



Costs Business Debt Recovery for unpaid invoices

Introduction

We at HFT Gough & Co know only too well the problems a business faces in chasing debtors. This firm has acted in thousands of Debt Recovery Claims for businesses chasing unpaid invoices. The process of chasing customers and clients for their unpaid invoices can seem daunting and time consuming. We are here to help guide you through the process. We have a wealth of experience in dealing with commercial debt recovery for unpaid invoices.

We are here to to simplify the process for you and guide your business through the process with a view to assisting you. We have a number of different options available to try to recover sums that have become due to you. We have produced this guide for your assistance and to provide details of the work and costs that are involved in the process.

Please note that this guide relates only to commercial debt recovery for unpaid invoices. If you have a more complex issue, other than simple debt recovery, this guide will not apply. You can make an appointment to meet with one of our team who will be happy to assist and provide advice on costs.

The Process

As with all litigation, debt recovery can sometimes be a straightforward process and all that your business may require is a letter to make the debtor pay. In the event that this is not the case, you may need to consider taking further steps and ultimately issue a claim in the County Court to recover the debt.

In order to assist your understanding of the process, a helpful flow chart can be seen below. This sets out the stages of the process and the options open to you.

A debt can be recovered easily where the Defendant does not respond and you can enter judgment in default. The Defendant may also admit the debt and provide you

with a proposal for payment. In some cases, a claim will be defended and the matter could, proceed to a Final Hearing.

What we can do for you:

H.F.T. Gough & Co can assist you every step of the way and ease the burden of chasing debtors for payment. Below we set out the steps and the work involved within each step to give you an indication of the work that would be carried out on your behalf. These steps should be read in conjunction with the flow chart annexed to this note.

Step 1 – the way we like to deal with Debt Recovery Claims is to meet with you initially to discuss the problems that you are facing. We charge a fixed fee of **£300.00 plus VAT (£360)**. And these costs will also cover step 2 below. The purpose of this meeting is to understand your business requirements and aims. It also give us an indication as to the debts that you would be chasing and we will tailor the advice provide to you going forward. It is common for businesses to have standard terms and conditions and it will be at this meeting such information will be requested.

The initial meeting involves a Solicitor from this firm attending you, advising you during the attendance and thereafter providing a letter of advice.

Step 2 – In almost all cases, you will be required to send the Defendant a pre-action letter. The pre-action letter sets out the basic details of the debt that is owed. There are two types of pre-action letter. The Debt Recovery Pre-action Protocol will apply where you are pursuing an individual or a sole trader. There are a number of formalities that need to be completed and we can assist you with that. The Defendant has thirty days to respond and you must consider instalments, but we can advise you on the offer, if any, that is made.

In all other cases, where you are pursuing a business for an unpaid invoice, it is usually necessary for you to send a pre-action letter providing brief details of the debt and your intention to pursue the claim through the County Court.

The work that is required in this instance relates to the preparation of a pre-action letter, calculation of interest, consideration of invoices to prepare the letter. This does

not include advice in relation to any response but will include us forwarding the response on to you.

Step 3 – A response to your pre-action letter may be received. You have a decision to make at this stage, to include:

1. Consider any offer that has been made and whether you would want to accept the same;
2. Reject any proposal that is made and move onto Court proceedings; and
3. Take no further action

Advice will be provided to you at this stage on the offer that is made, if any. Consideration should also be given as to whether you would want to issue proceedings. Again, advice will be given to you to assist in making that decision. This could include advice provided during an attendance, over the telephone or in correspondence. This work will be charged at the hourly rate of the fee earner dealing with your matter.

Step 4 – If you have been unable to reach an agreement with the proposed Defendant, and you wish to pursue the matter through the County Court Money Claim Process, you can issue a claim. The work that would be required in this instance is the preparation of a Claim Form and in some cases detailed Particulars of Claim, depending on the debt. There are Court fees to pay in addition to legal fees in this instance. These fees are determined based on the value of the claim. Court fees do change from time-to-time but details can be found online at <https://www.gov.uk/court-fees-what-they-are> There are risks in pursuing Litigation to Trial but these will be detailed to you during an advice given prior to embarking on such a claim. This firm can prepare the Claim Form and Particulars of Claim for you. We can attend to the filing and service of the same and get the case moving through the Courts. Our standard costs for undertaking this work range from **£300-£500 plus VAT** depending on the complexity of the work required.

It is important that you note that where a Claim is issued, you can still continue to negotiate in correspondence and, again, this firm would be prepared to conduct that work on your behalf. However, you must be aware that when a claim is issued, there is every chance that it will proceed to a Final Hearing (see step 6 below).

Many claims are also of a low value, some are a matter of a few hundred pounds. In the County Court, you will only recover fixed costs, interest in Court fees where the

value of a claim is below £10,000.00. If the value of a claim is above £10,000.00, this will enable you to recover more of those costs. Again, further advice can be provided on that point as and when you reach that stage.

If you discontinue a claim after issuing proceedings, you can be responsible for paying the other side's costs. This is why it is important to ensure that you are satisfied to take the risk of litigating the matter through the Courts.

Step 5 – After you have issued proceedings, and the Claim Form and Particulars of Claim have been served; the Defendant has fourteen days to respond. The Defendant can file an Acknowledgement of Service during that time, which gives an indication as to how they will deal with the claim. They have three options, namely:

1. To admit the debt,
2. Admit the debt in part,
3. Defend the whole claim

If the Acknowledgement of Service is filed, the Defendant has twenty-eight days from the date of service to file a Defence unless there is an agreement for an extension between the parties.

You can decide whether you wish to file a reply to the Defence to address any points that have been raised which do not form part of your Particulars of Claim. Otherwise you can proceed to a Final Hearing. The Court will make directions as to how the case should proceed to a Final Hearing (see step 6 below).

If the Defendant does not respond in time, you can enter Judgment in default. This means that you will have a County Court Judgment that you can enforce and that will be an end to the matter. If the Defendant does not pay, you can enforce that Order as if you had obtained the same at a Final Hearing. It may be that the Defendant tries to set aside a Judgment and makes an application to try and reverse this process. However, this must be done as soon as reasonably practicably after Judgment has been obtained, otherwise the prospects of success of such an application diminish substantially. Moreover the Defendant will need to show that they have an arguable defence. In most cases, a Judgment in default is not contested.

The work that is required in relation to entering Judgment is to complete the relevant form online, calculate further interest, and report to you on the outcome of the application. Further fixed costs can be recovered at this stage.

Step 6 – Should the matter proceed to a Final Hearing, you may wish to instruct this firm to attend to the same on your behalf. The work that is required in relation to a

Trial is preparation for the Hearing itself, consideration of the other parties' witness evidence, potential questions to raise in cross-examination, attendance upon you prior to the Final Hearing and during the Final Hearing and filing and service of any documents requested by the Court. There will be costs in completing the relevant formalities that the Court imposes under the Civil Procedure Rules. You may be required to complete a Directions Questionnaire, prepare Statements or comply with any other direction that the Court makes. This will become apparent once the Claim is listed for directions. We can assist you in the preparation of any of these documents and provide advice on the same. This work is normally conducted on an hourly charging rate basis depending on the fee earner working on that file. Costs typically range from **£2000 to £3000 Plus VAT** for all work prior to a hearing.

The Court have also started listing cases for an interim hearing before the final hearing. These are known as a Dispute Resolution Hearing. The cost of instructing one of our team to attend this hearing will be somewhere in the region of **£500 to £750 plus VAT**. Costs for a 1 day hearing typically range from **£1500 to £2000 Plus VAT**.

It will be at this stage that the case is finally determined and you will either receive a County Court Judgement in your favour or not. You will have received advice in relation to the prospects of success of your case prior to embarking upon the same and during the process.

Step 7 – In the event that you do obtain a County Court Judgment against the debtor, you can seek to enforce the same. The purpose of enforcement is to realise the sum that you have been awarded. Again, there are forms to complete and Court fees to pay in addition to legal costs. Depending on the Defendant and circumstances we will discuss the best form of enforcement and advise in relation to fees at that stage.

