

Guidance Note: Debt Recovery and Legal Action

1. Introduction

These Guidance Notes are for businesses which are owed money by their customers. The Notes provide guidance on how to recover money owed and provide guidance on legal action.

2. Preventative Measures: How to Avoid Debt Problems with Debtors

Management time is wasted in chasing debts. This can be avoided by having the right processes in place within the business.

For example, businesses should:

- Perform adequate checks on customers before trading with them, checking whether they are in any court judgments outstanding against them. This can be done by an online search, for example at <http://www.trustonli>
- Ensure that every contract has clear terms and conditions, in a standard form and templates is available
- Ensure that invoice clearly states the terms and conditions of sale

Updated and co-ordinated audit trail of credit related documents, including the indebtedness in the event of a dispute or legal action.

3. Payment Reminders

Once payments become late, the business should record the late payment, the amount and the breach of contract. This should be followed by payment, correspondence and legal action.

We offer two reminder letters. The first is more strongly worded than the second.

- *First Payment Reminder Letter* (TR.D&C.02.01); and
- *Final Payment Reminder Letter* (TR.D&C.02.02).

There are alternative versions of the letters for interest under the Late Payment of Commercial Debts (Interest) Act 1998 ("CDA"). The CDA version is only available where there is no contractual arrangement for payment of interest. Under the CDA, the creditor is entitled to charge interest on the debt. Please note that

businesses which are owed money by their customers. The Notes provide guidance on how to recover money owed and provide guidance on legal action.

Preventative Measures: How to Avoid Debt Problems with Debtors

Management time is wasted in chasing debts. This can be avoided by having the right processes in place within the business.

For example, businesses should:

- Perform adequate checks on customers before trading with them, checking whether they are in any court judgments outstanding against them. This can be done by an online search, for example at <http://www.trustonli>

- Ensure that every contract has clear terms and conditions, in a standard form and templates is available

- Ensure that invoice clearly states the terms and conditions of sale

Updated and co-ordinated audit trail of credit related documents, including the indebtedness in the event of a dispute or legal action.

Once payments become late, the business should record the late payment, the amount and the breach of contract. This should be followed by payment, correspondence and legal action.

We offer two reminder letters. The first is more strongly worded than the second.

- *First Payment Reminder Letter* (TR.D&C.02.01); and
- *Final Payment Reminder Letter* (TR.D&C.02.02).

There are alternative versions of the letters for interest under the Late Payment of Commercial Debts (Interest) Act 1998 ("CDA"). The CDA version is only available where there is no contractual arrangement for payment of interest. Under the CDA, the creditor is entitled to charge interest on the debt. Please note that

customer are acting in the consumer” contracts. See:

- *First Payment Rule (TR.D&C.02.01A);*
- *Final Payment Rule (TR.D&C.02.02A).*

If the amount owed by the customer should be enclosed with the invoice so that the customer can be easily verified.

- *Statement of Account*
- *Statement of Account*
- *Statement of Account*

4. **Repayment Agreements**

It may be that, once payment is made, the money is owing and is willing to be repaid.

If the customer makes a payment in instalments, a letter should be sent setting out the agreed terms (which include payment of interest) and the consequences for the customer if payments are not paid on time. See:

- *Letter – Accepting*

The business may agree to accept a smaller certain amount. Such an agreement should be documented using the *Agreement – Debt Compromise (TR.D&C.02.03L)*.

Sometimes a third party may be involved in receiving the goods that the customer has ordered. This arrangement should be recorded using the *Agreement – Exchange for Goods (TR.D&C.02.04L)*.

If the customer requests a longer period to pay the debt, and the business agrees to this, this agreement should be documented using the *Agreement – Extension of Date for Debt Repayment (TR.D&C.02.05L)*.

5. **Possible Alternatives to Debt Repayment**

5.1 **Options where the debt is not disputed**

If the customer does not dispute the debt, and the amount of debt is not in dispute, the business can instruct a debt collection agency. Organisations working as debt collection agencies include debt recovery agents and credit agents. These agents can take legal action to recover the debt by sending letters and telephoning customers.

Debt collection agencies can take legal action to recover your money. Some credit agencies will completely take over the collection of debt. If the business agrees, it will receive an agreed proportion of the total amount owing. If the business does not agree, it will keep the rest. They usually try to recover the debt by sending letters and telephoning customers.

There is an industry of debt recovery agents, the ‘Credit Services

It does not apply to “business to business” contracts. See:

Commercial Debts Act Interest

Commercial Debts Act Interest

more than one invoice, a statement should be sent setting out the agreed terms (which include payment of interest) and the consequences for the customer if payments are not paid on time. See:

Statement of Account

Logo Version (TR.SA.02L); and

Version (TR.SA.03L).

When sent, the customer accepts that the business is entitled to the debt to be repaid.

If the customer makes a payment in instalments, a letter should be sent setting out the agreed terms (which include payment of interest) and the consequences for the customer if payments are not paid on time. See: *Letter – Accepting (TR.D&C.02.04L).*

The business may agree to accept a smaller amount so long as the customer pays a certain amount. Such an agreement should be documented using the *Agreement – Debt Compromise (TR.D&C.02.03L)*.

Sometimes a third party may be involved in receiving the goods that the customer has ordered. This arrangement should be recorded using the *Agreement – Exchange for Goods (TR.D&C.02.04L)*.

If the customer requests a longer period to pay the debt, and the business agrees to this, this agreement should be documented using the *Agreement – Extension of Date for Debt Repayment (TR.D&C.02.05L)*.

but the amount owing is not disputed.

If the customer does not dispute the debt, and the amount of debt is not in dispute, the business can instruct a debt collection agency. Organisations working as debt collection agencies include debt recovery agents and credit agents. These agents can take legal action to recover the debt by sending letters and telephoning customers.

Debt collection agencies can take legal action to recover your money. Some credit agencies will completely take over the collection of debt. If the business agrees, it will receive an agreed proportion of the total amount owing. If the business does not agree, it will keep the rest. They usually try to recover the debt by sending letters and telephoning customers.

There is an industry of debt recovery agents, the ‘Credit Services

Association'. Its website

5.2 Options where the customer disputes the amount due

There are several options available to a business if a customer owes but disputes the amount due:

- Mediation/debt counselling: a neutral third party helps the two parties to find a solution. The solution is voluntary, which means the customer may still end up not paying.
- Arbitration: an independent person helps the two parties to reach an agreement. The agreement reached is entirely voluntary and cannot be forced to stick to it. The claimant can then go to the courts.
- Arbitration: an independent person hears both sides and makes a decision. The decision is binding, and the parties cannot go to court after an arbitration decision.
- Statutory demand: a formal written application to the court requiring payment. If payment is not made within 21 days, the creditor can apply to the court for a judgment. This is quite a radical step, and only if the customer has broken down the debt into smaller parts, a statutory demand appears in the appendix to these notes.

6. Taking Legal Action Against a Customer

6.1 Point to consider before taking a customer to court

A business should consider the following reasons:

- Even if the court orders the debt to be recovered, the customer, possibly insolvent, may not have the assets to pay. There may be other debts outstanding against the customer, reducing the likelihood of the debt being paid.
- Significant sums may be involved, and the costs may escalate if the case goes to trial.

6.2 Legal terminology

The terminology used in legal proceedings that might crop up in a business context is as follows:

Creditor

Debtor

Claimant

Defendant

Judgment

Enforcement

Amount due

If a customer accepts that money is owed, the business can take the following steps:

1. Mediation/debt counselling: an independent person helps the two parties to reach an agreement. The agreement reached is entirely voluntary and cannot be forced to stick to it. The claimant can then go to the courts.

2. Arbitration: an independent person hears both sides and makes a decision. The decision is binding, and the parties cannot go to court after an arbitration decision.

3. Statutory demand: a formal written application to the court requiring payment. If payment is not made within 21 days, the creditor can apply to the court for a judgment. This is quite a radical step, and only if the customer has broken down the debt into smaller parts, a statutory demand appears in the appendix to these notes.

4. Taking a customer to court, for the court to order the debt to be paid.

There is no guarantee that the debt will be recovered, even if the court orders the debt to be recovered. The customer, possibly insolvent, may not have the assets to pay. There may be other debts outstanding against the customer, reducing the likelihood of the debt being paid.

5. Significant sums may be involved, and the costs may escalate if the case goes to trial.

The terminology used in legal proceedings that might crop up in a business context is as follows:

Creditor – the person or company who is owed money

Debtor – the person or company that owes money

Claimant – the person or company issuing the court action for the debt (in a civil case, the creditor)

Defendant – the person or company being sued, i.e. the customer who owes the debt (the debtor)

Judgment – the court's decision of sums owed

Enforcement – the court's order to force the creditor to pay, or the court's order to force the debtor to pay (if the debtor has been issued ordering them to pay)

6.3 Letter of Claim

If the payment remains unsuccessful in person, you should give the customer a final chance to pay before writing **before** issuing a claim. See:

- Letter of Claim (Protocol Version) and
- Letter of Claim (Alternative Version)

The 'Protocol Version' of the Pre-Action Protocol for Debt Claims applies to claims against sole traders. The Protocol does not apply to businesses, and therefore the Alternative Version of the Letter of Claim can be used in such cases.

These letters give the debtor 14 days to reply. The letter must state that court action will be initiated if they fail to reply within this time.

This step – of trying to settle the claim before taking legal action – is important. The courts may penalise claimants who do not make attempts to settle a claim before taking legal action.

Where the Protocol applies, you must give the customer 14 days' notice of your intention to issue a claim. See:

- Letter - 14 days' notice of intention to issue a claim (TR.D&C.02.14)

6.4 County Court claim

Most claims are issued online or on paper. These requests are allocated to a 'track' to allocate the case will be conducted. The case will proceed from the 'small claims court' to the 'fast track' – and will normally proceed to the 'multi-track'.

Rarely, a claim will be issued for more than £100,000, in which case the claim will be issued in the High Court.

6.5 Issuing a claim online

It is now possible to issue a claim online at [Money Claim Online](https://www.moneyclaim.gov.uk).

To qualify for online issue, the claim must:

- For a fixed amount of money;
- Against no more than one defendant;
- Sent to an address in England or Wales.

If the payment remains unsuccessful above have been attempted, you should give the customer a final chance to pay before writing a claim in writing before by a formal 'Letter of Claim'.

The 'Protocol Version' (TR.D&C.02.14);

The 'Alternative Version' (TR.D&C.02.05).

The 'Protocol Version' of the Pre-Action Protocol for Debt Claims applies to claims against sole traders. The Protocol does not apply to businesses, and therefore the Alternative Version of the Letter of Claim can be used in such cases.

These letters give the debtor 14 days to reply. The letter must state that court action will be initiated if they fail to reply within this time.

This step – of trying to settle the claim before taking court action – is important. The courts may penalise claimants who do not make attempts to settle a claim before taking legal action.

Where the Protocol applies, you must give the customer 14 days' notice of your intention to issue a claim. See:

- Letter - 14 days' notice of intention to issue a claim (TR.D&C.02.14)

An application can be made online or on paper. The County Court will decide which 'track' to allocate the case will be conducted. The case will proceed from the 'small claims court' to the 'fast track' – and will normally proceed to the 'multi-track'.

Rarely, a claim will be issued for more than £100,000, in which case the claim will be issued in the High Court.

It is now possible to issue a claim online at [Money Claim Online](https://www.moneyclaim.gov.uk).

To qualify for online issue, the claim must:

- For a fixed amount of money;
- Against no more than one defendant;
- Sent to an address in England or Wales with a valid postcode.

Usually, the court will send the Claim Form to the defendant on the day that it is submitted. For online claims must be paid by credit or debit card.

Claims started online will be sent to the name of 'Northampton County Court' where all such claims will be transferred automatically to the defendant's or defendant's local County Court to be heard.

As well as issuing the Claim Form, it is also possible to enter judgment, and to apply for a warrant of execution. These steps are discussed below.

6.6 Paper applications

A claim can be started by paper application. See:

- *Form N1 – Claim for the sum being claimed* (the claimant completes Form N1

Use Notes N1A for guidance.

- *County Court Claim* (the claimant and defendant and the particulars of claim (the details of the claim) are included in Form N1A which you can reach by clicking [here](#)).

The claimant then sends the completed Form N1 to the court where the claim is to be heard, with a covering letter. See:

- *Letter to Court* (the claimant completes Form N1 (TR.D&C.02.06)).

If the claim is based on a contract (such as an agreement to purchase goods or services), the claimant should attach a copy of the Claim Form. A claim for interest on the claim (under the Late Payment of Commercial Debts (Interest) Act 1998). The interest claim must be included on the claim form.

The court will stamp the claim form and send it to the defendant by sending it to the court where the claim is to be heard.

The claim will be dealt with by the court where the claim was submitted, or will be automatically transferred to the nearest County Court if:

- The case is defended.
- The claim is for a sum of money.
- The defendant is a company.

In other cases, either the claimant or the court may decide that the case should be transferred to another County Court.

the name of 'Northampton County Court' where all such claims will be transferred automatically to the defendant's or defendant's local County Court to be heard.

However, it will not be necessary to go to Northampton County Court if the claim progresses, it will be transferred automatically to the defendant's or defendant's local County Court to be heard.

It is also possible to enter judgment, and to apply for a warrant of execution. These steps are discussed below.

The claimant completes Form N1

Form N1A which you can reach by clicking [here](#). The claimant and defendant and the particulars of claim (the details of the claim) are included in Form N1A which you can reach by clicking [here](#).

Form N1A which you can reach by clicking [here](#).

The claimant then sends the completed Form N1 to the court where the claim is to be heard, with a covering letter. See:

Letter to Court (the claimant completes Form N1 (TR.D&C.02.06)).

If the claim is based on a contract (such as an agreement to purchase goods or services), the claimant should attach a copy of the Claim Form. A claim for interest on the claim (under the Late Payment of Commercial Debts (Interest) Act 1998). The interest claim must be included on the claim form.

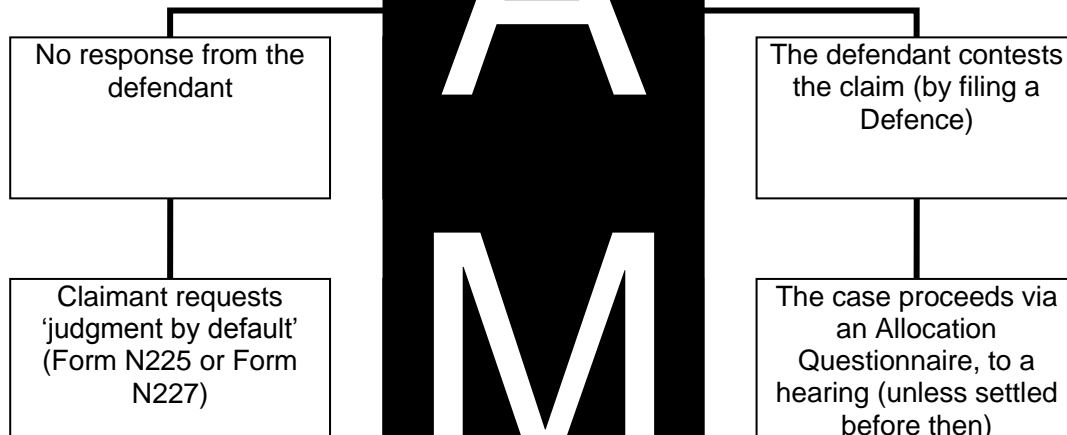
The court will stamp the claim form and send it to the defendant by sending it to the court where the claim is to be heard.

The claim will be dealt with by the court where the claim was submitted, or will be automatically transferred to the nearest County Court if:

company.

In other cases, either the claimant or the court may decide that the case should be transferred to another County Court.

6.7 How the court action proceeds



(i) The defendant is not responding

There are two scenarios where the defendant does not respond to the claim: either they do not respond at all, or they do respond by admitting that the money is owed.

- (a) If the defendant does not respond to the claim, it is relatively easy for the claimant to obtain judgment by default. If the claim was issued online, the claimant can request judgment by default online. If the claim was received a Notice of Issue, the claimant can request judgment by default by completing Form N225 or Form N227.

If the claim is for a sum of money, the tear-off section will be a Form N225. See [Form N225 - Requesting Judgment and Reply to Admission](#) v

This should be sent to the court with a covering letter. See: [Form N225 \(TR.D&C.GN.01.B\)](#)

If the claim is for a sum of money, the tear-off section will be a Form N227. See [Form N227 - Requesting Judgment in Default](#) which you can find at [www.simple-litigation.co.uk](#). This should be sent to the court with a covering letter. See:

it does not defend the case; either they do not respond at all, or they do respond by admitting that the money is owed.

It is relatively easy for the claimant to obtain judgment by default. If the claim was issued online, the claimant can request judgment by default online. If the claim was received a Notice of Issue, the claimant can request judgment by default by completing Form N225 or Form N227.

If the claim is for a sum of money, the tear-off section will be a Form N225. See [Form N225 - Requesting Judgment and Reply to Admission](#) v

This should be sent to the court with a covering letter. See: [Form N225 \(TR.D&C.GN.01.B\)](#)

If the claim is for a sum of money, the tear-off section will be a Form N227. See [Form N227 - Requesting Judgment in Default](#) which you can find at [www.simple-litigation.co.uk](#). This should be sent to the court with a covering letter. See:

- *Letter – Request for Judgment in Default on Form N227 (TR.D&C.02.01)*

(b) If the defendant has not made any proposal for payment, the claimant may do so by filing a proposal for payment on Form N225 (TR.D&C.02.01) with a covering letter. See:

If the claimant has made a proposal for payment, the claimant should complete Form N225 (TR.D&C.02.01) with a covering letter. See:

- *Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)*

If the defendant has not made any proposal for payment, the claimant must give reasons in Form N225. The claimant should send the form to the court with a covering letter. See:

- *Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)*

A court official will send the form to the court.

If the defendant has not made any proposal for payment, Form N225 (TR.D&C.02.01) should be completed and sent to the court with a covering letter. See:

- *Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)*

Following receipt of the form, the court will send both parties an Order for Judgment in Default on Form N227 (TR.D&C.02.01).

(ii) The defendant disputes the claim

If the defendant disputes the claim, they must file a Defence and Counterclaim on Form N9A (TR.D&C.02.01) with the court. The court will send an Allocation Questionnaire to the defendant. The defendant should complete the questionnaire and send it to the court. The court will use the information provided to decide which track the case will be allocated to. The court will provide 'directions', in other words, tell the parties what to do and by when. It is important to follow directions exactly. Failure to do so may result in the case being postponed.

The directions may be given at a preliminary hearing, may be given by the court before trial, or may be given by the court after trial. The court will tell the parties when the directions will be made. See:

- *Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)*

If the parties are able to agree the directions that should be made at the preliminary hearing, they should file a Request for Judgment in Default on Form N227 (TR.D&C.02.01) with the court. See:

Letter – Request for Judgment in Default on Form N227 (TR.D&C.02.01)

the claim, (i.e. they acknowledge that they will have filed Form N9A. The court will use the information provided to decide which track the case will be allocated to. The court will provide 'directions', in other words, tell the parties what to do and by when. It is important to follow directions exactly. Failure to do so may result in the case being postponed.

If the claimant has made a proposal for payment, the claimant should complete Form N225 (TR.D&C.02.01) with a covering letter. See:

Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)

If the claimant must give reasons in Form N225. The claimant should send the form to the court with a covering letter. See:

Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)

A court official will send the form to the court.

If the defendant has not made any proposal for payment, Form N225 (TR.D&C.02.01) should be completed and sent to the court with a covering letter. See:

Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)

Following receipt of the form, the court will send both parties an Order for Judgment in Default on Form N227 (TR.D&C.02.01).

If the defendant disputes the claim, they must respond to the N1 Claim Form. If the defendant has not responded to the N1 Claim Form, the court will return the form to the court. The court will use the information provided to decide which track the case will be allocated to. The court will provide 'directions', in other words, tell the parties what to do and by when. It is important to follow directions exactly. Failure to do so may result in the case being postponed.

There are matters to be dealt with at a preliminary hearing at which further directions can be made. The hearing date can be made if the parties are able to agree the directions that should be made at the preliminary hearing.

Letter – Request for Judgment in Default on Form N225 (TR.D&C.02.01)

Directions that should be made at the preliminary hearing, they should file a Request for Judgment in Default on Form N227 (TR.D&C.02.01) with the court asking the court to make such directions. There would usually be an exchange of directions that should be made at the preliminary hearing.

of correspondence by the court. The court will give directions. This correspondence should be sent to the court with a request that the court make the trial directions.

- *Letter – Proposed Trial Directions* (TR.D&C.02.11)

The directions may require the parties to disclose documents that are relevant to their case. This is a list of documents on the other party. The list must include documents which the party relies on and documents which are adverse to the party. The other party is entitled to inspect any document in the list.

- *Letter – Request for Copies of Documents* (TR.D&C.02.12)

If the parties are able to agree the trial directions, this should be confirmed in writing and a copy of the correspondence should be sent to the court. See:

- *Letter – Settlement of Trial Directions* (TR.D&C.02.13)

When the trial has been completed, the court will order the parties to pay the costs of the trial. Reasons for the decision will be given. Occasionally, a case may be dealt with by the court without a trial (e.g. a summary judgment on the papers before them), but this will only happen in some cases.

7. **Effect of Court Orders and Judgments**

7.1 **Requesting payment of a judgment**

If the claim has been decided in favour of the claimant, the court will order the debtor to pay the claimant directly. A judgment is a court order for the debtor of the terms of the judgment.

- *Letter – Request for Payment of Judgment* (TR.D&C.02.12)

7.2 **Information about the debtor's financial standing**

If the debtor does not pay the claimant, the claimant can apply to the court for an order that the debtor (or an officer of the debtor company) attend court to give evidence about their financial standing. This is done by completing Form N316 (for an individual debtor) or Form N316A (for a company debtor). See:

- *Form N316 – Claimant's Application for an Order for the Debtor to Give Evidence* which you can find [here](#); and
- *Form N316A – Claimant's Application for an Order for the Debtor to Give Evidence* which you can find [here](#).

7.3 **Enforcement of a court order**

Once the debtor's circumstances have been established, it's worth applying to the court for an enforcement order. The court will decide which one will be the most appropriate and which one will be payable to the court to commence a claim for enforcement.

requesting and agreeing to proposed trial directions. This correspondence should be sent to the court with a request that the court make the trial directions.

Letter – Proposed Trial Directions (TR.D&C.02.11)

The directions may require the parties to disclose documents that are relevant to their case. This is a list of documents on the other party. The list must include documents which the party relies on and documents which are adverse to the party. The other party is entitled to inspect any document in the list.

Letter – Request for Copies of Documents (TR.D&C.02.12)

If the parties are able to agree the trial directions, this should be confirmed in writing and a copy of the correspondence should be sent to the court. See:

Letter – Settlement of Trial Directions (TR.D&C.02.13)

When the trial has been completed, the court will order the parties to pay the costs of the trial. Reasons for the decision will be given. Occasionally, a case may be dealt with by the court without a trial (e.g. a summary judgment on the papers before them), but this will only happen in some cases.

If the claim has been decided in favour of the claimant, the court will order the debtor to pay the claimant directly. A judgment is a court order for the debtor of the terms of the judgment.

Letter – Request for Payment of Judgment (TR.D&C.02.12)

If the debtor does not pay the claimant, the claimant can apply to the court for an order that the debtor (or an officer of the debtor company) attend court to give evidence about their financial standing. This is done by completing Form N316 (for an individual debtor) or Form N316A (for a company debtor). See:

Form N316 – Claimant's Application for an Order for the Debtor to Give Evidence which you can find [here](#); and
Form N316A – Claimant's Application for an Order for the Debtor to Give Evidence which you can find [here](#).

Once the debtor's circumstances have been established, it's worth applying to the court for an enforcement order. The court will decide which one will be the most appropriate and which one will be payable to the court to commence a claim for enforcement.

(i) Warrant of Control

A Warrant of Control (also known as a Warrant of Execution) gives a County Court bailiff a right to enter the debtor's property to collect the debt. If the debt is not paid, the bailiff has the power to remove and sell belongings in order to recover the debt. The bailiff should establish the make, model and number plate of the vehicle. This is usually the most effective method for the bailiff.

A Warrant of Control can be requested by paper application or online.

- *Form N323 – Requesting Warrant of Control* which you can read [here](#).

(ii) Attachment of Earnings

If the debtor is an individual, the court can make an Attachment of Earnings Order. This directs the debtor's employer to deduct an amount from the debtor's earnings each month and pay it to the creditor.

An application for such an order can be made by paper application or online.

- *Form N337 – Requesting Attachment of Earnings Order* which you can read [here](#).

(iii) Third Party Debt Order

If the debtor has assets in the hands of a third party, the court can make a Third Party Debt Order. This usually stops the defendant from taking money out of the third party's account and the money owed is paid directly to the creditor from the account.

An application for such an order can be made by paper application or online.

- *Form N349 – Requesting Third Party Debt Order* which you can read [here](#).

Property

A Warrant of Execution) gives a County Court bailiff a right to enter the debtor's property to collect the debt. If the debt is not paid, the bailiff has the power to remove and sell belongings in order to recover the debt. The bailiff should establish the make, model and number plate of the vehicle. This is usually the most effective method for the bailiff.

A Warrant of Control can be requested by paper application or online.

- *Form N323 – Requesting Warrant of Control* which you can read [here](#).

debtor's salary

If the debtor is an individual, the court can make an Attachment of Earnings Order. This directs the debtor's employer to deduct an amount from the debtor's earnings each month and pay it to the creditor.

An application for such an order can be made by paper application or online.

- *Form N337. See: Requesting Attachment of Earnings Order* which you can read [here](#).

from third party

If the debtor has assets in the hands of a third party, the court can make a Third Party Debt Order. This usually stops the defendant from taking money out of the third party's account and the money owed is paid directly to the creditor from the account.

An application for such an order can be made by paper application or online.

- *Form N349. See: Requesting Third Party Debt Order* which you can read [here](#).

Issuing a Statutory Demand – the process

If the customer is solvent, and the debt is greater than £750 in the case of a corporate debtor or more than £500 in the case of an individual debtor (including a sole trader), the creditor can issue a statutory demand giving the debtor 21 days warning to pay the debt.

If the debtor does not respond by paying the debt, or applying for the statutory demand to be set aside (within the 21 days), the creditor can apply for a bankruptcy petition (for individuals and sole traders) or a winding up petition (for companies). This effectively stops the debtor's business from functioning.

The law assumes that a statutory demand is a debt collecting device in its own right, without the need to proceed to a court. It is a 'bluff', and it is actually rare for it to be used to start a petition for bankruptcy or winding up. Issuing a statutory demand is effective for a number of reasons:

- A statutory demand is simple to prepare and can be prepared by the creditor themselves, and does not need to be involved.
- A statutory demand can be issued without the need to obtain a court judgment.
- The statutory demand can be served by post (there is no need for personal delivery).
- The recipient will often be forced to pay immediately or, alternatively, they may offer property as security or pay in another way such as by instalments.

In theory, if the debtor does not respond by paying the debt, or applying for the statutory demand to be set aside (within the 21 days), the creditor can apply for a bankruptcy petition (for individuals and sole traders) or a winding up petition (for companies). However, this may still not result in the creditor being paid! Unfortunately, the creditor will not have priority over whatever money becomes available to the debtor.

Important note – a statutory demand is not a court order. If the service of the statutory demand is disputed, the court will halt the proceedings. It is relatively easy for a debtor to dispute the debt, and this may result in an order for costs being made against the creditor.

In summary, a statutory demand is a serious step, and should only be used where there is no question that the debt is owed and where the relationship with the customer has totally broken down.

Please refer to the relevant page on the website (which you can reach by clicking [here](#)) for further information and to obtain the appropriate form.