

## FastDebt's Guide to Debt Recovery

FastDebt is Foot Anstey Solicitors' debt recovery service. Fast Debt's aim is to recover debt as quickly and cost effectively as possible. We charge fixed fees for uncontested debt recovery claims of less than £15,000.

### Initial Solicitor's Letter

On receipt of instructions we will send the debtor a letter of claim, requesting payment and giving notice that court proceedings will be issued if payment is not made within 7 days.

### Pre-Legal Collection Service

On a no win, no fee basis, we will try to obtain payment for you by telephone and other direct contact with the debtor if it is possible to do so without issuing court proceedings.

## Issuing Court Proceedings and Obtaining a County Court Judgment

### Court Proceedings

If you instruct us to proceed with a claim through the court we will draw up the papers and send them to the court. Once the proceedings have been issued (sent out) by the court, the debtor will have 14 days from receipt of the papers to respond to the claim. The debtor may take one of the following steps:-

- Pay the debt.
- Admit that all or part of the debt is owed and make proposals for payment.
- File an acknowledgment of service indicating that they intend to defend all/part of the claim. They will then have a further 14 days in which to file a defence.
- File a defence and/or a counterclaim.

If the debtor responds by one of any of the above actions we will advise you and take your instructions.

### Interest

When issuing a claim we will also claim for interest on the debt from the date that payment was due until judgment or earlier payment at the statutory court rate of 8% per annum; or

If you have a written contract/agreement with the debtor allowing for interest to be charged at the given rate in that document (the contractual rate) we will calculate interest from the date that payment was due until judgment or earlier payment.

### Costs

In addition to the debt and interest you are also entitled to claim recovery of your court fees and some of your costs.

## **Default Judgment**

If the debtor does not respond within the court time limits, we will check with you that payment has not already been made and then request that a default judgment be made by the court.

When we receive a Notice from the court that judgment has been made, we will write to the debtor requesting their proposals for payment and saying that if they do not respond within 7 days we will take your instructions on enforcing the judgment.

## **Methods of Enforcing a County Court Judgment**

### **Warrant of Execution**

A writ may be issued to the High Court Enforcement Officer (HCEO) who will attempt to seize goods from the debtor's property or persuade the debtor to make payment. The HCEO is only available on judgment debts of £600 or more. For smaller debts a warrant to the county court bailiffs can be issued. We always recommend that the HCEO is used whenever possible.

### **Attachment of Earnings Order**

An attachment of earnings order compels the debtor's employer to deduct payment from his/her salary each month. However, this type of application will not be successful if the debtor is unemployed, self employed or paid only a low wage. Therefore some knowledge of the debtor's employment is useful. We will need to have prior knowledge of where the debtor is working. If the debtor's place of work is not known it is possible to instruct an enquiry agent to carry out an employment search on a no trace no fee arrangement at the current rate of £50 plus VAT. This fee is not recoverable from the debtor.

### **Charging Order**

We can usually obtain office copies of the title register from the Land Registry and ascertain whether or not the debtor owns his/her property. If so, we can apply for a charging order which usually means that the property cannot be sold without your knowledge. Provided that there is sufficient equity in the property, the debt will usually be discharged on a sale.

### **Order that Debtor attends Court for questioning**

The debtor will be ordered to attend court and give information about his/her income and expenses. This can lead to an instalment offer and can be a good way of extracting information. The debtor will need to be served with the order personally, which means that it is usually necessary to incur the cost of a process server and this fee is not recoverable from the debtor. If the debtor fails to attend, then the court will make a suspended committal order. This order will also have to be personally served on the debtor but if the debtor fails to attend court for the second appointment then the court will make a warrant for his/her arrest and he/she can be imprisoned for a period of up to 7 days for contempt of court.

### **Third Party Debt Order**

A third party debt order compels third parties who owe money to the debtor to pay their debt to you. The most common use of this method of enforcement is when you know that a debtor has a credit balance in a bank account. The Bank can be ordered to pay the balance to you. You need to have particular knowledge of the account.

## Court Fees

When issuing a claim or an application to the court, a fee is payable to Her Majesty's Court Service. All court fees are recoverable from the debtor and are automatically added to the debt. As at today's date, the following court fees are applicable, but the Court Service does vary the fees from time to time:-

Action	Claims of up to £500	Claims of £500.01 to £1,000	Claims of £1,000.01 to £5,000	Claims of £5,000.01 to £15,000
Issue of Proceedings	£30 - £45	£65	£75 - 108	£225
Warrant of Execution (Bailiffs)	£100	£100	£100	N/A
Warrant of Execution (High Court Enforcement Officer)	N/A	£50	£50	£50
Order to Attend Court for Questioning	£50	£50	£50	£50
Attachment of Earnings Order	£100	£100	£100	£100
Charging Order	£100	£100	£100	£100
Third Party Debt Order	£100	£100	£100	£100

## FastDebt Fees

FastDebt charges fixed fees for each stage of the recovery process as follows:-

Action	Claims of up to £500	Claims of £500.01 to £1,000	Claims of £1,000.01 to £5,000	Claims of £5,000.01 to £15,000
Letter before action	£20	£20	£20	£20
Pre-legal collection service	No win, no fee (see below)			
Preparation, issue and service of proceedings	£50	£70	£80	£100
Default judgment	£35	£35	£40	£45
Warrant of Execution (Bailiffs)	£40	£55	£65	N/A
Warrant of Execution (High Court Enforcement Officer)	N/A	£55	£65	£70
Order to Attend Court for Questioning	£40	£55	£65	£70
Attachment of Earnings Order (Up to First Order)	£40	£55	£65	£70
Charging Order	£190	£190	£190	£190
Third Party Debt Order	£190	£190	£190	£190

### Pre-legal collection service

If 50% or more of the debt is recovered without the issue of court proceedings, then a success fee is also payable, calculated as follows:-

- For debts over £2,500 - a fixed fee of £75.
- For debts from £1,000 to £2,500 – a fixed fee of £50
- For debts below £1,000 – a fixed fee of £30

If the matter becomes contested or there are issues to resolve, FastDebt fees will be payable on a time basis (see CONTESTED CLAIMS below).

### Contested Claims

If your claim is contested, then we can offer the services of a lawyer with appropriate experience to support you. In most circumstances the hourly rate charged will be £110 plus VAT. If a more experienced lawyer at a higher hourly rate is appropriate, then we will discuss that option with you.

We will give you advice on the chances of success and the way forward. We will agree with you a budget for our fees for the next steps.

It may be appropriate for you to take over conduct of the matter yourself rather than to incur ongoing legal fees. We will guide you on the direction to take.

### Recoverable Costs

You are entitled to claim recovery of a proportion of your legal fees, known as costs, at a rate fixed by the court dependant on the amount of the claim, as follows:-

Action	Claims of up to £500	Claims of £500.01 to £1,000	Claims of £1,000.01 to £5,000	Claims of £5,000.01 to £15,000
Issue of Proceedings	£50	£70	£80	£100
Default judgment	£22	£22	£22	£30
Warrant of Execution (Bailiffs)	£2.25	£2.25	£2.25	£2.25
Warrant of Execution (High Court Enforcement Officer)	N/A	£51.75	£51.75	£51.75
Charging Order	£160	£160	£160	£160
Third Party Debt Order	£110	£110	£110	£110

If you have a written contract/agreement with the debtor allowing for the recovery of your legal costs in the event of default on payment then you may claim your actual costs, and not be limited to these fixed sums. It is likely, however, that you will only be able to recover the majority of your costs rather than all of them. Typically we would expect you to recover approximately 75% of your costs in this event.

## Bankruptcy and Winding-Up Proceedings

Although these are not strictly debt recovery procedures, yet many unpaid creditors wish to consider these options for debts in excess of £750. Our team can guide you on the appropriate course of action, should you wish to consider this route.

## Contacting Foot Anstey for Help

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