



Change in Court rules relating to Pre-action conduct in force from 6 April 2009

On 6 April 2009 a new Court Practice Direction comes into force, which will apply to all claims brought in the County Court. It includes all debt recovery claims that we routinely bring on behalf of our clients.

The Practice Direction sets out the procedure that the Court will expect a claimant to have followed BEFORE Court proceedings are issued. Failure to follow these guidelines could mean a claimant being unable to recover part or all of their legal costs, even where their claim is successful.

One of the key changes is to the standard “letter before action” or LBA. It has become common practice for such a letter to provide a debtor with 7 days notice of the claimant’s intention to issue proceedings if payment is not made within that period. The new Practice Direction provides that a period of 14 days should be given instead, to provide the debtor with sufficient opportunity to consider the claim and their response.

Where the claimant is a business and the debtor is an individual, the Practice Direction sets out certain specific information that must be provided. In addition where the claim is more complex, or where it is likely that the claim will be disputed, the letter of claim should be more detailed. For example it should include a clear summary of the facts upon which the claim is based, together with an explanation of why the claimant believes the defendant is liable. It will also be necessary to provide details of how the amount claimed has been calculated.

The Practice Direction also provides that the letter of claim should list the essential documentation upon which the claimant intends to rely – this might include, for example, terms and conditions of business and copy invoices. It is also necessary to provide the defendant with certain information regarding the Practice Direction itself and the possible consequences for the defendant if they fail to respond. This may lead to the claimant issuing proceedings and the defendant becoming liable for legal costs as a result.

We have amended our standard letter before action to ensure it is fully compliant with the new Practice Direction. This will take effect immediately since where Court proceedings are issued after 6 April 2009 the Court will expect the claimant to have followed the guidance laid down in the Practice Direction, even where the letter itself was sent prior to that date. You will therefore notice some changes to our standard letter. There may also be additional information that we now ask you to provide at the point when you first instruct us.

Contact us

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