

Covid-19 and Debt Recovery

or 'Can I recover my debts during the pandemic?'

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Introduction

These are unprecedented times and many businesses are finding it tough to survive.

Retail outlets have been closed, restaurants turning to home delivery to keep the cash coming in and many other businesses have had to adapt to the new way of working.

Many businesses have learned during the pandemic that 'cash is king'. It's a phrase we have used often, but when times are tough it's so important to manage your cash by spending only what you need to, and of course, making sure you get paid for what you have supplied.

This guide aims to answer one of the questions we have been asked more than any over the last few months - 'Can I recover my debts during the pandemic?'

Of course the answer is 'yes', **but** this answer comes with a big caveat.

In such stressful times, businesses need to be sensitive to the financial positions of their debtors. They need to have conversations, and to consider payment plans and other methods to reach agreements. It's not a time for 'barging in', and if you employ specialists such as ourselves to recover your debts, you need to be fully confident they can take a common sense yet business-like approach.

I hope you find the guide useful. Do get in touch if you have any questions or would like a chat about how we may be able to help.

We look forward to hearing from you.

Catherine Rickett

Catherine Rickett
Debt Recovery Manager
t: 01775 764157
e: catherinerickett@roythornes.co.uk



Roythornes Solicitors, Enterprise Way
Pinchbeck, Spalding PE11 3YR



Can we still pursue debts during the Covid-19 pandemic?

Yes! Whilst we are asking our clients to take a 'common-sense approach' with their debtors at this time, we appreciate that cashflow is even more important now and in most situations, debt recovery action can still be taken. By 'common sense approach', we mean that if your debtor is a shop or company that has closed temporarily due to the COVID-19 pandemic, we are unlikely to be able to make any significant recovery as the prospects of making contact are going to be low.

All members of our debt recovery team are working from home, and we have staff working from the office who can still assist with sending out Solicitors Demand Letters (SDLs), pre-action letters and any other correspondence.

As the lock-down restrictions are starting to ease and shops re-opening, we anticipate that the prospects of recovering commercial debts will start to increase. We have found that where a debtor is an individual or sole trader, our efforts to make contact have, if anything, been more successful as the majority are either working from home or furloughed and unable to work.

Should we consider a payment plan?

In the current climate, it might be worth considering a payment plan if one is offered by your debtor. It would depend on the history of your debt and debtor as if a payment plan has been offered in the past and they have defaulted, they may be using COVID-19 as an excuse to try and get out of paying their debts.

If you have supplied goods or provided a service and invoiced your client in accordance with standard terms of payment, in normal circumstances, we would urge that you pursue your debts in full.

However, whilst we appreciate that cashflow is important to you, cash will also probably be tight for your debtors. You will have to monitor this on a case by case basis as every debtor is different but, if your debtor is genuine, you may wish to consider a payment plan if offered.

Depending on the level of the debt owed, it may be necessary to consider a payment plan option over 6 months with a view to reviewing this thereafter. We believe that recovering something is better than nothing.



Can we still issue legal proceedings and obtain judgment?

As mentioned above, there is no point in issuing a claim against a debtor to an address which is temporarily closed. Provided we are satisfied that the debtor will have sufficient opportunity to respond, we can issue proceedings and obtain judgment as normal.

The same applies when sending our pre-action correspondence as it will likely be sent to the same address as any form of legal claim. We use Money Claim Online (MCOL) as our platform to issue most of our claims which is a court internet-based service for both claimants and defendants. It is a convenient and secure way of making or responding to a money claim over the internet. The claims are issued centrally at the County Court Money Claims Centre in Salford which sends a copy of the paper claim to your debtor.

Are the courts still open?

During this unprecedented time, the courts are continuing to work hard to stay open and resolve matters as efficiently as possible.

Courts have been categorised as open; staffed; and/or suspended. Open courts are open to the public for essential face-to-face hearings; staffed courts are not open to the public, but staff and judges will continue to work from these buildings; and suspended courts will be temporarily closed. In some cases, hearings have been adjourned to the autumn.

To ensure the safety of all parties involved, we are seeing an increase in telephone and video hearings to enable as many hearings to go ahead as possible remotely.

How is enforcement affected in the current climate?

Unfortunately, enforcement by means of the removal of assets has very much been affected as our agent's efforts have been limited to trying to provoke payment via letter, e-mail, text, and telephone calls.

However, as lock-down restrictions are starting to ease, enforcement restrictions are going the same way. There are currently no restrictions on the enforcement of commercial debts and as more and more commercial premises start to re-open, our agents are now in the process of recommencing visits to recover your debts.

The only major difference being that to limit face to face contact, our agents will initially attempt out of hours visits. As has always been the case, if they are unable to communicate with the debtor at the premises, a contact letter will be left to try and prompt some sort of engagement. With consumer debts, restrictions are still in place and no enforcement visits can be made to a residential address until after 24 August 2020.



Can I still serve a winding up petition?

We can still serve your debtor with a petition however, the recent introduction of the Corporate Insolvency and Governance Bill 2020 has made this more difficult.

The court will not make a final order until the creditor can demonstrate that the pandemic is not the reason the company cannot pay its debts. The current Covid-19 outbreak has created financial stress for many companies.

Not all debtor companies will be affected, and we suspect that any companies faced with a winding up petition may use it for a reason for non-payment, making this method of debt recovery more difficult and expensive.

More information on this can be found here:

<https://www.roythorne.co.uk/site/blog/corporate-and-commercial-blog/new-corporate-insolvency-and-governance-bill-2020>



Your Debt Recovery Team

Catherine Rickett
Debt Recovery Manager

t: 01775 764157
m: 07793 241168
e: catherinerickett@roythornes.co.uk



Martin Spencer
Debt Recovery Assistant

t: 01775 764174
e: martinspencer@roythornes.co.uk



Michaela Frost
Debt Recovery Assistant

t: 01775 764170
e: michaelafrost@roythornes.co.uk



Victoria Stevenson
Partner

t: 01775 764169
e: victoriastevenson@roythornes.co.uk



In our clients' words....

"Roythornes were fantastic with my small business claim from beginning to end. Always happy to give advice over the phone or email and the charges were really reasonable. It was a breath of fresh air to deal with such friendly and helpful people during such a stressful time!"

"As a business, we all occasionally have clients that don't pay on time, this is when the services of Roythornes are a wonderful solution. As a business owner, you are monitoring a number of things all at the same time. Roythornes take away the problem and solve it and a professional and efficient manner. They have helped us on a couple of occasions and we cannot recommend them highly enough. "

"I started my business 28 years ago . It grew rapidly and when credit control became a problem our Bank Manager recommended the services of Roythornes and their service has been absolutely superb. Recently when I personally ran foul a company who were refusing to refund a significant sum of money. Thanks to Catherine's experience, expert knowledge and formidable expertise a very satisfactory outcome has been obtained and without the need for legal proceedings. I am very grateful to Roythornes and particularly Catherine Rickett . They are superb to deal with, friendly helpful and supportive and I can highly recommend their services"

"Great service from these guys. fast, transparent and super helpful and friendly"



About Roythornes

Who we are

Roythornes is a top 200 law firm established in 1934. We are a firm of trusted advisors and recognised experts, focusing on building longstanding relationships with our clients.

We have 31 Partners and 135 fee earners. Operating from five offices, our published turnover is £15.2m

Our specialist sectors:

- Agriculture and Estates
- Charities
- Food and Drink
- Development and Planning
- Energy and Waste
- Commercial services
- Individual services

How we work

We work collaboratively as one team by:-

- Building trust.
- Driving to be better.
- Embracing individual talent.
- Making a difference; and
- Using big picture thinking that gets the detail right.

Our awards and accreditations:

- Top 200 law firm (The Lawyer)
- Customer Service Excellence award
- Investors in People silver award
- Lex 100 awards for our training and recruitment
- Listed in London Stock Exchange's 1000 companies to inspire Britain
- Lexcel Accredited
- Investor in the Environment Green Award

