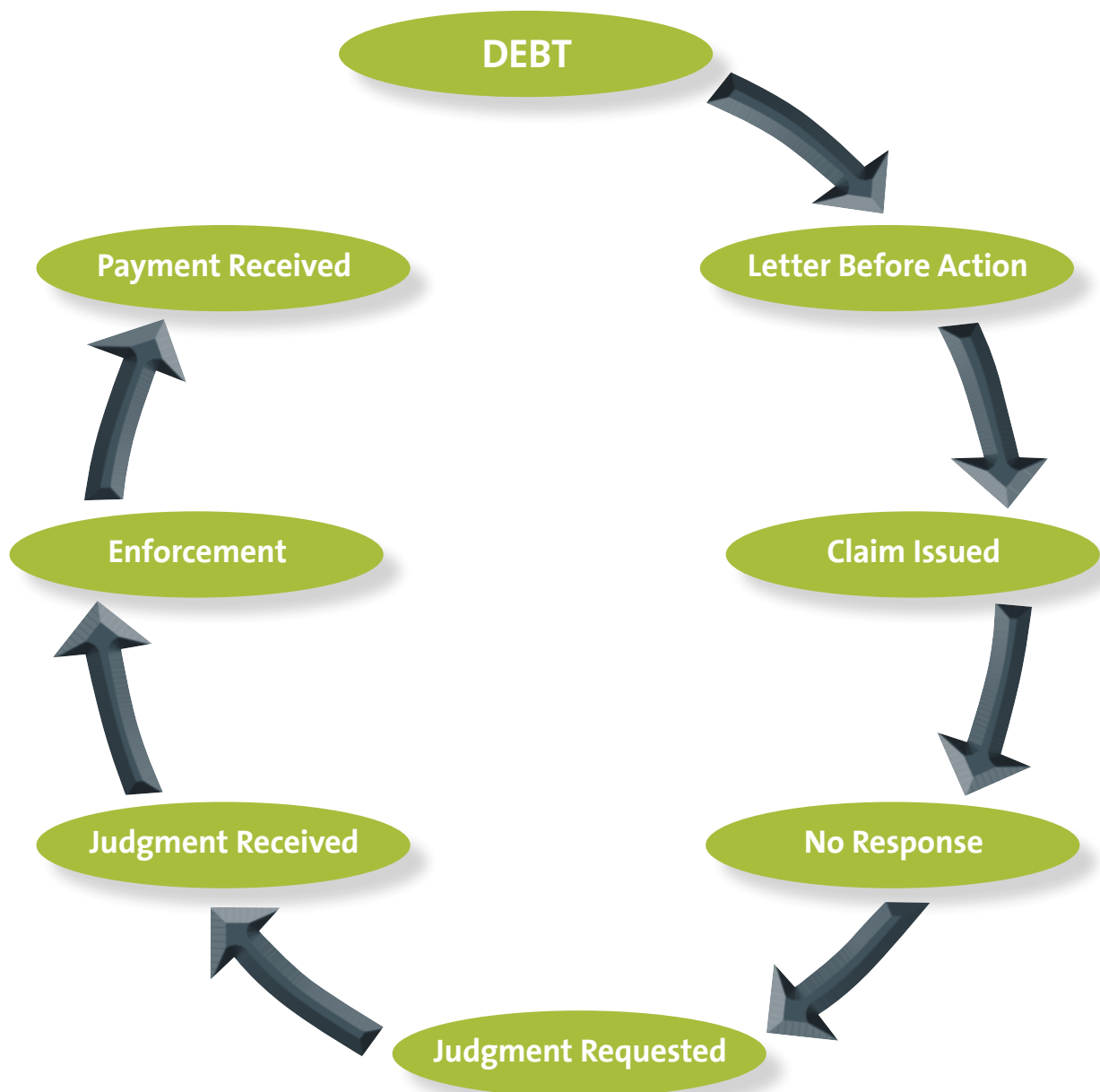




Debt Collection Process

To help you to understand the steps required in recovering your debt, we have set out an outline of the debt collection process below.



Life Cycle of a Simple Debt

Initial Guide

Are you acting as a sole-trader, a partnership, a company or an individual?

Sole-Trader

A sole-trader is a self-employed person, who has full control and ownership of the business in question.

Partnership

A partnership is made up of two or more people and a Partnership Agreement is usually drawn up to regulate the relationship between partners. This type of business is not registered with Companies House.

Company

A limited company will be registered at Companies House and will have directors, shares and shareholders.

Individual

If you are not acting as a sole-trader, a partnership or a company, it is likely that you are an individual.

Are you entitled to claim interest on the amount owed to you by the debtor?

Statutory interest

Section 69 of the County Courts Act 1984 provides that you may claim statutory interest when making a claim in the County Court. Interest will be awarded at the court's discretion and at such rate and for such a period as the court thinks fit.

The general rule is that a County Court Judgment will also carry interest at 8% from the date of judgment.

We will calculate this for you and make sure it is added to the amount you are owed, if your matter reaches this stage of court proceedings.

Late Payment of Commercial Debts (Interest) Act 1998

This Act imposes interest on late payments of debts in relation to business-to-business contracts for the supply of goods or services.

Interest is calculated by adding 8% to the Bank of England Base Rate, which is fixed every 6 months.

You will not be able to claim this type and rate of interest however if the contract in question already sets a rate.

First step: Letter before action

A letter before action is a concise letter which is sent to the debtor, setting out the matter and requesting payment within a certain time period. The time limit for a response from the debtor must be reasonable and a minimum of 7 days is standard.

This letter is a requirement in the debt collection process as it is part of the Court's Practice Direction relating to the parties' conduct prior to starting court proceedings.

The court will expect parties to have complied with this Practice Direction and may impose cost sanctions and other penalties for a party's failure to do so.

We can draft and send this letter to your debtor for a fixed fee of £50.00 plus Vat.

Second step: Court proceedings

If the debtor fails to respond to the letter before action within the time limit provided, it may then be necessary to start court proceedings.

Initial considerations

Before court proceedings are instigated, however, we must be satisfied that the debtor has sufficient funds or assets to be able to settle any Judgment that is obtained by you.

If you are not aware of your debtor's financial circumstances, it is possible to take steps to investigate this. This may include, for example, obtaining title entries from the Land Registry with regard to any property you believe your debtor owns or instructing a private investigator to seek out information on your debtor.

However, if you choose to instruct us to issue proceedings without knowledge of your debtor's financial position, you should be aware that it is possible your debtor may not be able to satisfy any judgment you obtain.

Claim Form

Once you provide us with instructions to proceed, we will draft a Claim Form on your behalf. This will be sent to you for your approval and signature and will thereafter be sent to the court with the relevant fee.

The court will then issue the claim and serve the Claim Form on the Defendant, who will have 14 days to file an Acknowledgment of Service or Defence. If an Acknowledgement of Service is filed, the Defendant will have 28 days from service of the Claim Form to file a Defence.

If the Defendant files a Defence with the court, your matter will be passed over to our Litigation Department, who will be able to provide you with specific advice as to the way to progress your matter in this regard.

Judgment in Default

Alternatively, if the Defendant does not respond to your claim within the time limit, we can immediately apply to the court for Judgment in Default. This means that the court will order Judgment without the need for a trial.

Third Step: Enforcement

Once Judgment is granted by the court, it will be registered (having an effect on the credit record of the individual/company in question) if payment is not forthcoming within 28 days.

However, if it becomes apparent that the Defendant is still unwilling to make payment, you may need to instruct us to take further steps to enforce the Judgment. You may provide instructions for us to take this step immediately on receipt of Judgment.

There are various methods of enforcement and the most relevant method will depend on the circumstances of the case.

Before a decision is made in relation to this, it may be necessary to carry out further investigations in relation to the Defendant's assets. This will help us to decide which type of enforcement action is likely to be the most successful.

The various types of enforcement methods are set out below:-

Warrant of Execution

A Warrant of Execution is issued in the County Court. It is executed by a court bailiff, who will attend the Defendant's premises and seek payment or seize goods to the value of the Judgment. A court fee is payable, however the court will add this to the amount owed and we can then seek to recover this from the Defendant.

Writ of Control

A Writ is issued in the High Court and entitles an Enforcement Officer to pursue the debtor for settlement of the judgment debt. This may be obtained by way of the seizure and thereafter sale of the debtor's goods.

The Enforcement Officer will initially seek to recover any costs incurred by him from the debtor directly.

In most cases for debts over £600.00, we can take this action. Where the debt is over £5,000 it must be transferred to the high court for enforcement.

Charging Order

A successful application for a Charging Order will result in a charge (similar to a mortgage) being placed on the Defendant's property. This means that the judgment debt is secured against the property in question.

If the Defendant sells or remortgages the property, he will be bound to pay you what is owed from the proceeds, provided there is enough equity in the property to satisfy the judgment.

If he does not sell or remortgage the property, an Order for Sale may be applied for, forcing the Defendant to sell the property and pay what is owed with the balance of the sale proceeds. However, the court will use its discretion in relation to whether to grant such an order and various factors are taken into consideration in this regard.

Attachment of Earnings Order

An Attachment of Earnings Order will be relevant if the debtor is an individual and you have current details of his/her employment.

If this type of order is granted by the County Court, it will compel the debtor's employer to deduct a proportion of his/her earnings to pay to you until the judgment debt is satisfied.

Third Party Debt Order

If this type of order is granted, sums that are in the hands of a third party, such as a bank, will be earmarked in order to settle the judgment debt.

Insolvency proceedings

In some circumstances, another option may be to make the Defendant bankrupt where the debtor is an individual or wind it up if it is a company.

Usually, a Statutory Demand would be served first and proceedings would thereafter be started to either make the individual bankrupt or wind up the company.

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