

# Debt Recovery - Letter of Claim

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### Pre-Action Protocol

The pre-action protocol for debt claims has been introduced in the debt collection process.

The protocol applies to any business (including sole traders and public bodies) claiming payment of a debt from an individual (including a sole trader). It does not apply to business to business debts, so will not apply where a creditor is seeking to recover from a company or LLP.

The protocol aims to:

- Encourage engagement between the parties
- Enable parties to resolve the matter without the need to start court proceedings
- Encourage parties to act in a reasonable and proportionate manner
- Support the effective management of proceedings

#### The key changes to note are:

- **The letter of claim should**

(a) include the following:

- 1 The amount of the debt
- 2 Whether interest or other charges are continuing;
- 3 Where the debt arises from an oral agreement, who made the agreement, what was agreed (including, as far as possible, what words were used) and when and where it was agreed
- 4 Where the debt arises from a written agreement, the date of the agreement, the parties to it and the fact that a copy of the written agreement can be requested from the creditor
- 5 Where the debt has been assigned, the details of the original debt and creditor, when it was assigned and to whom
- 6 If regular instalments are currently being offered by or on behalf of the debtor, or are being paid, an explanation of why the offer is not acceptable and why a court claim is still being considered
- 7 Details of how the debt can be paid (for example, the method of and address for payment) and details of how to proceed if the debtor wishes to discuss payment options
- 8 The address to which the completed reply form should be sent

(b) Do one of the following:

- 1 Enclose an up-to-date statement of account for the debt, which should include details of any interest and administrative or other charges added
- 2 Enclose the most recent statement of account for the debt and state in the Letter of Claim the amount of interest incurred and any administrative or other charges imposed since that statement of account was issued, sufficient to bring it up to date; or
- 3 Where no statements have been provided for the debt, state in the Letter of Claim the amount of interest incurred and any administrative or other charges imposed since the debt was incurred

- **New forms**

Creditors are expected to include with the letter of claim:

- 1 An information sheet and reply form
- 2 A financial statement to be completed by the debtor

- **Provision of documents**

The protocol encourages early disclosure of documents and relevant information which can help to clarify or resolve any issues in dispute.

If the debtor requests a document or information the creditor must provide the document or explain why it is unavailable within 30 days of receipt or the request.

- **Timescales**

Creditors should not issue proceedings until 30 days after:

- The date of the letter of claim
- Of receipt of the reply form from the debtor
- On which the creditor provides documents requested

Where agreement has not been reached, the creditor should give the debtor at least 14 days' notice of the intention to start court proceedings, unless there are exceptional circumstances in which urgent action is required (for example the expiration of a limitation period).

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At Stephenson's our clients are real people, and they live and work in the real world - which at times can be an unpredictable place. But whatever it throws at them we're never far away to help. Because we're real people too and we understand our clients needs. Our similarities mean we can work side-by-side to get the best outcome possible. It also means we can tailor our legal costs and services to lots of different circumstances. Ensuring everyone gets the representation and result they deserve for their individual circumstances. Our business is to deliver legal services that work for our clients, so you can trust our specialists to take care of things on your behalf.

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