

Pursuing Debt Claims Information Sheet

How do I go about starting my claim?

It is advisable to give the debtor the chance to settle your claim first by writing to them and if need be trying to deal with any matters that arise. Often a letter from a Solicitor will produce a settlement from the debtor and these days in certain circumstances you have to go through a formal protocol before you issue proceedings which we can advise you about. Many cases are settled without the need to issue proceedings at all. If you need to take proceedings then in both Courts you issue a "Claims Form". This is a technical document that requires careful drafting. It sets out amongst other matters the contractual basis for and the facts relating to the claim, the amount you consider that you are entitled to and your claim for interest on the debt.

Can I claim any legal costs?

If you win your case you will almost certainly be entitled to claim for some of your legal costs. For claims of less than £5,000 there are restrictions on this. Ask us for more information on how we may be prepared to tailor our charges to take account of this.

Does this mean that I will have to go to Court?

If the claim is contested all of the way there is always the possibility that any claim may end up in Court. However, the vast majority of claims commenced in the Courts are settled beforehand. More often than not once the Claims Form is served, the Defendant (alleged debtor) either pays the sum due or simply ignores it. In the latter case, this entitles you to apply for what is known as "Judgment in default" without having to even set foot in a court.

Even if the case is contested, if you can show to the Court that the debtor has no real prospect of successfully defending the claim, then the Court may grant you what is known as "Summary Judgment". You can apply through your solicitor for this and need never attend Court in person. Ask us about this procedure which may save you a considerable amount of costs and avoid you having to give formal oral evidence at all.

How do I go about proving that the debt is due?

You will have to produce documents to evidence for example the existence of the contract and the work that was carried out pursuant to it. If the matter goes to trial, you may have to give oral evidence at the trial in which case a formal witness statement will have to be drafted in advance.

Once I have a Judgment, how do I get my money out of the debtor?

You can force the debtor to come to Court to give you information in relation to his/her financial affairs, apply to place a "charge" (similar to a mortgage) on his/her house or to require his/her employer to deduct the debt due from his/her wages and pay this to you, send in the bailiffs, apply to obtain money from bank accounts or other people who owe him/her money or even in some cases apply to make him/her made bankrupt.

For information on how Wilkins Solicitors can help you to claim a debt contact us as detailed below.

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