

# Debt Recovery Strategy Guide

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## Purpose of This Guide

Unpaid debts can significantly affect the cash flow and financial stability of a business.

This guide provides an overview of how businesses can manage debt recovery effectively and outlines the legal options available when customers fail to pay outstanding amounts.

The guide is intended to help businesses:

- Understand the legal process for recovering unpaid debts
- Implement structured internal debt collection procedures
- Identify when legal action may be appropriate
- Minimise financial loss caused by unpaid accounts

This guide provides general information only and should not be regarded as a substitute for legal advice.



## Common Causes of Unpaid Debts

Outstanding debts often arise due to a combination of commercial and operational factors.

Common causes include:

### Poorly Drafted Contracts

Contracts that do not clearly define payment obligations or payment deadlines frequently lead to disputes.

### Cash Flow Problems

A debtor may simply be experiencing financial distress and may not have the ability to pay outstanding amounts.

### Disputes About Deliverables

Debtors sometimes refuse to pay invoices where they dispute the quality or scope of the goods or services delivered.

## Lack of Internal Credit Controls

Businesses that do not actively monitor outstanding invoices often discover unpaid debts too late.



## Preventing Debt Recovery Problems

The most effective debt recovery strategy begins before credit is extended.

Businesses should consider implementing the following risk controls.

### Credit Assessment

Before providing goods or services on credit, businesses should assess the creditworthiness of customers.

This may include:

- Reviewing credit reports
- Conducting company searches
- Reviewing payment history

### Clear Payment Terms

Contracts and invoices should clearly specify:

- Payment due dates
- Interest on late payments
- Consequences of non-payment

Clear contractual payment provisions significantly strengthen a creditor's legal position.

### Consistent Invoicing and Follow-Up

Invoices should be issued promptly and payment deadlines monitored closely.

Businesses should implement internal procedures for following up on overdue accounts.



## The Debt Recovery Process

Where payment is not received, businesses may follow a structured recovery process.

## Step 1: Internal Payment Reminder

In many cases, unpaid invoices result from administrative oversight rather than deliberate non-payment.

A reminder communication may resolve the issue quickly.

## Step 2: Letter of Demand

If payment remains outstanding, a formal letter of demand may be issued.

The letter of demand typically:

- Identifies the outstanding amount
- Requests payment within a specified period
- Notifies the debtor that legal action may follow if payment is not received

In some legal contexts, statutory notices may be required before legal proceedings can be initiated.

## Step 3: Legal Proceedings

If the debt remains unpaid, legal proceedings may be initiated to recover the outstanding amount.

Debt recovery proceedings are generally instituted through action proceedings, which begin with the issuing of a summons.

The debtor may either:

- Pay the debt
- Defend the claim
- Fail to respond, in which case default judgment may be obtained.

## Step 4: Obtaining Judgment

If the court determines that the debt is owed, judgment may be granted in favour of the creditor.

A judgment confirms the debtor's legal obligation to pay the amount due.

## Step 5: Enforcing the Judgment

Obtaining judgment is not always the final step.

If the debtor still fails to pay, enforcement measures may include:

- Attachment and sale of assets
- Garnishee orders against income
- Warrant of execution against property



## Assessing the Prospects of Recovery

Before initiating legal proceedings, it is important to assess whether the debt can realistically be recovered.

This assessment includes considering:

- Whether the debtor has assets that could satisfy a judgment
- Whether the debtor is financially distressed or insolvent
- Whether enforcement measures would be effective

Even where a legal claim is strong, litigation may not be commercially sensible if the debtor has no recoverable assets.



## When to Seek Legal Assistance

Businesses should consider obtaining legal advice where:

- A debt remains unpaid for an extended period
- A debtor disputes the validity of an invoice
- A debtor refuses to engage in payment discussions
- Large amounts of money are involved

Early legal intervention often increases the chances of successful recovery.

### Disclaimer

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