

## CLAIMANT GUIDE TO DEBT RECOVERY

You have instructed us in connection with a civil litigation claim. These notes are intended to give you a very general idea of what is involved in making a claim and the procedures for making a claim.

### Initial Enquiries

A number of enquiries need to be undertaken to advance the claim and to enable an assessment to be made on the merits of the case and the appropriate level of compensation.

These enquiries will concentrate on the two most important elements of the case:

- (a) to establish the Defendant is, as a matter of law, responsible for what has happened – this is termed '**liability**';
- (b) to consider the implications of what has happened, which will determine the amount payable by way of compensation (assuming liability is established) – this is termed '**quantum**'.

There are protocols which the court rules require to be followed for certain causes of action. However, even when there is no specific protocol the principles should be adopted as a matter of good practice. In the event of proceedings being issued the Court will expect each party to comply with the protocols as they are specifically designed to help resolve claims as quickly and fairly as possible. Under the protocol, appropriate details of the claim should be given to the Defendant to enable a decision to be made and the Defendant is then expected to investigate the claim properly and make a timely decision on how to deal with it. Enquiries made now, as well as helping to investigate the case, will also allow us to comply with the protocol which, in turn, may help to resolve the matter, or at least narrow the issues, before any Court proceedings are commenced.

We now explain the enquiries on liability and quantum, and how the protocol will apply to these, in turn.

### Liability

We need to establish the Defendant is liable i.e. we must be able to point the finger of blame in some way to the Defendant.

Our enquiries on liability will concentrate mainly on the factual background to your claim. Accordingly, we are dealing with the following matters.

1. as required by the protocol, we will send a formal letter of claim to the Defendant which:
  - (a) gives a summary of the factual background and the reasons why the Defendant is blamed for what happened;
  - (b) summarises the losses and expenses; and

(c) confirms that compensation is sought

The protocol requires the Defendant formally to acknowledge the claim within 14 days.

2. If the claim is not acknowledged we shall advise further on the action that will then be appropriate. However, we hope the Defendant will comply with the protocol.
3. Assuming that the Defendant does comply with the protocol by acknowledging the claim, we shall pursue further correspondence with the Defendant with a view to resolving, or at least narrowing, the issue of liability.

If no decision on liability is made by the Defendant, we shall advise further on the action that will then be appropriate. However, again, we hope the Defendant will comply with the protocol.

### **Quantum**

It is necessary to prove the amount being claimed by way of compensation. This raises a number of points.

1. We will summarise the losses and expenses to the Defendant so that the Defendant can assess what investigation is necessary, given the nature of the claim. Once further enquiries on quantum have been completed, we shall disclose to the Defendant any evidence to be relied on, so that the Defendant can form a view on the appropriate level of damages.
2. Once this information is available, we shall also be able to advise you in broad terms as to the likely level of compensation so that, if offers of settlement are made, you will be in a position to judge these.
3. If liability has been accepted, even if this is for the purpose of negotiation only, we hope this will allow negotiations towards outright settlement to proceed. If liability is not accepted, it will be sensible to let the Defendant have this information in any event, as it will need to be disclosed if and when any Court proceedings are commenced.

Please note you are under a duty to mitigate your losses, which means that regardless of blame, all the losses and expenses resulting from the claim must be kept to a minimum and you should, therefore, treat any losses and expenses incurred as though they were coming out of your own pocket, with no guarantee that we will recover all the sums claimed.

### **Time Estimate**

It is almost impossible to give a realistic estimate of when the claim is likely to settle or reach trial as much depends upon the complexities of the claim. In straightforward claims the matter should be concluded within 12-18 months of receipt of instructions, but in the more complex cases it may take 3 years or more before a settlement is

reached. In the latter circumstance, provided the Defendants have admitted liability, we can either request or make an application to court for an interim payment.

Although we hope that it will be possible to negotiate a settlement of your claim, we shall advise you at a later stage if court proceedings prove necessary. If court proceedings are issued, please note that more than 95% of cases settle before they reach trial.

### **Fees**

<b>Claims up to £10,000</b>	<b>£500 plus VAT - £2,000 + VAT</b>
<b>Claims £10,001 - £50,000</b>	<b>£1,500 plus VAT- £2,000 + VAT</b>
<b>Claims £50,001 – £100,000</b>	<b>£2,000 plus VAT - £3,500 + VAT</b>

Please note that the quoted fees do not include fees of either the court, barrister experts or any third party.

Court fees will be payable on issue of the claim form and prior to the final hearing. Additional Court fees may be applicable dependant upon the circumstances of the case.

A link with the current details of Court fees can be found below. Please note that this link is not serviced by Evans & Co

<https://www.gov.uk/government/publications/fees-in-the-civil-and-family-courts-main-fees-ex50>