

## Debt Recovery – The process

### **Stage 1: The Letter of Claim (also referred to as Letter Before Action)**

Upon receipt of instructions we will send a letter to the debtor which will allow the debtor seven days in which to respond by either making payment in full, giving us notice of any dispute or to make an offer to discharge the claim by reasonable installments.

### **Stage 2: Issuing Court action**

In the absence of any response to the letter of claim, and subject to receiving your instructions, we will prepare a Claim form. Once approved the Claim Form will be sent to Court for issue. On issue of the claim the debtor will thereafter be referred to as the Defendant. In addition to the principal debt we will also claim interest, court fees and solicitors costs (which are fixed or assessed by the Court). The defendant has 14 days from service of the claim form in which to respond.

A response may be either payment in full, a full admission and offer to discharge the claim by instalments; a part admission or a defence to the claim. Where a defendant files an Acknowledgement of Service a further 14 days from service of the claim form is allowed for service of a defence.

### **Stage 3: Judgement and Enforcement**

Either upon receipt of an admission or else in the absence of any response to the claim form we can apply for Judgement. Registration of a Judgement (also known as a 'CCJ') can adversely affect the credit worthiness of the defendant.

If the defendant has not responded to the claim form a default Judgment will be obtained payable forthwith, meaning the full Judgement amount to include interest, court fees and costs is payable immediately. On applying for a forthwith judgement we will also apply for enforcement proceedings.

There are various types of enforcement action that can be taken if a Judgement remains unpaid.

- **High Court/County Court Warrant**

If the Judgement debt is below £600.00 a County Court warrant may be issued. For debts above £600.00 the claim may be transferred to the High Court for enforcement by Warrant.

On payment of a court fee a County Court warrant could be issued authorising a County Court bailiff to levy on assets belonging to the defendant. Property seized is generally sold by public auction. The proceeds from the sale is then used to discharge the judgement debt plus execution court fees and costs.

A High Court warrant authorises a High Court Enforcement Officer ('HCEO') to attend an address at which assets belonging to the defendant may be found and in the same manner as a Bailiff levy on assets may be taken. The fees of the HCEO are paid by the defendant and generally the HCEO achieves a greater success rate executing warrants and achieving settlement.

- **Attachment of Earnings Order**

Providing the defendant is in full time employment an application can be made for an Attachment of Earnings Order. If successful the Court will determine the rate of deductions and will order the defendant's employer to deduct money direct from the defendant's salary. Before the order is directed to the employer the defendant is afforded an opportunity to settle the claim and if accepted the employer may not be made aware of the application.

- **Charging Order**

Where a defendant owns a beneficial interest in a property an application can be made for a Charging Order. Providing there is sufficient equity in the property to which the defendant is entitled on disposal of the property the debt may be discharged.

- **Third Party Debt Order**

This enforcement method can be used where the defendant is owed sufficient undisputed monies by a third party, or has money held in a bank or building society account. The court can order the stakeholder to release sufficient monies to the claimant.

We will always use our knowledge and experience to advise you on the best possible method to enforce Your judgement, whilst keeping you informed at every stage of the process.

### **Key expertise**

#### **Debbie Beet**

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