rate charged by solicitors is rarely recovered in the Small Claims Track and, as such, normal solicitors’ fees can

soon outweigh the value of the claim leaving you out of pocket even if the original debt is successfully recovered.

Leathes Prior has developed a cost effective system for debt recovery for business clients called debtcollector, which limits the cost that the creditor pays. Where payment of the debt is made by the debtor then all of our costs and court fees incurred in pursuing the debt up to obtaining a County Court Judgment can be claimed from the debtor.

Because debtcollector is managed by solicitors specialising in dispute resolution, expert advice is given at all stages of the process, and this advice is provided free of charge, provided that the relevant debt falls within the scope of the debtcollector service.

***“Expert advice is
given at all stages
of the process”***

To start the process, just sign a copy of the Debtcollector Agreement at the back of this booklet to set up an account. Then you can send us the relevant invoices, which should contain the name and address of the debtor, along with the amount of the debt and the due date.

THE PROCESS

Most of the details necessary for the debt to be chased using the debtcollector service will be taken from the form supplied to us on instruction. It is vital, therefore, that the information you give us is accurate.

If the debtor has no assets it may be unlikely that you will ever recover the debt through the County Court procedure. We are able to conduct a detailed search into the viability of a debtor and pass that information to you. If you would like us to conduct such a search, you should let us know.

If the debtor does not have any assets, and is therefore unable to pay, you will still be responsible for our fees.

Before starting the debtcollector process, consideration should be given to alternative options. One common strategy is the service of a statutory demand, which is the first step in insolvency proceedings. A statutory demand may be served in respect of a debt exceeding £750 whether the creditor has judgment or not but should not be used for debts that are genuinely disputed. A statutory demand is a demand in a prescribed form and if payment is not received within 21 days of service the debtor is deemed to be insolvent and susceptible to the commencement of insolvency proceedings by the creditor. If you would like to consider service of a statutory demand pre-judgment please state this when providing the details of the debt.

It should be remembered that coercion and harassment are not permitted means of debt recovery. The Administration of Justice Act 1970 provides that a criminal offence is committed if any person (with the object of coercing another to pay money) does any one or a combination of the following:-

- (a) harasses another with demands for payment which, in respect of their frequency or the manner or occasion of making any such demand, or of any threat or publicity by which any demand is accompanied, are calculated to subject them or members of their family or household to alarm, distress or humiliation;
- (b) falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it;
- (c) falsely represents themselves to be authorised in some official capacity to claim or enforce payment; or
- (d) issues a document falsely representing to have some official character or purporting to have some official character which they know it has not.

The debtcollector process is as follows:

1. LETTER BEFORE ACTION

In all but the most exceptional cases, the debtor should be notified in writing that proceedings are to be taken against them.

We give all debtors fourteen days in which to make payment of the debt, and we inform the debtor that we will issue proceedings if no payment or contact is made within that period. We give fourteen days because that is the period prescribed by the Ministry of Justice in the Pre Action Protocol, and breach of that protocol can carry penalties at court.

All creditors may include a claim for interest in their debt recovery procedure. If there is an interest clause in your Terms and Conditions of business the rate specified therein can be claimed. If there is no specified rate then interest and fixed fees can usually be claimed under the Late Payment of Commercial Debts (Interest) Act 1998 for business debts.

If no satisfactory response or response at all is received from the debtor, a County Court claim can be issued.

2. COUNTY COURT PROCEEDINGS

When issuing proceedings, we will tell the court by way of the particulars of claim that there is a contract (written, oral or implied) in place between you and the debtor, that the debtor has failed to pay in breach of that contract and that money is owed to you as a result. We will sign a statement of truth on your behalf to this effect. It is vital, therefore, that you let us know if the circumstances are not as we have described.

Claims for debts under £10,000 (for the recovery of money only) will usually be allocated to the small claims track of the county court. The court fees are fixed on a sliding scale based on the amount of the claim (including interest) and these costs are

claimable from the debtor in a successful claim. Furthermore, there are fixed legal costs involved, and these are also claimable from the debtor in a successful claim.

The address to which the proceedings will be sent will be the address you provide to us.

If the debtor fails to respond within 14 days from the date on which the proceedings are deemed to be served on them, it is possible to apply for a county court judgment. There are fixed legal costs involved at this stage, which are also claimable.

If the debtor acknowledges service of the summons but fails to enter a Defence within the given time limit (28 days from the date of service) it is possible to apply for judgment as above.

Default judgment will be entered on a register of judgments and will affect a debtor's credit rating. This will last for six years (unless satisfied during this period) and enforcement action can be taken at any time within the six years.

If the debtor files an admission, an offer will usually be made as to payment terms. You can either accept these payment terms or ask the court to determine the terms of repayment.

3. ENFORCEMENT

When judgment is entered against a debtor it is not always necessarily the case that a debtor will automatically make payment. Therefore it may be necessary to take further Court action in order to enforce payment.

Please refer to our Dispute Resolution Guide for further information on methods of enforcement.

Non-routine debts

A careful check should be made of records to ensure that all details concerning the debtor and the state of account are in order and up to date. It is essential that there is a valid debt which is overdue for payment and that there is no genuine reason or dispute why the debt should not be paid.

If the matter is of a non-routine nature, it will fall outside of the scope of the debtcollector service. This will include, for example, circumstances where the debtor has defended the debt, has asked for clarification, has asked to pay by instalments, enters into any kind of insolvency arrangement (including an IVA) or where the amount or circumstances of the debt change for any reason. There may be other circumstances which make a debt non-routine, and these matters will fall outside the scope of debtcollector too.

If the matter does become non-routine, fees will be payable on an hourly rate basis. These hourly rates will be between £100 plus VAT and £250 plus VAT, depending on the level of seniority required. In the vast majority of cases, a non-routine debt originally dealt with pursuant to the debtcollector service will be dealt with by a fee earner with an hourly rate of £100 plus VAT. Investigation of the issue is likely to take up to an hour, and following investigation we should be in a position to advise you as to further fees.

Leathes Prior Costs (All costs plus VAT)

Pre-action	
Letter before action	
Claim up to £1,000	£40.00
Claim £1,001 - £5,000	£70.00
Claim £5,001 +	To be agreed on instruction

Commencement of Proceedings (excluding Court fees)	
Issue claim	
Claim up to £500	£50.00
Claim £500 - £1,000	£70.00
Claim £1,000 - £5,000	£80.00
Claim £5,000 +	£100.00

Obtaining a County Court Judgment		
	Claim up to £5,000	Claim over £5,001
Default Judgment if no Response received	£22.00	£30.00
Default Judgment if no Defence received	£25.00	£35.00
Judgment after admission if proposed payment terms are accepted	£40.00	£55.00
Judgment after admission if the court determines the repayment terms	£55.00	£70.00
Response/Defence received from Debtor	<i>Refer to Dispute Resolution Team for specific advice</i>	

Enforcement Action	
Warrant of Control (Bailiffs) (debt below £5,000 only)	£50.00
Instruct High Court Enforcement Officers (debt over £600 only)	£50.00
Third Party Debt Application	£110.00 plus £150.00 for Land Registry fees
Charging Order	£80.00 plus the costs of service
Order to Obtain Information	£100.00 plus the cost of a process server (£variable but usually around £150 plus VAT)
Attachment of Earnings Order	£100.00
Drafting a Statutory Demand (for debts between £750 and £10,000 only)*	
Pre-Judgment	£100.00
Post-Judgment	£80.00
Service of a Statutory Demand by process server	£variable but usually around £150 plus VAT
Insolvency Proceedings	<i>Refer to Insolvency Team for specific advice</i>

* Service of a statutory demand can result in court proceedings to set aside the demand or restrain presentation of a winding up petition in respect of which costs are not fixed. In the event that proceedings are initiated or threatened the matter would be referred to the Insolvency Team for specific advice.

Court Fees (not subject to VAT)*(Court fees correct at time of publication but subject to change)*

On commencement of claim	
Up to £300.00	£35.00
£300.01 - £500.00	£50.00
£500.01 - £1,000.00	£70.00
£1,000.01 - £1,500.00	£80.00
£1,500.01 - £3,000.00	£115.00
£3,000.01 - £5,000.00	£205.00
£5,000.01 - £10,000.00	£455.00
£10,000.01 - £200,000.00	5% of the claim
£200,000.01 +	£10,000.00

Enforcement	
Warrant of Control (Bailiffs)	£100.00
High Court Enforcement Officers	£60.00
Third Party Debt Order	£100.00
Charging Order	£100.00
Attachment of Earnings Order	£100.00
Order to Obtain Information from Debtor	£50.00

1. THE DEBTCOLLECTOR AGREEMENT

- 1.1 The debtcollector service is for debts incurred by a business in the UK that has a value of less than £10,000 and for which there is no dispute. If the relevant debt does not fall within this scope, our hourly rates will be payable.
- 1.2 Your objective is to recover the debt from the debtor as quickly and as cost-effectively as possible.
- 1.3 You agree that the details you have supplied to us in writing are completely accurate.
- 1.4 By instructing us you are informing us that the amount of the debt is a valid contractual obligation on the part of the debtor and that you do not know of any dispute in relation thereto.
- 1.5 Apart from the fees for the Letter before Action and for Statutory Demands, all fees listed in this booklet are claimable from the debtor if the debt remains undisputed (subject to their ability to pay). The fees for a Statutory Demand may be recovered if insolvency proceedings are issued (i.e. a bankruptcy petition or winding-up petition). If either the debt becomes disputed or you choose not to pursue the claimable fees, you will remain liable to Leathes Prior for those fees.
- 1.6 If the debtor issues court proceedings against you following the service of a statutory demand you will usually be required to pay the debtor's costs in respect of those proceedings if the debtor succeeds or if you choose to withdraw the demand after proceedings have been commenced. Those costs are not fixed.
- 1.7 The debtcollector service operates through the use of some standard documents. If you use our service regularly you will find that some of the letters we send you contain information that you have received previously. If you do not wish to receive certain information from us, please just tell us and we can alter what is sent. However, the information is designed to keep you informed at every stage and we hope that it is helpful in every case.
- 1.8 The person dealing with your claim will be the individual named in the initial letter or email that we send out to you once you have provided us with the details of the debt. The initial letter will provide that person's direct telephone number, email address and fax number so that you can contact us directly. The individuals involved in the debtcollector process are as follows:

Name	Position
Dawn Lossau	debtcollector Manager
David Richards	Associate Solicitor

2 OUR RESPONSIBILITIES

- 2.1 We will pass on any correspondence or information received by us to you promptly.
- 2.2 Once you have provided the details, the next step (save where you have requested that we serve an immediate statutory demand) will be for us to send out the initial Letter Before Action, giving the debtor 14 days before a County Court claim will be issued.
- 2.3 We will not take any step that requires a court fee unless and until you have provided us with a cheque for the relevant amount.
- 2.4 We will inform you of what court fee is required as and when the need arises.
- 2.5 Once proceedings have been issued, we will automatically obtain judgment against the debtor if no response is received within the relevant time period, although we may discuss this with you before doing so. If you do not want us to obtain judgment, you must tell us.

2. YOUR RESPONSIBILITIES

- 3.1 You must inform us immediately if you receive any response or payment from the debtor.
- 3.2 You must inform us if you have, or become aware of, any reason to think that there might be a dispute in relation to the debt or any other reason why it should not be pursued.
- 3.3 You will provide us with a copy of your Terms & Conditions and will inform us if they are updated. If you do not supply us with a copy of your Terms & Conditions, we will assume that such terms do not apply to this debt and will assume that the contractual position between you and the debtor is the position in default of any Terms & Conditions.
- 3.4 The only circumstance in which you can be ordered to pay the debtor's legal costs in the Small Claims Track is if you have behaved unreasonably. If you fail to follow the procedures and protocols that we advise you of, you will be at risk of being ordered to pay any legal costs that the debtor might incur.

3. TERMS & CONDITIONS OF BUSINESS

Along with this guide is enclosed our Client Care Guide which includes our terms and conditions of business. This sets out the basis on which we will act for you and provides important information in relation to matters including our fees (clause 5), money laundering (clause 21) and our liability (clause 22).

4. COMPLAINTS

- 5.1 If you have a query about the amount of our costs please contact the individual with conduct of the matter in the first instance. If your query is not resolved please contact our Client Care Partner, Mike Barlow. Alternatively you may be entitled to complain to the Legal Complaints Service or have our charges reviewed by the Court. This latter process is called "detailed assessment". The procedure is set out in Part III of the

Solicitors Act 1974. You should be aware that there are strict time limits applicable to this procedure and you may therefore wish to seek independent legal advice. We may also be entitled to charge interest on any outstanding sums from any invoices that are unpaid in full or part.

5.2 You have the right to complain to the Legal Ombudsman at the conclusion of our internal complaints process. Complaints to the Legal Ombudsman should ordinarily be made within 6 months of our written response to your complaint. Contact details for the Legal Ombudsman are as follows: www.legalombudsman.org.uk or 03005550333.

I, _____, hereby confirm that I have received and read a copy of the enclosed Dispute Resolution Guide and enclosed Client Care Guide and that I understand and agree to the terms of engagement contained therein.

I confirm that I have authority to sign on behalf of the creditor.

Signed Dated

CLIENT DETAILS

Company/Individual:

Billing address:
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Contact:

Email:

Telephone/mobile:

Payment terms:

Existing client: Y / N

NEW INSTRUCTION

DEBTOR DETAILS

Debtor name:

Debtor trading address:

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Registered Office address:

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Debtor contact name:

Debtor contact email:

Debtor Telephone/mobile:

DEBT AMOUNT:

INTEREST (if applicable):

Please provide copies of the outstanding invoice(s) and any recent correspondence

We will assume that the details provided on this form are accurate. We will use this information in priority to any details shown on the invoices supplied to us when (1) identifying the debtor and (2) providing an address for serving documents on the debtor, including court documents.