

# Commercial debt recovery

## Pricing information

Shoosmiths provides debt recovery services to a wide range of businesses covering both lending and trade debt. We generally act for businesses who will, through the nature of their business, wish to instruct us on a regular portfolio of matters. We rarely act for a business in seeking to recover an individual debt but will consider this from time to time.

# Flexibility

We recognise that some businesses will wish to put their portfolio of instructions out to competitive tender and we recognise that the information provided below may not, therefore, meet the expectations in approach for that tender. We will be pleased to consider the terms of any tender and respond as appropriate.

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For businesses who wish to instruct us on a portfolio of matters, the prices agreed will depend significantly on the precise requirements of the business concerning the approach to be taken, including the extent of any pre-litigation work, the extent of management information required, the governance expected around review meetings etc. We will be happy to discuss your precise requirements in this regard.

Depending on your requirements and the size of any portfolio of matters on which you wish us to act, we will consider whether hourly rates (discounted or otherwise), fixed fees, or alternative agreements would be appropriate. These will, however, be individually negotiated on the basis of your precise requirements.

## Who will carry out my work?

We have a specialist team dealing with business-to-business trade debt recoveries and other contractual claims. The team includes solicitors (of varying post qualification experience), legal executives, paralegals and support staff. [Click here](#) to see the key staff in our debt recovery team. If and when you instruct us, we will provide further information on who will act on your matter.

## A typical claim

We have set out below details on what the potential costs for recovery of an undisputed and defended trade debt might be. This fee structure is based on fees which may be agreed in the event of a business instructing us and can be summarised in three stages.

## What will the work involve?

The services within this pricing structure include:

- Taking instructions from you and consideration of initial documents;
- Writing an initial letter to the debtor seeking payment and negotiating payment terms at this stage, if required.
- Writing a Pre-Action Protocol Letter to the debtor and negotiating payment terms at this stage if required.
- Issuing a claim in the County Court, using the County Court Business Centre.
- Entering judgment on an admission or in default.
- Taking steps to enforce any judgment obtained based on information provided to us by you.

# England and Wales – undefended\* trade debt claims

\*Please navigate to the defended claims section towards the end of this document for costs involved in defended claims.

## Stage one: Pre-Action (before court proceedings are required)

Our fees for Pre-Action debt recovery are as follows and include:

- Taking instructions.
- Sending an initial letter.
- Sending a Pre-Action Protocol letter.
- Any negotiations at those stages.

Action	Fee (fixed)
Letter before action	£75.00 (for each letter sent) plus 50% of any compensation recovered under the Late Payment of Commercial Debts (Interest) Act, plus VAT
Pre-Action Protocol letter	£100.00 (for each letter sent) plus 50% of compensation recovered under the Late Payment of Commercial Debts (Interest) Act, plus VAT

If at pre legal stage a case is disputed, complex, or relates to non-standard insolvency – hourly rates will apply.

## Disbursements

Disbursements are payments to third parties which we make on your behalf and for which you will be liable. The only disbursement at this stage may include trace agent fees, this is required if the debtor needs to be traced and fees generally range from £35 to £200 plus VAT.

The total cost of recovering a debt at this stage is made up of our fees plus any disbursements incurred. These fees and disbursements will not be recoverable from the debtor. Where only a letter before action is needed, it is likely that you will know whether the debt will be recovered at this stage within 14 days from the date of the letter before action.

In the event that a letter in accordance with the debt Pre-Action Protocol is required then the time frame will be between 30 and 60 days from the date of the Pre-Action Protocol letter.

## Stage two: County Court proceedings

Stage two of a recovery generally involves:

- Issuing a claim in the County Court, using the County Court Business Centre where possible.
- Entering judgment on an admission or in default.

Our fees and disbursements are fixed and are outlined on the following page, and are in addition to stage 1 fees if we were instructed at that stage.

## Issuing a claim at the county court:

Debt amount	Court fee – disbursement (no VAT)*	Our fee + VAT
Up to £300	£35	£75
£300 up to £500	£50	£85
£500 up to £1,000	£70	£95
£1,000 up to £1,500	£80	£105
£1,500 up to £3,000	£115	£115
£3,000 up to £5,000	£205	£135
£5,000 up to £10,000	£455	£160
£10,000 up to £15,000	5% of the claim	£200
£15,000 up to £50,000	5% of the claim	£400
£50,000 up to £100,000	5% of the claim	Hourly rates
£100,000 up to £200,000	5% of the claim	Hourly rates
Over £200,000	£10,000	Hourly rates

\*court fees are variable and change at least annually.

## Obtaining Judgment

Debt amount	Our fee + VAT
£25 to £5,000	£75
£5,000 and above	£100

The total cost of recovering a debt at this stage is made up of our fees plus any disbursements incurred (court fees). This is in addition to any fees and costs incurred at stage one. Once a claim is issued and served, the defendant has 14 days to respond. If no response is received, then judgment can be entered at that point. If a response is received, then the time frame before judgment can be entered will depend on the nature of the response from the Defendant.

## Stage three: Enforcement

Enforcement occurs after we have obtained judgment from the Court. There are various options which are detailed below. We will advise, of course, on the best option to fit your particular circumstances, the nature of the debt and debtor.

Enforcement	Disbursement (no VAT unless stated)	Our fee (fixed) + VAT
*Warrant of Control	£83	£150
**Writ of Control	£71	£150
Re-Issue of Warrant	£33	£50
Order to Obtain Information	£59-£119	£250
Attachment of Earnings	£119	£250
Charging Order	£119 (plus HMLR fees)	£350
Statutory Demand	£85 plus VAT	£250
Bankruptcy Petition	***	£950
Winding Up Petition	***	£1250
Notice of Support	There is no charge here	£100
Proof of Debt	There is no charge here	£100
Third Party Debt Order	£119	£250
Order for Sale	***	Hourly rates
Consent Orders/Other miscellaneous applications	£119	Hourly rates

\*Warrant of Control - enforcement by the court bailiff for judgment debts up to £600 in value.

\*\*Writ of Control - enforcement by the High Court Enforcement Officer (HCEO) for judgment debts over £600.

HCEO charges are recoverable from the debtor where the debt is paid in full. If the HCEO is unable to make a recovery an abortive fee of £75.00 plus vat is charged to you

\*\*\*Order for Sale, Bankruptcy and Winding up petitions are not the usual course of enforcement, if your matter proceeds this way, we will provide a detailed assessment of the costs involved before any charges are incurred.

The total cost at stage three is made up of our fee (+ VAT) and the relevant disbursements. This is in addition to costs incurred for stages one and two if relevant.

### How long will my matter take?

Where a case is not defended and progresses through stages 1 & 2 to stage 3 (enforcement), the timescale for recovery will depend on the enforcement action taken and can take between 8-24 months to complete.

## Defended claims

A dispute can be raised pre-action or following the issue of a claim. In the case of small claims (up to £10,000 in value) cases, only limited costs are recoverable, even if you win the case. For this reason, we propose a fixed fee for dealing with these cases. This enables you to make a commercial decision about pursuing the claim, with the certainty of knowing exactly what the case will cost.

### 1. Defended small claims actions (Up to £10,000 in value)

Our fixed fee model for all 'standard' non-complex defended actions includes undertaking a review of the matter and providing you with a recommendation. This will determine which of the steps below will apply. Please note that some cases will fall into both stages if the recommendation is to proceed with the claim and you agree with that advice.

#### What will the work involve?

- Reviewing the papers and considering the defence. Providing you with initial advice on the prospects of success. If it is appropriate, we may suggest that a without prejudice offer letter is sent to the customer to see if the claim can be settled, alternatively we will advise how to take the case forward, or possibly suggest discontinuance.
- If you instruct discontinuance, we will discontinue the case, filing a Notice of Discontinuance at Court, and will serve a copy upon the Defendant.
- If you instruct us to prepare the case for trial, we will make the necessary preparations.
- We will deal with all correspondence, including emails to and from you, dealing with Court correspondence etc.
- We will prepare a Tomlin Order or Consent Order if necessary.
- We will prepare any witness statements.
- We will instruct an agent to conduct the trial.

Our fixed fee for this will be £1500 (+ VAT) plus any court associated disbursements as outlined above and fees for Counsel or an advocacy agent. This is additional to Stage one and stage two fees as described above depending which stage has been reached.

#### How long will my matter take?

The time frame for this sort of recovery is dependent on court workloads and when they are able to hear a claim, but we expect a small claims hearing to be listed within 14-20 weeks of a defence being filed.

### 2. Defended fast track and multi-track actions (Over £10,000)

For fast track and multi-track claims we will charge hourly rates in accordance with the solicitor grades below.

Solicitor grade	Hourly rate (+ VAT)
Partner	£425
Principal/Senior Associate	£350
Associate	£295
Manager	£200
Paralegal	£150

## What will the work involve?

- Reviewing the papers and considering the defence providing you with our recommendation for next steps.
- Provide you with initial advice on the prospects of success, with a costs estimate.
- Advising you on strategy and the options open to you. These may include mediation or Alternative Dispute Resolution.
- Where mediation or ADR (alternative dispute resolution) is not appropriate we will deal with all aspects in progressing your case to Trial.

Our fees above will vary where the case is particularly complex but can range between £25,000 and £50,000 plus VAT including disbursements such as counsel fees which range from £1000 to £15,000 plus VAT. This is based on hourly rates and is dependent on the complexity of claim (e.g., whether there is a counterclaim or an appeal) and how far the claim proceeds. We will of course provide you with a cost estimate at the start of the matter and will update you regularly to discuss the potential impact on price before any additional charges are incurred.

## How long will my matter take?

The time frame for this sort of recovery is dependent on court workloads and when they are able to hear a claim, but we expect, due to the complexity a fast/multi-track hearing to be listed within 56 weeks of a defence being filed.



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