



Debt Recovery Guide For SMEs

A guide on debt recovery for small and medium sized businesses

Keeping on top of late paying customers or clients is crucial for business success. There have been a number of [studies](#) which highlight the problem of late payment. Research suggests that around **76%** of all UK businesses are being paid late, with the average late payment burden for UK SMEs currently standing at **£32,185**. This places the business in serious financial difficulties, and perilously close to becoming insolvent. The Federation of Small Businesses has commented that “ending late payments would have saved **50,000** UK businesses from failing in 2014”. Therefore this is a very real problem impacting the majority of businesses in the UK.

In this guide, we will help you be proactive in preventing bad debts accruing and minimise the disruption (and maximise the return) when they do.

This guide will include the following:

1. How to keep late payments to a minimum
 2. Initial steps taken by Forbes Collect
 3. Issuing a County Court Claim
 4. Enforcement of a County Court Judgment
 5. Insolvency
 6. Why instruct Forbes Collect

Overview

Unpaid invoices and bad debts are not good for business. At best they can create short-term cash-flow problems, at worst they can lead to job losses, stifle investment and can even make a business insolvent. It is important to keep on top of late paying customers and have strict credit control processes in place.

When you are a small business, it can be hard to find the time to chase your customers. Research has found that the average SME spends around **4 hours a week** chasing unpaid invoices. Using a solicitor led debt recovery service can help you make your credit control procedures more efficient and leave you with more time for what is most important – running your business.



1. How to keep late payments to a minimum?

Completely avoiding late payments is probably not realistic but there are ways you can minimise it.

Here is our checklist for effective credit control:



- a) Have a clear credit control procedure:
 - As soon as payment is late send a seven day demand for payment
 - Follow this up with a phone call, which will help to flush out any disputes or problems with the invoice
 - As soon as your set credit control period has ended pass the debt over for legal action do not delay.
- b) Know your customer and obtain as much information about them as possible at the outset:
 - Who exactly are you contracting with? A sole trader, a limited company or a partnership? Simply having the name of the business e.g. the shop name or restaurant name is not enough. You need to know who owns the business.
 - Credit check customers where possible
- c) Have clear Terms and Conditions
 - Ensure that your payment terms are set out in your Terms and Conditions
 - Have a signed order form or agreement on record

How to keep a good relationship with your customers when dealing with debt?

It can be tricky dealing with late payments whilst maintaining a good relationship with your customers or client. One way to depersonalise the collection process is by instructing a solicitor led debt recovery service such as Forbes Collect.

Inform debtors that the decision to take legal action is not personal and is out of your hands. It is sometimes a requirement of insurance that legal action is taken to recover unpaid invoices after 30 days.

In most cases this won't do any damage to your business relationship; however, if late payments persist, it might be worth thinking about whether you actually want them as a customer.

2. Initial steps taken by Forbes Collect:

It is a requirement that at the start of debt recovery action we write to the debtor to bring the unpaid invoices to their attention and also set out your full claim against them. This is known as a letter before action. This letter forms part of our pre-litigation process.

At Forbes Collect we focus on recovering your monies at this initial pre-litigation stage and our aim is to maximise your returns at this stage.

One of the ways we seek to maximise your returns is that we immediately add interest and in the case of business debts, compensation to each invoice. Therefore even when we have been paid after our first letter, we have recovered additional sums to compensate you for the inconvenience of late payment.

- If your debt is owed by an individual we add interest at 8% to the debt
- For business debts we impose an interest payment set at 8% above the [Bank of England's base rate](#)
- We also claim compensation on the debt. This is currently fixed at:
 - Debt of up to £999.99: £40 per invoice
 - £1,000-£9,999.99: £70 per invoice
 - £10,000 or over: £100 per invoice

During our pre-litigation process the following will be done:

- a) A Companies House (business debts) or Insolvency search (individuals) will be conducted to highlight any issues at the outset
- b) A letter before claim will be sent, stating that the debtor has 14 days to make a payment
- c) We will chase the debtor via several means of communication, including phone, email and text message during the 14 day period

3. County Court Claims

If there has been no payment or response during the pre-litigation stage then you can issue a County Court Claim. At Forbes Collect, we issue County Court Claims online, which can help save up to 18% on court fees. Taking your customer to court can be a difficult decision. To help you make up your mind here are some pros and cons:

Pros:

- The debt may be taken more seriously by your customer when they receive a claim from the Court.
- It is a relatively cheap way to pursue the unpaid invoice as the court fee varies from £25 to 4.5% of the value of the claim, dependent on the claimed amount. This fee is recoverable from the debtor.
- The claim often acts as an incentive for the debtor to pay:
 - They do not want to spend time and money defending the proceedings
 - They do not want a Judgment to impact their ability to gain credit
- There are many ways to enforcing the judgment depending on the debtor's circumstances

Cons:

- The claim itself may not result in payment. The debtor may still refuse to make payment or ignore the claim. If this is the case, we will need to proceed to enforcement of the judgment.
- The debtor may defend the claim, which could lead to complex proceedings.
- Enforcement of the judgment is not always successful. Numerous factors come into play, such as the debtor's assets/finances, or the debtor's employment status.

What happens if a debt is defended?

Defended claims fall outside of our Forbes Collect service and the matter will be passed to a lawyer in our team for a fixed price review. You will be advised on the contents of the defence and the next steps in the process. If a Defence to your claim is filed you will need the best advisers on your team and our solicitors have the experience and expertise to guide you through the process.

4. Enforcement of your Judgment

If we are successful with your claim for unpaid invoices you will obtain a County Court Judgment, which is an enforceable court order. This will usually order the debtor to make payment of the debt, interest and costs immediately.

As part of our process we will send a copy of this Judgment to the debtor giving them three further days to make payment. Unless this Judgment is paid within 30 days the Judgment will be registered against the debtor and will have a detrimental impact on their credit rating.

Unfortunately, some debtors do not make payment unless you take further action. Our usual enforcement action is to instruct the High Court Enforcement Officers to attend their premises and seize goods to the value of the debt. In most circumstances this is enough to prompt payment.

Further enforcement options are available on request.

5. Insolvency

An alternative to issuing a County Court claim is to commence insolvency action. This is a possibility where:

- If the debtor is a company the debt value is above £750
- If the debtor is an individual the debt value is above £5,000
- The debtor is located in England or Wales
- There is no known dispute over the unpaid debt.

The first step in insolvency proceedings is to serve the debtor with a statutory demand for payment. This gives the debtor 21 days to make payment and also warns the debtor that failure to make payment will mean you will issue a winding-up (company) or bankruptcy (individual) petition.

Advantages:

- The threat of Bankruptcy or Winding-Up proceedings can be a powerful incentive for a debtor to pay given the serious nature of insolvency proceedings
- Preparing a statutory demand is included in our No Recovery No Fee service - you are only required to pay the disbursements for instructing a process server in advance
- Can either result in prompt payment of a debt or be useful to highlight any disputes over the debt

Disadvantages:

- It is seen as an aggressive step and may have a negative impact on ongoing business relationships
- It may not result in payment and the next steps would be issuing a County Court Claim or proceedings with the threat and presenting a Bankruptcy or Winding-Up Petition. This can be costly
- If a debtor can raise an arguable defence to the obligation to pay, then the demand may be set aside and you would have to proceed by way of County Court proceedings

This step should particularly be considered if the debtor is a company and you know that they are in a position to pay their debts.

6. Why use a solicitor led debt recovery service?

Using a solicitor led debt collection service means you have expertise and experience on your side. Typically, using a solicitor means the chances of recovering the monies owed to you are greatly improved. Debtors will often take the claim much more seriously after receiving a solicitor's letter or a claim. Chasing debtors is a time consuming and potentially frustrating part of running a business. Passing your unpaid invoices over to a debt recovery solicitor will give you peace of mind that the debtor is being chased for payment, whilst you continue with the day-to-day running of your business.

To instruct Forbes Collect:

- Call our expert debt recovery team on **0800 689 4176**
- [Enquire online by completing the required form](#)
- Email our team at forbescollect@forbessolicitors.co.uk