

Help – I'm owed money; how do I get it?

There are various situations in which money may be owed to you, and, in a business scenario, a well-run business will ensure that it has taken the appropriate measures to limit its liability in the event of a bad debt, or to ensure that recovery action is successful.

We would suggest that for a Creditor, it is essential to know whether or not the Debtor has the means to discharge the liability. The old sayings about 'not being able to get blood out a stone' and 'throwing good money after bad' have never been more relevant than when used in the context of debt recovery. What is the point of embarking upon potentially expensive Court proceedings, if you end up with a Judgement that cannot be enforced?

There are various organisations that will undertake 'pre-sue checks'. The cost of this check is not recoverable, but the benefit in the long-term can be immense.

In all cases involving debt recovery, it is now mandatory to send a 'Pre-Action Protocol Letter' in a recommended format. If you fail to do this, you may well be condemned in costs at a later date. Your solicitor will know the style of letter required. Depending upon the reaction, you may need to consider mediation or settlement before commencing proceedings. There are, however, some fundamental points to be observed:

1. Do not threaten Court action unless you are prepared to go through with it. A hollow threat is worthless.
2. Once Court action has been commenced, make sure that you or your solicitor keeps appropriate diary entries to ensure that all of the Court's requirements are complied with at the appropriate time and that pressure is maintained upon your opponent, to avoid drifting timescales.
3. Read up and familiarise yourself with the process. The Courts provide for free a whole range of leaflets dealing with Court proceedings, the various stages of those proceedings, and what is expected of the parties. Obtain these leaflets and read them. It will assist you in your conversations with your solicitor if you have a basic understanding of the processes involved.
4. Do not forget that as a Claimant, the Court Rules give you the opportunity to make proposals for settlement that can have adverse cost consequences for your Opponent and can give you an immense tactical advantage. Discuss this matter with your solicitor, mentioning the magic phrase '**Part 36**'.

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