

A photograph of the Lynn & Brown Lawyers building, a modern structure with large glass windows and a prominent sign above the entrance. The image is overlaid with a semi-transparent blue banner containing the title text.

Business Insight Series – Chapter 6 Recovering a Debt

In this session

How to recover a debt

Some statistics on debt

- Debt has tripled in 25 years
- Primary cause of failure of businesses

- 1%



Warning signs

When does a debt become a bad debt?

Step 1

- Personal communication with a debtor
 - Advantages
 - Disadvantages



Step 2

- Letter of demand
 - Advantages
 - Disadvantages



Step 3 (optional)

- Engaging a debt collector
 - Advantages
 - Disadvantages



Step 4

- Engaging a lawyer
 - Advantages
 - Process



Recovering a debt in Court

- Magistrates Court (up to \$75,000)
- District Court (\$75,001 - \$750,000)
- Supreme Court (\$750,001 +)



Debt recovery process

What we need:

1. Full records
2. Timeline
3. Assets

Debt recovery process

What we can do

1. Verify the facts
2. Issue a letter of demand and draft Magistrates Court claim
3. Negotiate with debtor
4. Issue Magistrates Court general procedure claim
5. Serve the claim

Debt recovery process



6. Pre-trial conference (mediation)
7. Pleadings
8. Discovery
9. Trial preparation (witness statements, expert evidence)
10. Trial

Enforcement of judgement

Different Methods:

1. Sale and seizure order
2. Means enquiry
3. Garnishee including bankruptcy/liquidation order
4. Anton Pillar Order

Security for debt & how to enforce

1. Mortgage
2. Caveat
3. PPSA registration
4. Personal guarantee
5. “Section 78” Order



To recover a debt

1. Look out for the warning signs
2. Get it in writing (Legally)
3. Communicate, Communicate, Communicate
4. Document everything
5. Obtain legal advice early in the process to:
 - a) Prevent costly errors; and
 - b) Save greater costs further down the process



Questions & Discussion

Recovering a debt





COMMERCIAL PRACTICE

- Commercial contracts
- Dispute resolution and litigation
- Insurance and risk management
- Commercial property
- Insolvency and debt collection
- Workplace law
- Guarantees and securities



THANK YOU

Next months seminar...

Business Insight Series – Chapter 7

BUSSINESS SUCESSION FOR BUSINESSES

On Tuesday 24th November 2015

CHAPTER 7

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