

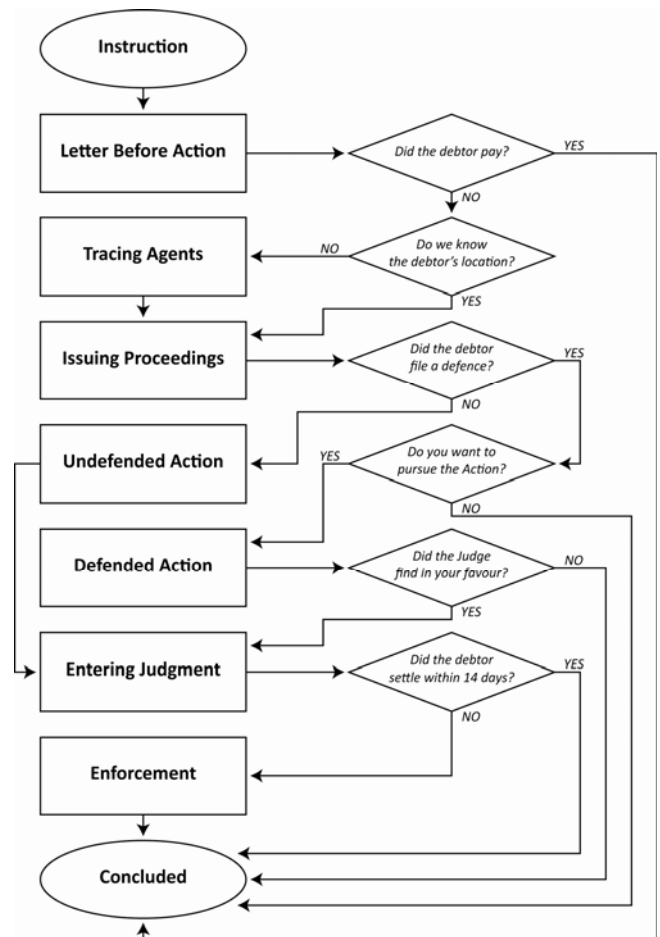


Guide to the Debt Recovery Process

How it works, and what we charge

The **debt recovery process** can seem confusing and daunting. We aim to simplify it as much as we can, and to make clear from the outset what we charge for our work.

The flowchart opposite shows the different steps of the debt recovery process. For each step of the process, please see the description detailed in this document.



www.simpsonmillar.co.uk
Telephone 0844 858 3000

Letter Before Action

We shall send our first Letter Before Action (LBA) to the debtor based upon outstanding invoices completely free of charge.

Fees as a percentage of amount recovered

If we make a recovery of the whole or part of the debt without the need for commencing legal proceedings, then we shall charge you a fee based on the percentage charge table set out below.

Amount	Fee (Ex. VAT)
Up to £350	£50
£350 to £600	20%
£600.01 to £1,000	18%
£1,000.01 to £2,000	15.5%
£2,000.01 to £10,000	15%
£10,000.01 to £20,000	12%
Over £20,000	10%

We also charge a percentage of any interest and compensation which it may be possible to recover from your debtor pursuant to the Late Payment legislation, as well as any of your costs recovered from debtor(s), at a rate of 20% + VAT.

Example:

In the following example we recover a £1,500 debt, along with £40 compensation and £150 interest. After our fees and VAT, you get back £1,378.92.

	Amount recovered	Our fees	VAT	Amount due
Original debt	£1,500.00	£232.50	£34.88	£1232.62
Compensation	£40.00	£8.00	£1.20	£30.80
Interest	£150.00	£30.00	£4.50	£115.50
Total	£1,690.00	£270.50	£40.58	£1,378.92

Tracing agents

Before commencing legal proceedings, we must know the debtors whereabouts. If you are in any doubt, we can confirm their current location by the instruction of a tracing agent. For this we charge £15 + VAT, plus the fee of the tracing agent:

Option 1

We can carry out electronic searches. This data can, on occasions, be historic but in our experience the information provided is usually good. If a new address for the debtor is found, the charges are typically £25 + VAT.

Option 2

The second option is to instruct a local tracing agent who will undertake various electronic searches as well as visit the relevant properties to attempt to locate the debtor. If this is your preferred option the agent's cost will be around £80 + VAT.

Debtor Visit

We can instruct a debt collector who visits the debtors with a view to recovering the unpaid debt, before it is necessary to commence Court proceedings.

The benefit of this is that, we are able to:

- a) recover the debt before incurring further costs issuing Court proceedings
- b) form a view as the likelihood of recovering the debt in the event that Court proceedings may be necessary.

The collector's charges would be £90 + VAT and they would also retain 10% of any amount which they recovered.

Unfortunately, however the debt collector would not be able to threaten execution of a Writ and/or take walking possession of any goods owned by the debtor. This is because Court proceedings would have to be issued against the debtor in order to take this step. Our fees for instruction of the agent are £80 + VAT.

Payment Collection Fee (Instalment Agreements)

Debt Value	Collection fee
Any Value	£2.50

Payment collection fees are payable on all monies received.

Issuing Proceedings

The law does not allow litigation to be undertaken on the basis of a percentage of recovery. Solicitor's fees will therefore vary depending upon whether the proceedings become defended.

The Solicitors fees will be restricted to the sums allowed by the Court as recoverable from the debtor. Payment is required in advance of the total court costs and fees. If recovery is successful a rebate of the sum recovered will be credited back to you.

Costs – See table below:

Amount	Court Fee	Fixed Costs (Amount charged by us)	Total
Up to £300	£30	£50	£80
£300.01 to £500	£45	£50	£95
£500.01 to £1,000	£65	£70	£135
£1,000.01 to £1,500	£75	£80	£155
£1,500.01 to £3,000	£85	£80	£165
£3,000.01 to £5,000	£108	£80	£188
£5,000.01 to £15,000	£225	£100	£325
£15,000.01 to £50,000	£360	£500	£860
£50,000.01 to £100,000	£630	£800	£1,430
£150,000.01 to £200,000	£810	£1,000	£1,810
£200,000.01 to £250,000	£990	£1,200	£2,190
£250,000.01 to £300,000	£1,350	£1,600	£2,950
Over £300,000 or for an unlimited amount	£1,530	£1,800	£3,330

Defended Action

Where a defence from the debtor is filed at Court, should you wish to pursue the claim, Solicitor's fees will be charged on an hourly basis. The current hourly rates are set out below.

	Hourly rate (ex. Vat)
Grade A: Solicitors qualified for 8 or more years	£235.00
Grade B: Solicitors qualified for more than 4 years but less than 8 years	£210.00
Grade C: Solicitors qualified for less than 4 years	£175.00
Grade D: Trainee Solicitors/Paralegals and other staff of equivalent experience	£125.00

These rates may alter, subject to your approval, dependent upon the complexity of each instruction.

Undefended Action

Where no defence from the debtor is filed at Court, Judgment will be entered in default.

Entering Judgment

Once proceedings are issued, if no defence is filed – or if the Judge finds against the debtor in a defended action, a County Court Judgment can then be entered. There is no Court fee involved. This amount is added to the debt and is recoverable in principle from the debtor.

Amount of debt	Default of Acknowledgement	Default of Defence	Admission Claimant accepts offer of instalments	Admission Court decide date & time of instalments
£25.00 - £5,000.00	£22.00	£28.00	£46.00	£60.00
£5,000 +	£35.00	£40.00	£55.00	£70.00

- The charges shown above are normally recoverable from your debtor
- There will be an additional £15 payable where we are required to complete and

file a form EX120 in response to a Defendants Admission/Part Admission.

Enforcement

Once Judgment has been entered, if the Defendant fails to settle the Judgment, steps may be taken to enforce the Court Judgment.

Option 1 – High Court Sheriff

If the debt is in excess of £600, Option 1 is to send the matter to the High Court Sheriff to enforce. The Sheriff will visit the Defendant's address and seize goods to the value of the outstanding debt. These will then be auctioned and the proceeds sent to you (once the Sheriff has deducted his costs). The initial fee issuing a writ is £64.10 and is payable in advance to us.

The benefit of this method of enforcement is the fact that the Sheriffs are paid a percentage which varies according to their results. This provides a strong incentive to make recovery. Also, their costs are fixed and therefore can be relatively low compared to the amount outstanding.

If the Sheriffs are successful, they will make no further charge – they will recover their costs from the Defendant. If they are unsuccessful, there will be a charge of £60 plus VAT for withdrawal or per address that they attend and are unsuccessful at.

The Solicitors costs for dealing with the Sheriffs are £125 plus VAT. This cannot be

recovered from the Defendant, even if the Sheriff is successful.

Option 2 – Court Bailiff (Warrant of Execution)

If the debt is under £600 instructions must be sent to a Court Bailiff to execute a Warrant.

The Bailiff will send the defendant a letter saying that a warrant has been issued and that he or she must pay within seven days. If the defendant pays, the court will send us the money. If the defendant does not pay within seven days, the bailiff will call at the address we provide and try to identify goods which they could sell at auction or collect a payment to prevent goods being sold. If we provide more than one address, the bailiff will visit each address in turn. If the defendant has goods which can be sold, the bailiff will take the cost of taking, storing and selling the goods from the amount they raise. The court will send you the rest after this has been done. If this amount does not repay the amount you are owed, the bailiff will visit the defendant to see if there are any other goods which could be sold. If there are not, the bailiff will not be able to take any more action on the warrant.

The Court fee for instructing the Court Bailiff is £55 and Solicitors costs amount to £85 + VAT.

If the Bailiff is provided with an incorrect address on the initial instruction or we otherwise need to provide a new address to

the Bailiff at a later date then the Court will charge a further fee of £25 to reissue the Warrant.

Additional information regarding Bailiff and Sheriff Officers

Bailiffs and Sheriff's Officers can only enter the defendant's home if they are allowed in by the person there. If there is nobody there, the Bailiff can enter if a door is left unlocked or through an open window. Bailiffs may be able to break into business premises if there is no living accommodation attached and they believe the defendant's goods are inside.

They can also enter if the Bailiff has previously been allowed in and is returning to the defendant's house to collect goods to be sold. But, in these circumstances, you may be asked to promise to pay the court an amount (an 'indemnity') in case the bailiff cannot collect any costs later from the defendant.

The Bailiff and Sheriff's Officers can only take goods which belong to the defendant or are jointly owned. For example, they cannot take goods which belong to the defendant's partner.

Any goods which are taken must be likely to fetch money at auction. Goods will not be removed if they are unlikely to fetch enough to pay something towards the warrant after the full cost of removal and sale.

Some goods cannot be taken, for example:

- items which the defendant needs for his job or business, such as tradesman's tools or books;
- essential household items which the defendant and his family need such as clothing or bedding;
- items or cars which are leased, rented or are on hire purchase agreements;
- goods which may have already been seized by bailiffs acting under another warrant;
- equipment which does not belong to a business (For example, office furniture, machinery and vehicles may be leased)

Remember, Bailiffs and the Sheriff's Officer cannot take action if the defendant has no goods to sell.

Option 3 – Third Party Debt Order

The effect of this order will be that the court will freeze the Defendant's bank or building society accounts, and any money in the account will be transferred to you to settle the judgment. In order to do this we need details of the Defendant's bank accounts.

Whilst there is no guarantee that the account will hold sufficient funds to satisfy the Judgment, the fact that the Defendant's bank account is frozen may persuade them to settle the debt.

The court fee for the application is £55. Once the application is made, the court will set a hearing date at which the Defendant could object to the order. If the application is successful, you will be entitled to certain fixed costs by the court. The costs for dealing with this are limited to the fixed costs set by the court – approximately £100 + VAT. The court fee and fixed costs will be added to the judgment debt to be recovered from the Defendant.

Option 4 – Charging Order

It may be possible to apply for a Charging Order against the Defendant's property.

If the court is satisfied on seeing the application that you are entitled to a charging order, it will set a hearing date and grant an Interim Charging Order. The Defendant will be given an opportunity to object to the application at the hearing. If the application is successful, the court will grant a Final Charging Order, as such the judgment debt and costs are secured to the Defendant's property (in a similar way to a mortgage).

The advantage of the charging order is that it can be protected by registering a Restriction at the Land Registry. This means that the Defendant will not be able to sell the property without first settling the judgment debt. The court fee for this order is £100 and the court may order the Defendant to pay fixed costs of £110. In addition, you will be entitled to certain reasonable expenses. In addition

we will charge our hourly rate for attendance at a Charging Order hearing.

Registering a Restriction at the Land Registry requires a fee of £40. In addition, we will need to obtain documents from the Land Registry about the ownership of the property (at a cost of £4.00).

Option 5 – Attachment of Earnings Order

An attachment of earnings order is a method by which money will be taken from a defendant's wages to pay a debt, and as such will only help if the defendant is in paid employment.

Before you can ask the court to issue an attachment of earnings order:

- the defendant must be behind with at least one payment and;
- the amount he or she still owes you must be £50 or more.

If you are not sure whether the defendant is employed, we can do any of the following:

- Make an application to the Court to ask for the defendant to be questioned, called an 'order to obtain information'. The Court will charge a fee of £45 for this application.
- Ask the court in the defendant's home area to search the attachment of earnings index. This index is a list of all the attachment of earnings orders against

people living in that area. (This includes orders made by magistrates' courts).

There is no fee levied by the Court for this. The court will use this index to check whether the defendant has any other attachment of earnings orders against him or her.

- If the defendant has another attachment of earnings order against him or her already, you can ask the court to join (or 'consolidate') your debt with those he or she already owes. You can get an attachment of earnings order in this way without having to pay a fee.

The charges for making an application for an attachment of earnings are £125 + VAT.

Alternative Methods of Recovery

Amount of Debt	Statutory Demand	Bankruptcy/Winding up Petition
£750.00-£1000.00	£125.00	Quote on application
£1,000.00-£5,000.00	£170.00	Quote on application
£5,000.00-£10,000.00	£195.00	Quote on application
£10,000.00 +	£220.00	Quote on application

*It is necessary to serve a Statutory Demand personally on an individual. This will attract a process server's fee of approximately £80-100

Claims for Possession of Residential Properties

Prompt recovery of overdue rent and ensure the tenant is evicted. In order to proceed with a claim for possession we will require a copy of the Tenancy Agreement, rent schedule and evidence of title to the property (ownership). If you do not have evidence, we can obtain this on your behalf at a cost of £4.00 (+ VAT)

We shall restrict our fees to the sums allowed by the Court as recoverable from the tenant. We require payment in advance of the total court costs and fees. If we make recovery a rebate of the sum recovered will be credited back to you.

Fees for Residential Possession Claims:

Frequently a Letter Before Action (LBA) can often resolve issues between tenants and landlords/letting agents. Our charge for an LBA is £75 + VAT.

Section 21 Application (used simply to evict the tenant from the property).

Action	Fee (Ex. VAT)
Preparation and service of Section 21 Notice	£50.00
Preparation and service of accelerated possession proceedings (including £150.00 Court fee)	£520.00 (plus disbursements)
Defended Actions; Most Claims are undefended however if a Defence is filed at Court it may not then be possible for us to continue on a fixed fee agreement. However we will attempt	Hourly charge

Action	Fee (Ex. VAT)
to estimate our costs prior to any court hearing	

Section 8 Application (used when you want the tenant to vacate the property and claim for rent arrears.

Action	Fee (Ex. VAT)
Preparation of Section 8 Notice	£75.00
Preparation and service of possession proceedings	£600.00 (plus disbursements)
Advocacy attendance on your behalf at possession hearing	Hourly charge
Bailiff instruction to evict an uncooperative tenant	£175.00
Defended Actions; Most Claims are undefended however if a Defence is filed at Court it may not then be possible for us to continue on a fixed fee agreement. However we will attempt to estimate our costs prior to any court hearing	Hourly charge

Please note: An additional 20% will be added to all charges for properties located in the inner London area.

Service Charge Arrears Collections

We require payment in advance of the total court costs and fees however dependent upon the terms of the lease it is generally the case that we are able to recover these fees from the leaseholder. If we make recovery a rebate of the sum recovered will be credited back to you.

Action	Fee (Ex. VAT)
Letter Before Action (1)	£70.00
Letter Before Action (2)	£90.00

Action	Fee (Ex. VAT)
Letter to Mortgagee	£125.00
Issue of Proceedings	£500.00 (plus disbursements)
On the rare occasion there is a dispute it may not be possible for us to continue on a fixed fee basis however we will attempt to estimate our costs prior to proceeding with your instructions.	Hourly charge

Disbursements:

Should you not be able to provide a copy of the Lease, we can obtain a copy from the HM Land Registry	£20.00 + Vat
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Civil Recovery

Letter Before Action

We shall send our first Letter Before Action (LBA) to the debtor based upon outstanding invoices completely free of charge.

Fees as a percentage of amount recovered
If we make a recovery of the whole or part of the debt without the need for commencing legal proceedings, then we shall charge you a fee based on the percentage charge table set out below.

Amount	Fee (Ex. VAT)
Up to £350	£60
£350.01 to £600	30%
£600.01 to £1,000	28%
£1,000.01 to £2,000	25.5%
£2,000.01 to £10,000	25%
£10,000.01 to £20,000	22%
Over £20,000	20%

If payment is not received, the case may proceed through the civil court and action may be taken after the judgment.

Action	Fee (Ex. VAT)
Preparation and service of proceedings	Hourly charge
Defended Actions: If a Defence is filed at Court it may not then be possible for us to continue on a fixed fee arrangement. However we will attempt to estimate our costs prior to any court hearing	Hourly charge
Advocacy attendance on your behalf at any hearing	Hourly charge
Preparation of applications (ie, property freezing order)	Hourly charge

Advocate /Agency Work

We have a team of professionals with excellent knowledge of the credit industry and the legal profession who are experienced in the various aspects of advocacy with a specialism in Debt recovery matters, Mortgage Possession, Landlord & Tenant and Bankruptcy. Fixed fees are charged dependant upon the length of the listing and complexity of the matter. For further details and a full list of our fees please do not hesitate to contact us.

This guide contains information on current legal issues applicable at the time of printing. Note there may have been changes subsequently which have not been incorporated in to the material. This guide is intended for information purposes only and its content should not be applied to any particular set of facts or relied upon without legal or other professional advice. For further information on how we can help you please contact:

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