

CORONAVIRUS: DEBT RECOVERY FOR MEDIUM-SIZED ENTERPRISES

The ongoing disruption caused by coronavirus has made debt recovery a priority for many businesses. Here is what you might need to consider.

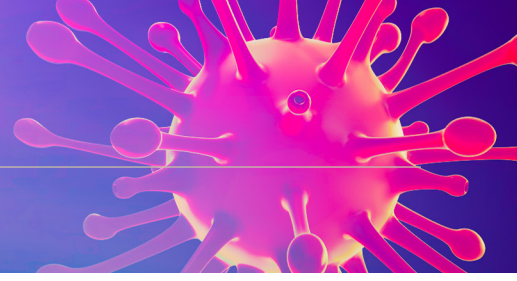
Times of uncertainty make getting the basics right even more important. A large number of medium-sized enterprises could experience cash-flow difficulties as a result of the ongoing coronavirus outbreak. Debt recovery is always important, but what can you do differently to protect your business in these exceptional circumstances?

THE INITIAL ASSESSMENT

If you are concerned about an outstanding debt, a commercial lawyer can help you. They will review all relevant documents, including the details of the unpaid invoice and any contracts between you and the debtor.

While the small claims process (for claims worth under £10,000) tends to be faster and less costly, the disruption caused by coronavirus could result in considerable delays in the court system. This will almost certainly be the case if your claim is larger and more complex, so it is important to closely monitor debtors in the coming months and act quickly if you have concerns.

We can review your credit control process with you. In the current climate it may be, for example, that you decide to shorten your process and take legal action sooner than you might otherwise have done.



SENDING THE LETTER OF CLAIM

As always, you will first need to inform the debtor that court proceedings may be brought against them if the debt remains unpaid by way of a letter of claim. You will also need to specify a timeframe for their response.

If a response is received to the letter of claim, it is important to fully consider it, not least as it could open the door for negotiation. It is always best to avoid court if possible, and given the expected delays to legal proceedings and the likely cash-flow squeeze that businesses will face, this is all the more important. Open and regular communication will be vital to reaching a resolution as quickly as possible and get your cash flowing

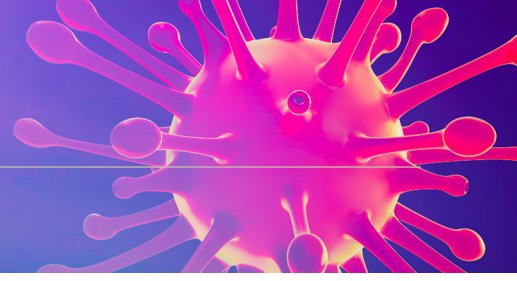
If the debtor does not respond normal circumstances might dictate that you send one or two follow up letters. However, in the context of the coronavirus outbreak, you may wish to contact a commercial lawyer to advise on recovery routes sooner to minimise the potential for added delays. Disputed debts will need to be carefully considered to examine whether there is a genuine dispute or mere delay tactic.

ISSUING PROCEEDINGS

If you decide to continue, you will need to issue proceedings by completing a claim form and details of the claim to the court together with a court fee. A commercial lawyer can help you with this. The court will confirm that they have issued your claim and you will be provided with a claim number. The debtor will be served (by your commercial lawyer or the court) and given 14 days to respond.

IF THE DEBTOR DOES NOT RESPOND

If the debtor does not respond in the timescale set, you can pursue judgment against a non- in the form of a County Court Judgment (CCJ). This can be for the full amount owed as well as your court costs and any interest added. If you are able to use the Late Payment Act, or your contract terms allow, you can also claim for compensation and costs of recovery.



IF THE DEBTOR DOES RESPOND

The debtor may defend the claim, in which case they will be given another 14 days to provide a defence. From this point the court will set a timetable of steps to take. This process will include completing a directions questionnaire outlining the information the court needs in order to allocate an appropriate amount of time for the hearing, and also to allow the court to call witnesses.

Once the timetable is set, both parties will begin the process of providing relevant documents, witnesses and expert evidence. It is important to note that both parties can agree to pause this process at any point in order to attempt to agree a solution. A negotiated settlement, and use of alternative dispute resolution (ADR) is recommended given the delays in the court process as a result of coronavirus in order to achieve a quicker outcome.

DECIDING THE OUTCOME

If you can't reach an agreement, the final decision will fall to a judge at trial. The Judge will hear all the evidence and make a decision by way of a judgment which will create an order setting out how much needs to be paid, including interest and costs.

At each stage of the process, it is important to seek the advice of a commercial lawyer to ensure you recover debts as efficiently and smoothly as possible. For more information, our in-depth guide is available [here](#) or find more information on our website things.com.



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