

Debt Recovery

Options for Creditors

Recovery Services

- Each debt agency is different
 - Some have an initial set up fee per debt
 - Others have an overall joining fee
 - Some will not collect debt under a certain amount (eg under \$300) or a certain number of debts (eg 25 different debtors)
- They also offer quite different services so it is best to shop around to see what is best for you and your debt

Before Debt is a Problem –

- Terms of Trade
 - Before debt is a problem, debt agencies can draft your terms of trade documentation to establish a clear legal relationship with your clients and customers
 - This will create certainty over some debts and make sure you are not in breach of any law (eg Fair Trading Act 1986, Credit Contracts and Consumer Finance Act 2003, Sale of Goods Act 1908 et al)
 - Documentation can include: terms and conditions of trade, credit application forms, quotation forms, and personal guarantees and indemnities
 - These can be drafted to tailor your specific requirements and industry
- Credit Reporting
 - Many debt agencies offer an online service (in connection with Veda Advantage (formerly Baycorp Advantage)) to check clients and customers' credit information
 - This allows you to review historical credit repayment behaviour and effectively identify bad credit risks
 - This service is updated daily so you are immediately aware of any change in a person or company's risk profile

When Debt is Proving to be a Problem –

- Field services
 - If the debtor is proving difficult to track down, you can hire a debt or investigative agency to make contact with the debtor to initiate discussion about the debt and how it may be paid
- Sell the debt to a debt agency ('debt factoring')
 - This provides a large and quick boost to cash flow, which may be very valuable for businesses that are short of working capital
 - However, you will be unable to sell the debt for the full amount owing. So evaluate the debt on a case by case basis as to whether it is worth selling at a lower rate
 - Also, make sure you sell the debt to a reputable company as it is important that the agency helps you maintain a healthy trading relationship with your clients and customers
- Debt agency takes a commission
 - This is when a debt agency acts on your behalf to recover outstanding debt. When they are successful, the agency takes a percentage of the debt as commission

- o The commission can be as high as 30% of the total debt. However, some firms will not collect a commission if the debt is not recovered
- o This gives you the benefit of retaining ownership of the debt and the added efficiency of a trained professional recovering the debt
- o As with selling the debt, it is important that the debt collector helps to maintain a positive trading relationship with your clients and customers

Creditors' Obligations

- Make sure the debt is not in dispute (ie debtor has already paid, incorrect debtor identified)
- Under a secured loan (entered into on or post 1 July 1998) or hire purchase agreement, the debtor can only take the item bought on hire purchase or listed as security for the loan
- You can only make the debtor pay collection fees if you make them aware of the fees at time of purchase (otherwise you could be in breach of the Fair Trading Act 1986)
- When hiring a debt agency (other than the Baycorp companies), it is best to choose someone who belongs to the Associated Credit Bureau NZ (ACB) and ask for proof that the person or company operates a trust account

Examples of Debt Agencies

- Baycorp (NZ) Limited
- Dun and Bradstreet New Zealand Limited
- Guardian Credit Service
- EC Credit Control Limited
- The Collection Company Limited
- Others can be found in the yellow pages under 'debt collectors'

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