



# COMMERCIAL DEBT RECOVERY

Shoosmiths provides debt recovery services to a wide range of businesses covering both lending and trade debt, including where the debt is unsecured and where the debt in question is secured against an asset in some form.

In general, Shoosmiths does not act for individuals in providing debt recovery services but we may do so from time to time. Further, 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.

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 a business's 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, conditional fee arrangements or damages based 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 specialist teams deployed to deal with different debt types, including teams specialising in unsecured and secured lending to both consumers and businesses, asset based lending to both consumers and businesses, and teams dealing with business to business trade debt recoveries and other contractual claims.

These teams include 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 in 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 between two businesses might be. This fee structure is based on fees which may be agreed in the event of a business instructing us on a portfolio of trade debt and can be summarised in three stages.

## What will the work involve?

The services within in this pricing structure include:

- Taking instructions from you and consideration of initial documents, if necessary;
- 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	£10.00 (for each letter sent) plus between 5% and 25% of any sums recovered, plus VAT
Pre-Action Protocol letter	£10.00 (for each letter sent) plus between 5% and 25% of any sums recovered, plus VAT

For example, if we were able to recover £1000.00 at this Pre-action stage and this involved sending one letter before action, our fee would be between £60.00 and £260.00 plus VAT. The level of this percentage will depend on the precise nature of the debts on which we are being instructed and we will be happy to discuss this with you.

**If the debtor fails to pay the debt, then only £10 plus VAT will be charged for sending the letter.**

## 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, depending on what responses are received from the person who owes you the debt.

## 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, usually where pre action attempts have been unsuccessful.
- Entering judgment on an admission or in default.

Our fees and disbursements are fixed and are outlined below 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	Recoverable & payable by debtor
Up to £300	£25	£50	£75
£301 to £500	£35	£50	£85
£501 to £1,000	£60	£70	£130
£1,001 to £1,500	£70	£80	£150
£1,501 to £3,000	£105	£80	£185
£3,001 to £5,000	£185	£80	£265
£5,001 to £10,000	£410	£100	£510
£10,001 to £15,000	4.5% of the claim	£200	Court Fee plus £100 of our £200 fee
£15,001 to £50,000	4.5% of the claim	£400	Court Fee plus £100 of our £400 fee
£50,001 to £100,000	4.5% of the claim	£600	Court Fee plus £100 of our £600 fee
£100,001 to £200,000	5% of the claim	£600	Court Fee plus £100 of our £600 fee
Over £200,000	£10,000	£600	Court Fee plus £100 of our £600 fee

**\*These court fees are dependent on us being able to issue the claim using the County Court Business Centre. If the claim needs to be issued on a manual basis then the court fees are higher.**

### Obtaining judgement

Debt amount	Our fee + vat**	Payable By The Debtor Recoverable Fees
£25.00 to £5,000	£22 to £55	£22 to £55
£5,000 and above	£30 to £70	£30 to £70

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.

**\*\*Our fees are set by reference to the Court's table of fixed costs and depend on how a judgment is entered (e.g. after an admission or in default where no response is received from the Defendant.**

### Stage three: Enforcement

Enforcement occurs after we have obtained judgement 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	£77 - £110	£65
**Writ of Control	£66	£150
Re-Issue of Warrant	£33	£25
Order to Obtain Information	£55 - £110	£150
Attachment of Earnings	£110	£100
Charging Order	£110 (plus HMLR fees)	£250
Statutory Demand	£90 + VAT	£125
Bankruptcy Petition	***	£550
Winding Up Petition	***	£550
Notice of Support	There is no charge here	£50

*\*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*

*\*\*\*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 8-20 months to complete.

We can of course provide a more detailed assessment of costs and disbursements based on your precise requirements.

## 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 £950 (+ VAT) plus any court associated disbursements as outlined above. This is addition to Stage one fees 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 14-16 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	£375
Senior Associate	£330
Associate	£295
Solicitor	£240-275 (depending on Post qualification experience - PQE)
Legal Executive	£200
Legal Assistant	£140

#### 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 £3000 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.