

Managing Unpaid Debts

Introduction

No matter how good your credit control procedures are, you may have a business customer who has failed to pay an invoice, despite your best efforts to pursue them for payment.

In this guide, we look at the types of recovery action you can take to secure payment of the debt.

Credit control

The following credit control procedures can help tackle and prevent unpaid debts:

- Make sure that you have good credit policies and procedures in place so that your billing arrangements and payment terms are clearly documented and accepted by the customer.
- Invoice customers regularly and monitor their payments closely. This will help prevent problems arising in the first place and allow you to identify difficulties as early as possible.
- Always send a final notice stating that you will take recovery action if you don't receive payment within a specified time.

Even if you have these credit control procedures in place, you may have a business customer who has failed to pay an invoice and you will need to consider taking recovery action.

What to consider before taking recovery action

Taking recovery action is a commercial decision, and you should carefully weigh up the business factors involved before committing to any course of action.

- Why has your customer failed to pay? For instance, is there a problem with the invoice, or do they have reasonable grounds to dispute payment?
- Recovery action will most likely damage your relationship with your customer. Think about how the value of the debt compares to the value of that relationship.
- What have you done to chase payment?
- Will the debtor be able to pay the debt?

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- If a court rules in your favour, how easy will it be to enforce the judgement?

In some cases, it is worth pursuing a debt to establish a reputation in the marketplace and encourage other debtors to pay. You should make this choice based on a purely commercial judgement that this is in the best interests of your business.

Options for recovering a debt

Mediation and arbitration

The Small Business Commissioner encourages small businesses dealing with an unpaid debt to try and resolve cases without court proceedings wherever possible. For example, you could try to negotiate directly with the customer or use a mediation or arbitration service. This can also help to avoid legal costs.

Mediation services do not decide the outcome of disputes. They help you and the other party to clarify options and reach an agreed solution between yourselves. With arbitration, however, the two parties agree to be bound by the arbitrator's decision.

Debt recovery agency

A letter from a debt recovery agency is often enough to generate payment from debtors. Agencies charge a commission, which is usually around 10% of the sum recovered.

The Small Business Commissioner

If you have fewer than 50 employees, you can usually complain to the Small Business Commissioner (SBC) about unpaid debts owed to you by larger business customers with 50 employees or more.

The SBC will consider evidence from both parties and decide what would be a fair outcome. Its recommendations are not legally binding, but it can publicise the poor payment practices of larger businesses, which makes it more likely that they will co-operate.

[Find out more](#) about complaining to the SBC.

Legal advice

A short appointment with a solicitor can help you work out the best legal option for the situation. This might not always involve going to court. Sometimes a formal letter from a solicitor can be enough to

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prompt a customer to pay what they owe. Information about finding a solicitor is provided at www.gov.uk/find-a-legal-adviser.

Court proceedings

In England and Wales, you can file claims for debt recovery with your local county court. Alternatively claims up to a fixed value of £100,000 can be started directly on the [Money Claim Online](#) website.

Once the court's judgement has been made, it will need to be enforced. This can involve seeking further court orders, and you could face additional costs.

Insolvency proceedings

If the customer who owes you payment is insolvent, i.e. unable to pay the debts that they owe, you can ask a court to declare them bankrupt, or order the liquidation of their company, so that their assets can be used to pay your debt.

It's a good idea to take advice from a licensed insolvency practitioner or your solicitor before starting this sort of action.

Claiming interest and compensation for late payment

You have a right to claim interest at a rate of 8% above the Bank of England's base rate if a business or business customer is late paying what it owes you.

As well as the right to claim interest, there is also a right to claim compensation for late payment. The amount that can be charged is typically:

- £40 for debts under £1,000.
- £70 for debts of £1,000 to £9,999.
- £100 for debts of over £10,000.

It is also possible to claim 'reasonable' additional costs, for example, the cost of using a debt recovery agency.

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