

GIVE ME YOUR MONEY!
A Straightforward Guide to Debt Collection

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Introduction

Successful debt collection is all about making an impact. Requests for payment need to stand out from the crowd. It involves more than sending standard letters. This book considers various methods of debt recovery, as well as explaining the legal procedures for pursuing non-payers through the courts.

The key aspect of this new edition is that debt collection is becoming more difficult. Businesses must recognise that it is even more important than ever to ensure that you take all appropriate measures at an early stage to stay on top of your credit management. Otherwise, it will be a bit like a soldier firing at the enemy with a blind fold; some of the shots might hit the target but more through luck than judgment.

There also needs to be awareness of the remedies available to debtors where debt collectors do not follow acceptable practice as contained in the new Office of Fair Trading Debt Collection Guidelines and the potential for compensation under the Protection from Harassment Act 1997.

In an effort to attempt to level the playing field between creditors and debtors, and so reduce the difficulties of enforcing judgments, the book proposes some radical reforms to the legal process which would greatly speed up the processes of collecting commercial debts.

As in most areas of life, prevention is better than cure. To reduce the risk of being owed money, it is sensible to take precautions before entering into contracts. A little time spent investigating who you intend doing business with can detect warning signs which indicate whether the customer is likely to be a bad payer. It is very important to investigate the financial background of a business or individual. It is possible to build up a reasonable picture of a potential customer by a few basic checks that do not cost much.

This book explains what steps should be taken to satisfy yourself that the person or business you are dealing with is financially sound and likely to pay your bills. Credit information can sometimes be ambiguous and so guidance is given as to what it could mean. The guidance given is not intended as a comprehensive analysis. It highlights only some of the important factors to be considered when making a credit decision.

When it becomes clear that a customer is delaying payment or is refusing to pay, skill is required to recover the debt. It involves using all the information you have about the debtor and placing yourself in a position of control. This book covers the legal aspects of debt recovery, including the importance of carefully drafted terms and conditions of business. However, legal jargon is kept to a minimum to avoid it reading like a textbook instead of a practical guide.

Every business should have a system for chasing late payments. If your procedure for filtering out potentially bad payers is effective, then it will not usually go beyond reminders. When it becomes clear that the customer is delaying payment or is not going to pay, a certain degree of skill will be required to recover the debt. It involves absorbing all the information you have about the debtor and placing yourself in a position of control. Once you reach this position, then the money should come in with the minimum of effort. "Control" does not mean anything that involves threats of physical violence. It is an intellectual exercise aimed at curtailing the game of excuses for non-payment. To try and cut through the excuses, you might have to engage in conversations that lead the debtor in the direction you want to go or write letters that get straight to the point.

This book considers the different approaches to recovering debts depending on whether you are chasing an individual or a company. When chasing a commercial client you will have to consider whether you want to retain a good business relationship with that

organisation. It is therefore vital that there is a close relationship between the sales force and the credit control department. The sales force should be educated to understand that a “sale” is not complete until the money is in the bank. Conversely, credit controllers should also see the need to be more lenient in certain situations for the greater good of the company.

Once you have tried all the various telephone and written techniques to recover the money, then court action is an option unless you decide that the debt is not worth pursuing. Recovering a debt through the county court process can be frustrating, but to improve your chances of succeeding it is important to have a good understanding of the legal procedures.

There are strong economic arguments for companies handling small claims in-house. However, with the small claims limit currently at £5,000 (although expected to go up to £10,000) a debt just under this level can represent a considerable sum to a small business. Therefore, it might be worth instructing solicitors to avoid mistakes even though only limited fixed costs can be recovered in the small claims procedure. With court fees increasing on a regular basis, it is important to get the legal paperwork correct.

The Tribunals, Courts and Enforcement Act 2007 has provisions that if implemented could make important changes to enforcement procedures. As mentioned above, the impetus is very much behind helping those who owe money and some provisions that assist debtors, such as debt relief orders have been introduced before the provisions designed to improve the enforcement of debts. The changes under this Act are being gradually introduced. “Gradually” is probably an understatement. Those in the debt collection industry are frustrated that some key aspects as far as debt collection is concerned have been pushed into the long grass. The intention to extend powers to bailiffs was postponed following pressure from various interest groups.

The severe economic downturn in the UK economy since 2008 caused some major high street names to go into Administration and ultimately go under. Most companies will have gone down because of the economic climate and did all they could to pay their liabilities, but there is a genuine suspicion that in some situations rogue directors are taking advantage of insolvency laws that are in urgent need of reform. Such reforms are needed to allow creditors to easily pursue wrong doing by rogue directors who hide behind limited liability and use procedures such as “pre-pack” administrations as a way of dumping debts.

The techniques for debt recovery set out in this book are based on many years experience. However, it is not advisable to sit back on that experience. All good debt collectors need to take account of the changing legislation and practices. The civil court rules have new protocols in respect of pre-court action conduct with requirements as to the information that must be provided by businesses to consumer debtors.

It is not suggested that the techniques in this book will work in every situation. They are merely methods which the author has found to be successful. There will of course be cases where whatever you do the debt will not be paid. However, by giving due consideration to being paid by customers and implementing proper procedures, the chances of being saddled with bad debts should diminish and cash flow should improve.

The law and court procedures described in this book cover claims that come within the jurisdiction of England and Wales. There are separate legal systems in Scotland and Northern Ireland. Therefore, this book does not cover claims that come within the jurisdiction of Scotland or Northern Ireland.

Whilst every effort has been made to ensure that this book provides accurate and expert guidance, it is impossible to predict every situation that may arise. Therefore, the author, publisher and retailer cannot be held liable for any loss or damage caused by the information or any mistakes contained in this book.

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