



## **Attwaters Jameson Hill – Guide to Debt Recovery**

Chasing payments is not something anyone wishes to do whether you are an individual or a business.

The most effective way to chase an overdue payment is by telephone. You will be able to identify genuine reasons for non-payment from simple delaying tactics.

If you are unable to secure payment then you may decide that there is no other alternative but to issue court proceedings to recover the debt. Before issuing any court proceedings the first step you must take is to send a formal letter to the debtor informing them that if they do not pay the outstanding sum within 7 days, then you will be issuing court proceedings.

Below are some of the questions most commonly asked by clients when asking Attwaters Jameson Hill to advise them on recovering debts:

### **1. Is it always worth pursuing overdue debts?**

The first thing to check before issuing court proceedings, is why the debt has not been paid. If it is simply the debtor cannot afford to pay the debt then you will need to consider whether it is worth pursuing the debt. A court judgment will not guarantee you will receive payment. You may want to try to negotiate part payment or a payment plan. It is better to get payment over a longer period of time than not at all.

If the debtor is not paying because there is a dispute as to how much is owed or perhaps a dispute over goods supplied, then it will be difficult to recover the debt without resolving the issues first.

### **2. How can I recover debts without losing customers?**

Discuss the situation with your customer. Explain what steps you intend to take to recover the debt, letting the customer know before you start any legal proceedings.

### **3. Can I charge interest on overdue debts?**

Your contract may specify how and when interest will be charged on overdue payments. Commercial debts are covered by the Late Payment of Commercial Debts (Interest) Act 1998. Where there are not any written terms of credit, the Late Payment Act allows interest to be charged at the Bank of England base rate plus 8% from the end of a 30 day period.

### **4. When should I use a solicitor?**

The Attwaters Jameson Hill Civil Litigation team specialises in this type of work and recover debts for our clients in a cost efficient manner. We recommend instructing a solicitor once you have tried to obtain payment but the payment has not been forthcoming. It is also wise to instruct a solicitor if the debt is not being paid due to a dispute. We can assess your case and advice on the potential merits of your claim.

We do not always recommend that on instruction you progress straight to court proceedings, it is always worth a further attempt of negotiate once a solicitor is instructed.

### **5. Will instructing a solicitor make the situation worse?**

We will always try to negotiate on your behalf before issuing court proceedings. We will discuss the case with you first and then between us we can decide the best approach.

### **6. How much will instructing a solicitor cost me?**

Costs will depend on the amount outstanding and complexity of the case. If it is a straightforward debt then costs will be much lower than if the debt was disputed for any reason. For straightforward debt recover we offer a fixed fee service. Please see our fixed fee service for more information.

### **7. What documentation will you need?**

Ideally you will have a written and signed contract, but if you do not it will not prevent you from recovering the debt. You may have other documentary evidence, a purchase order, emails or even text messages. You will need to be able to show that you have done what it was that you promised to do.

### **8. Can I pursue the debt through the courts myself?**

Many businesses and individuals pursue small debts without instructing solicitors. You can now issue claims online via [www.moneyclaimsonline](http://www.moneyclaimsonline). The small claims court is for claims under £10,000. You will need to pay a court fee on issuing the claim and other courts fees as the matter progresses. Our leaflet on court procedure sets out the different courts and the court fees payable at each stage.

**9. What happens after the matter has been decided by the court?**

If the courts find in your favour, the defendant will be ordered to pay the sums due to you. If the defendant still refuses to pay, you will need to enforce the Judgment There are a number of methods available. Please refer to our document (also available in this section of our website) on 'Enforcing a Money Judgment'.

**10. Will the defendant be ordered to pay my costs?**

If your claim is under £10,000 then the defendant will only be ordered to pay the court fees you have incurred in pursuing your claim. If your claim is over £10,000 and you are successful in your claim the defendant will be ordered to pay your reasonable incurred costs, although you will probably have to pay some of your own legal costs.