

Debt Recovery – FAQ's

Do I need to send a letter before action (LBA) before issuing proceedings?

Not necessarily however if the debtor is not given an opportunity to discharge the debt before court action is taken they may well object to paying court fees and solicitors costs claimed on issue of the proceedings. The Court may then have to decide whether the issue of court action was justified.

The debtor has not responded to the LBA what happens now?

At this stage we can issue court proceedings claiming recovery of the debt plus interest, court fees and solicitors costs. We will contact you to seek confirmation that you want us to issue court action and if needed to provide you with a forecast of fees and outlays. You may decide at this stage that further action is not economically viable in which case we will simply close our file.

What happens if the defendant ignores service of the Claim Form?

If this happens we can apply to the Court to secure a default Judgement.

What happens if the defendant moves address or we can't locate them?

We can engage one of our trace or enquiry agents on your behalf.

I have registered a Judgement against the defendant but they are still not making payments, what happens now?

You can take steps to enforce the judgement against the defendant, this can be done in a number of ways which will depend on the debtors status and ability to pay. For more information on enforcing judgements contact Debbie Beet.

I think the defendant is hiding information from the court regarding his present financial status. Can I do anything?

Yes. We can apply to the court for Order that the defendant attend court for questioning. The defendant will be required to appear in court and provide financial information. There is a standard set of questions that the court use although if you have information to suggest the defendant has hidden assets then let me know so that we may tailor the questions.

I am owed money from a business, not an individual, can you still help?

Yes. Court proceedings will be issued in the same way as if you are claiming against an individual. After judgment is obtained depending on the debtor's financial circumstances. We may issue a warrant to order the levy and sell assets belonging to the defendant business.

However if you want us to adopt a hard hitting approach we can by-pass the issue of court proceedings and commence Insolvency proceedings by service a Statutory Demand upon the business debtor. In the absence of a response we may then issue of a Winding up Petition. Please contact Debbie Beet for more information on this process and the costs involved.

I am owed money from a debtor who is overseas, can you help?

Yes. The debt recovery team at Martineau has a good deal of experience in pursuing debts worldwide. Martineau is a member of 'Multilaw' a multi-national association of more than 6000 lawyers in 150 commercial centres throughout the world. Our Multilaw agent can assist with chasing the debtor and issuing court proceedings.

There is no provision in my contract for recovery of interest in the event of late payment, can I claim interest and costs on the debt?

Yes providing it's a business debt. The Late Payment of Commercial Debts (Interest) Act 1998 can be implemented in cases where there is no provision for the recovery of interest within the contract. Late payment interest is recoverable starting 30 days from the date payment falls due until the date court proceedings are issued or payment effected. Interest is charged at 8% above the current Bank of England base rate

If you would like a question answered please email details to Debbie.beet@martineau-uk.com.

Key expertise

Debbie Beet

Senior Associate and Debt Recovery Manager
debbie.beet@martineau-uk.com

Andrew Adams

Partner
andrew.adams@martineau-uk.com

Giles Parry

Debt Recovery Assistant
giles.parry@martineau-uk.com