

### **Quick and effective debt recovery – statutory demands**

Although credit control has of course been a high priority for all businesses throughout the recession, many companies are still reluctant to get involved in pursuing court proceedings to recover debts. Court action is often seen as long-winded, costly and risky – it is not an attractive prospect and is often unfamiliar territory.

There is however a short cut through debt recovery process which is to bring insolvency proceedings for the recovery of the debt.

The insolvency process can be used for debts over £750 (owed by companies) or £5,000 (owed by individuals) and where there is no real dispute over the debt.

If these criteria are met, the insolvency process can be the quickest and most cost effective method for recovering a debt.

The process applies equally to corporate or individual debtors and is based on the principle that if the debtor is unable to pay the debt, then they are insolvent and should therefore either be wound up (in the case of a company) or made bankrupt (in the case of an individual).

The real advantage of the insolvency process is that the threat of winding up or bankruptcy is often sufficient incentive to the debtor to pay the debt, or to agree arrangements for the debt to be paid over time.

In addition, the instigation of the process, through the service of a statutory demand, is normally a quick and cost effective step, since it does not need to be issued by the court, but can be prepared by or on behalf of the creditor and delivered to the debtor.

If the debtor is a company the statutory demand must demand payment within a reasonable period of time – this will vary according to the history of the case but can be as little as a few working days. In the case of an individual debtor the demand must allow the debtor 21 days in which to pay or reach agreement.

If the debtor fails to pay or reach agreement following the delivery of the demand, it is open to the creditor to start winding up or bankruptcy proceedings. However the creditor is not obliged to start proceedings following the expiry of the demand.

There are rules about the format of the statutory demand and how it should be delivered to the debtor so it is best to get legal advice before going down this route.

If you would like to discuss the use of the insolvency process to secure payment of outstanding debt, please contact us.

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