

## **Charges for Debt recovery work up to the value of £100,000**

Recovering unpaid invoices can be time-consuming and frustrating for any individual or business.

FJG has an experienced team of lawyers which recovers debts of every size for both commercial and private clients. This means that at FJG we are able to offer knowledgeable and pragmatic advice so that our clients can make informed commercial decisions about taking debt recovery action knowing the practical implications of doing so.

We provide debt collection services of all types, ranging from preparing letters before action, through to bringing County or High Court legal proceedings and insolvency proceedings, by the service of winding up or bankruptcy petitions, through to judgement and enforcement.

Our debt collection services are partner led and are provided by both experienced solicitors and paralegals to ensure that you get the best service.

It may be impractical and disproportionate sometimes to chase debts below £10,000 in value – these are known as small claims.

We aim to advise you as early as possible about the associated costs involved with pursuing debts and the likelihood of your obtaining a successful outcome in a debt recovery action. We also always keep in mind the prospects of creditors successfully enforcing a judgement to ensure that the action taken justifies the expense of taking it.

We offer fixed fee appointments with our solicitors to enable creditors to obtain initial advice about debt cases so we can provide the earliest possible advice about how to recover money. There may be more than one way to successfully recover a debt and we aim to set out all of the options available.

### **Services**

Our debt recovery solicitors provide the following services:

- Pre-action Services – our debt recovery lawyers draft standard, or bespoke Pre-Action letters before claim, in compliance with the CPR Pre Action Protocol (the 'Protocol'). The purpose behind sending a letter before claim is to set out the grounds for a claim, and to put pressure on the debtor to pay the debt, prior to issuing formal proceedings.

Where a business (including sole traders and public bodies) are claiming payment of a debt from an individual (including a sole trader) the Protocol applies.

Failure to observe the Protocol can result in sanctions from the court. Business to Business debts are not covered by the Protocol.

In cases where the Protocol applies, court proceedings against a creditor should not commence until the later of:

- 30 days from receipt of the completed reply Form from the debtor; or
- 30 days from the creditor providing any documents requested by the debtor to help them understand the nature of the case against them.

This usually means that a claim should not be started by a creditor before the end of one month after the date on which a Letter of Claim has been sent, where the Protocol applies. In other cases a Letter of Claim in a straightforward case may request a response within 7 days of the date of it and default of response or a satisfactory reply could cause proceedings to be started soon thereafter. We can normally prepare a letter Before Claim for the equivalent in cost of between 1-2 hours' work at the hourly rates shown below.

- **Tracing Debtors** – we offer our own tracing services and we also sometimes work with external agencies to trace individuals and the service location of corporate entities to help you locate a debtor and judge whether they are worth suing. This is designed to improve your chances of bringing a successful debt action. Although the majority of the searches carried out to locate debtors are conducted within one week of our instruction, if conducted via desk based sources, the time it can take to trace a debtor is generally variable.
- **Issuing Money Claim Proceedings** – If a letter before claim is unsuccessful then one option is to issue money claim proceedings against the debtor for recovery of a debt. In certain cases this can be done online. We will advise you of the implications of issuing a formal claim, including how much it could cost you at a fixed fee meeting.
- **Threatening and Issuing Bankruptcy Proceedings** – where a debtor is an individual, then in certain circumstances, issuing bankruptcy proceedings can be an alternative strategy to recover an outstanding debt. Prior to issuing bankruptcy proceedings we generally advise our clients to issue a statutory demand, to put additional pressure on the debtor to pay the debt. If this is unsuccessful then provided that the debt is undisputed, and is over the prescribed amount, we can then issue bankruptcy proceedings. Bankruptcy proceedings can, at the earliest, be started 21 days after a statutory demand is issued in normal cases.
- **Threatening and Issuing Winding Up/ Insolvency Proceedings** – where a debtor is a company, then in certain instances issuing a winding up petition can be an effective strategy to recover an outstanding debt. Certain criteria needs to be satisfied prior to issuing winding up proceedings including that the debt is above the prescribed amount, and that the debt is not disputed.
- **Enforcement** – After obtaining judgement, and in the event that the debtor does not comply with the relevant order, then enforcement proceedings may be appropriate to enforce any court order made as a result of the debt proceedings.

Where we act for claimant individuals or businesses we offer fixed fee appointments with our specialist solicitors who take initial instructions from creditors about their circumstances, give some initial advice to creditors about taking the intended recovery action and help tailor a strategy to pursue

things. The costs of a fixed fee appointment with one of our solicitors can range between £200 to £400 plus VAT (£240 / £480) depending on the seniority of the solicitor involved in the case. Our fixed fee interviews last up to one hour.

After an initial fixed fee interview we typically charge on a time recorded basis. Our charges in a matter will be based on the amount of time spent on it and our Terms of Business.

The hourly rates of our fee earners are set out below:

Grade A fee earner (Partner or Senior solicitor or legal executive) with over 8 years' experience, hourly rates: £240 - £260 plus VAT (£288 / £312)

Grade B fee earner (Solicitor or Legal Executive) with over 4 years' experience, hourly rates £170 - £190 plus VAT (£204 / £228)

Grade C fee earner (Other solicitors or legal executives and fee earners of equivalent experience) hourly rates £150 - £170 plus VAT (£180 / £204)

Grade D fee earner (Trainee Solicitors, Paralegals and other fee earners) £80 - £120 plus VAT (£96 / £144)

## **Claims**

Many claims in relation to which we provide assistance by drafting letters before action, issuing county court proceedings or taking insolvency steps on behalf of creditors, result in recovery of the amounts sought.

Some cases settle early and others require to go to trial.

In straightforward debt collection matters where the debt to be recovered is between £10,000 and £50,000 in value and we go on the court record as acting for a client, solicitor own-client costs up to trial can range between £1,500 and £20,000 plus VAT (£1800 / £24000) and disbursements. Factors which may increase costs include but are not limited to the volume of documentation involved in the case, the number of witnesses to be called, any applications that may be advised in the lead up to trial and the other side's attitude towards paying the debt.

A difficult opponent can considerably increase a creditor's liability for costs.

In other cases where the amounts being claimed are more than £50,000 in amount, solicitor own-client costs can be higher, ranging in non-complex debt claims between £5,000 and £35,000 plus VAT (£6000 / £42000) and disbursements.

On a winning case, save for where a claim is made to recover less than £10,000 in amount, a creditor will be capable of recovering in average cases between 65% and 75% of their legal costs from a losing opponent, if costs are awarded on the 'standard basis'. The standard basis means cost that are reasonably and proportionately incurred.

In cases where the sum being sought by way of recovery is less than £10,000 in amount, cases of this type are typically allocated by the court to the 'Small Claims track'. The implication of that is that costs are not normally recoverable from an opponent even on a winning case.

### **Other sums payable by Creditors**

In some cases a barrister may be employed by us on your behalf to represent you at the hearing of an application or at trial. We work with a number of highly regarded local barristers and other city based barristers (generally for higher value or more complex cases) to provide advocacy services on your behalf.

Barristers' fees are part of a family of costs known as 'disbursement costs' because you incur them by requiring to pay fees to third parties. Barristers' fees in debt collection matters typically range between £300 and £850 plus VAT (£360 / £1020) for making court applications (including a brief fee) and between £800 and £2,000 plus VAT (£960 / £2400) for conduct of up to a day's trial. Thereafter one can usually expect to pay a further £1,000 a day on average for each further day that the Barrister is engaged at a trial.

Debt collection trials are typically disposed of by the courts in the space of a few hours to one day. If your matter is likely to fall outside of these costs parameters we will inform you during the currency of your case.

### **Court Fees**

Court fees are payable at different stages during a case. These costs are also known as disbursement costs also.

A list of court fees, including enforcement costs are published by HM Courts & Tribunal Service on form EX50, which can be viewed via the following link:

<http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder>

There may be other disbursement costs incurred by a creditor during a case, including travel expenses, which are chargeable by us at the rate of 45p per mile plus VAT (54p), the costs of tracing a debtor (which range between £50 plus VAT (£60) and £500 plus VAT (£600) depending on the nature of the searches conducted), obtaining credit reference reports (between £100 plus VAT (£120) and £750 plus VAT (£900)) and process serving fees (which range between £100 plus VAT (£120) and £500 plus VAT (£600)).

In the event of enforcement action becoming necessary to engage a High Court Enforcement agent the applicable fee for transfer up of these proceedings from County Court to the High court is £66 and in the event that no recovery is possible the High Court Enforcement Officer's fee is typically £75 plus VAT (£90).

The above information is provided as a general guide to costs in debt collection matters and is not a costs guarantee. More information regarding likely costs will usually be provided to our clients at a fixed fee interview.