

# Our debt recovery services

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Bevan Brittan 

## Introduction

This brochure has been prepared in compliance with the SRA Transparency Rules 2018, which requires price transparency for debt recovery claims up to £100,000.

Illustrative prices are therefore set out on page five. However, we believe that debt recovery should not be a “one size fits all” service and we recommend that if you are interested in our services you speak to us to see how we can best support you.

**We routinely tailor our debt recovery strategy to take into account the following:**

01

The volume and age of the debts

02

The range of debt amounts (if applicable)

03

The type of debt, including any statutory framework

04

Previous attempts to collect the debt

05

Whether the debtor has any available assets

06

Commercial, public law and reputational considerations

## Our approach

We have a tried and tested methodology for the handling of debt recovery claims which can include all or elements of the following:

- Sending a series of demand letters, delivered with real value for money
- Should a defendant remain unresponsive, we will advise in relation to pursuing legal proceedings through the Courts together with the risks and associated costs exposure of such action
- Court proceedings may not always be commercially viable, however, there will be cases that should be pursued more robustly, including on the fast or multi track

We have significant County Court, High Court and Court of Appeal experience, as well as foreign jurisdiction experience.

We are also experts in alternative dispute resolution, including negotiation, mediation, adjudication and expert determination. This means that we can consider the most cost-effective approach to debt recovery.

We are one of the only firms in the country to provide support and advice to High Court Enforcement Officers and certified bailiffs. We have a detailed knowledge of enforcement law and a close working relationship with a number of High Court Enforcement agents. This means that we understand clearly the parameters of what steps can be taken through this route, and both the advantages and limitations of this method.

We are experts at providing clear, accessible information to debtors and understand the importance of ensuring that recovery processes are fair.

## Our experience

We have experience in acting for a variety of clients, including those in the finance/insurance, healthcare and regulatory sectors, as well as local authorities and other public bodies.

Our experience includes:

- Recovery for client of approximately £400 million in insolvencies of group companies of a failed property fund subject to jurisdiction of various Caribbean countries.
- Advising a local authority acting as the landlord on the recovery of parking charges from a private company in excess of £350,000. Advice included steps on potential winding up of the company and potential claims against individual directors of the company.
- Advising a private sector entity on the recovery of overpayments made on Life Assurance Policies following the death of their policyholders, and / or the cancellation of a policy. Steps taken include drafting demand letters, negotiating and advising on a range of repayment plans and settlement offers, and liaising with Care Homes, Councils, and / or executors and estates to recover debt.
- Acting for a challenger bank to recover unpaid bridging finance, costs and fees. The work involved included enforcing charges over land, appointing administrators over two companies and serving a statutory demand on an individual borrower.
- Acting on behalf of a local authority seeking to recover a debt portfolio of in excess of £300,000 in respect of residential care home fees paid on behalf of a number of clients who were recipients of adult care support. The clients have since passed away without repaying the monies owed to the authority and we are instructed to recover the outstanding debts from their estates. Steps taken include assessing the status of the debt in terms of limitation, assessing the financial position of the estates (whether solvent or insolvent and the value of any known assets and debts), advising on appropriate next steps in the context of probate law (as applicable) and using a variety of recovery methods, including payment plans and charging orders.
- Acting for a healthcare recruitment consultant to recover unpaid fees of approximately £30,000. Steps taken included sending letters before action to the debtors, corresponding with the debtors and their solicitors and reaching a negotiated settlement.
- Acting for a company to recover unpaid fees from an artist based in Germany. County Court proceedings were issued in the UK and served upon the debtor in Germany, which resulted in payment of the debt and costs. Acting as advisor to a local authority over a period of 5 years to recover outstanding leasehold service charge arrears. Steps taken included advice on recoverability, serving letters before action, robustly contesting defended cases through the Courts or in the First Tier Property Tribunal, undertaking the recovery process from pre-action through to judgment, and using a variety of debt recovery methods, including section 146 notices, to secure payments from leaseholders/lenders.
- Acting for a material handling equipment supplier to recover excess hours charges under a hire contract for the supply of forklift trucks.
- Acting for an agent in relation to recovery of fees of £16,000 paid in connection with a cancelled charter flight. We secured payment of the refund and a credit note following a letter before action and correspondence with the operator's in house counsel.
- Acting on behalf of 51 UK local authorities and 2 higher education institutions in relation to the settlement of 81 claims brought by the insolvent Icelandic bank, Glitnir hf in respect of an alleged overpayment in 2012. Our work included advising the clients on their position, verifying the claimed repayment figures, co-ordinating execution of settlement agreements by our clients and liaising with our Icelandic Counsel.

## Fees and timescales

All prices quoted within this brochure are exclusive of VAT and disbursements (unless specifically provided otherwise). The standard VAT rate is 20% and applies to all transactions of services or goods.

The fees set out below are indicative only – our charges will vary depending on a number of factors including the volume of the debts, the contract which underpins the contractual arrangement giving rise to the debt, recovery steps already taken, likely future recovery methods, extent of negotiations with debtor to agree repayment of the debt. Depending on the debt portfolio, we can offer a range of fixed fee options in addition to hourly rate charges. If you are on a framework agreement, the agreement may prescribe the hourly rates to apply.

### A typical claim

The following pages set out the potential costs for recovery of an undisputed straightforward contractual debt in respect of which recovery steps have not already been taken and the debtor resides in the UK.

### What will the work involve?

The services within this pricing structure include:

- 1 Pre-action steps
- 2 Potential issue of a claim
- 3 Enforcement

## Stage 1

### Pre-action steps

- Taking instructions from you and review of a small number of underlying papers relating to the debt
- Writing an **initial letter** to the debtor seeking payment of the debt
- Writing a formal **Letter Before Claim** to the debtor if the initial letter has not elicited payment or agreement to a repayment plan

| Letter                     | Fee   |
|----------------------------|---|
| <b>Initial letter</b>      | £75 to £300 for simple claims, depending on value |
| <b>Letter Before Claim</b> | Starting at £250                                  |

Disbursements are payments to third parties which we make on your behalf and for which you will be liable. At this stage, disbursements could include trace agent fees if the debtor needs to be traced. Fees generally range from £50-£200 plus VAT but will be dependent on the extent of tracing work required.

The fees and disbursements incurred at this stage will not be recoverable from the debtor.

At the initial letter stage we would look to recover payment within 14 days unless a repayment plan is agreed. If a Letter Before Claim is sent, in accordance with the debt Pre-action Protocol (the court rules governing debt recovery the timeframe will be between 30 and 60 days from the date of the Letter Before Claim depending on what response is received from the debtor.

## Stage 2

### Potential issue of a claim

Our practice is to agree a fixed fee at the commencement of Stage 2 by which point we will have sufficient knowledge of the matter to determine the of work involved.

Our fixed fees are calculated based our experience of likely level of work required and the complexity of the matter. More complex matters will require a greater level of involvement of partners / senior solicitors.

#### County Court proceedings

If the debtor has ignored the Letter Before Claim, you can then look to:

- Issue a claim in the County Court
- Enter judgment on admission or in the absence of a response from the debtor

Our fees are as follows and in addition to the stage 1 fees:

| Amount   | Fee    |
|--|--------|
| For claims less than £3,000                    | £2,500 |
| For claims between £3,000 and £5,000           | £2,750 |
| For claims between £5,000 and £10,000          | £3,000 |
| For claims between £10,000 and £15,000         | £3,250 |
| For claims between £15,000 and £25,000         | £3,500 |
| For claims over £25,000 but less than £100,000 | £4,750 |

These figures are exclusive of VAT.

Note: if it is not possible to issue the claim online, the filing of a paper claim will be slightly higher.

Current Court fees as follows:

| Amount   | Fee                   |
|--|-----------------------|
| Claims up to the value of £300                     | £35                   |
| Claims greater than £300 but less than £500        | £50                   |
| Claims greater than £500 but no more than £1,000   | £70                   |
| Claims greater than £1,000 but no more than £1,500 | £80                   |
| Claims for an amount less than £3,000              | £115                  |
| Claims for an amount less than £5,000              | £205                  |
| Claims for an amount less than £10,000             | £455                  |
| Claims for an amount less than £200,000            | 5% of the total claim |

If the claim is for a possession rather than a money claim, the County Court fee is £355.

Permission to issue proceedings for all of the above is an additional £55.

With all of the above, it is important to note that there is no 'one size fits all' approach and additional fees may be incurred if hearings are required to secure the debt.

A claim will be issued within a reasonable time frame following receipt of instructions provided we have the necessary documents to do so. Once a claim is issued and served, the debtor will have 14 days to respond. If no response is received, judgment may be entered on expiry of the 14 day window. A judgment will be entered at the earliest time available but usually before 28 days from the date of issue of the claim depending on court capacity.

## Stage 3 Enforcement

Taking steps to enforce any judgment obtained based on the information provided to us by you in terms of the debtor's financial position.

This is when the debtor has not paid you after receiving the court order to do so. There are various enforcement methods. We will advise you on the best option in the circumstances of your particular case (enforcement methodology requires a very case-specific approach taking account of the defendant's assets and the sum in question).

We routinely advise on and utilise a range of enforcement options including:

1. Taking control of goods for sale – court fee of £66, fees of the enforcement agents are generally added to what the debtor must pay, apart from any abortive fee which may be around £75, indicative fees for instructing and monitoring bailiffs for a short recovery £750 to £1,000 plus VAT\*
2. Charges over properties (leading to taking possession of and selling properties where appropriate for larger sums) court fee of £100, indicative fees of £2,000 to £3,000 plus VAT\*
3. Attachment to earnings (recovery from wages) – court fee of £100, indicative fees of £2,000 to £3,000 plus VAT\*
4. Third party debt orders (recovery from sums being paid to the debtor) – court fee of £100, indicative fees of £2,000 to £3,000 plus VAT\*
5. Serving a statutory demand (as pre-cursor to bankruptcy) – service of a stat demand by process server attending the debtor is likely to incur an agent fee of around £100. Bankruptcy court fees are more significant in excess of £1,000. Legal fees will vary, starting at cost of preparing the stat demand of £750 to £1,000 plus VAT\*

We always provide cost/benefit analysis and take account of the client's reputational and social responsibility considerations before advising that robust action is taken. We utilise a standard financial standing form which we ask defendants to complete to seek to circumvent the need for an Order to Obtain Further Information and to establish at the outset the most appropriate enforcement option(s).

The total cost of stage 3 includes our fee (plus VAT) plus disbursement and is in addition to the costs incurred for stages 1 and 2 above.

Enforcement times vary according to methods used and the court capacity but we would expect to conclude winding up or bankruptcy within four to five months and other enforcement methods within three to six months but this will depend on the specific facts of the case.

### Other scenarios

Your particular circumstances may be different to the above ie. a greater volume of underlying papers, a contested debt, alternative methods used at the pre-action stage ie. telephone calls, negotiations with the debtor to agree liability and repayment of the debt etc. It is therefore very important that you speak with us so we can provide a bespoke estimate based on the particular circumstances of your case.

Where proceedings are defended, the fees are based on hourly rates so costs will be budgeted and depend on the time taken and level of fee earner. Ranges for defended claims are likely to be £7,500 to £75,000 depending on the debt amount and the extent to which the claim is defended and negotiations take place. In addition to the applicable court fee, there may be other disbursements. We will provide you with a more detailed assessment of likely costs and disbursements based on your specific needs. At that time, you will also be advised on the recoverability of costs.

\*The estimates of legal costs are indicative of the potential legal costs for simple cases. The potential legal costs will vary depending on the level of opposition to the claims and enforcement procedures and the involvement of any third parties (for example, a joint owner of a property may oppose an application for a charging order).

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