

# Debt collection and debt purchase

Common questions and concerns

We understand that the majority of people contacted by a debt collection agency may be unfamiliar with the process. This can lead to confusion and frustration. We have attempted to address some of the common pieces of misinformation or misunderstanding for consumers.

### **I've been on the internet looking for help with my debts but there are so many sites.**

You can find a lot of debt advice on the internet, which varies from consumer forums through to government-backed organisations. We would encourage you to speak to the debt collection agency that has written to you or tried to telephone you. You can check our website to see if they are members of the CSA and if you have questions or concerns before you call them, you can take a look at our Code of Practice to get an idea of how they are expected to behave.

But we understand that people are not always comfortable speaking to a collection agency and will seek out information and help online. There are a number of consumer forum websites which may, on occasion, provide useful information; however, most of the time, the advice will be that you can have the debt written off simply by sending a series of what are known as 'template letters', which suggest wording citing various archaic or irrelevant laws. Forums are a useful way to share information and discuss situations, but you should also be wary of the advice given – the individuals on the forums are unlikely to be trained or regulated debt advisers, and they bear no responsibility if the letter-sending or ignorance tactic fails – it will be you that has to face the consequences if their 'advice' is wrong.

If you are still uncomfortable speaking to the debt collection agency but you want to speak to somebody, we would encourage you to speak to a free, impartial and regulated debt adviser. You can find the details for a number of advisory organisations, such as the Money Advice Service or StepChange, under the 'Help with Your Finances' section of our website. Not only can you speak to debt advisers, but these organisations have a lot of useful information on their websites.

### **Selling a debt is unlawful**

It is not unlawful for the company that you owe money to, to sell the debt.

When you take out credit, or when you use a product or service, the agreement or the terms and conditions will contain a provision for the original creditor to be able to sell, assign or otherwise dispose of an account at any given time.

It is worth noting that there can be many customer benefits when debts are purchased by a specialist debt purchase company. For example, interest is often frozen; no additional charges are added in most cases; and in many cases, the new owner of the debt will be able to accommodate different routes to repayment of the debt, such as considering a lower offer in settlement of the debt or working with customers to agree a sustainable repayment plan over a longer period than the originally agreed term.

If your debt is sold to another firm and they try to get in touch with you, don't ignore their letters and telephone calls.

### **All debt collection agencies are regulated by the Financial Conduct Authority**

The Financial Conduct Authority (FCA) is the UK's financial services regulator. It regulates financial services businesses like banks, insurance companies and credit card providers. As part of its work, it regulates some debt collection activity, but not all.

The FCA regulates debt collection activity where it involves the recovery of monies owed as part of a credit agreement. For example, this might include debts like credit card bills, personal loans or payday loans. However, their regulation does not extend to the collection of all consumer debts.

Consumer debt is wide-ranging and includes types of debts that would not necessarily mean credit agreements, such as utility debts, telephone bills, council tax arrears, rent arrears and money owed to the Government.

Even though the FCA does not regulate all debt collection activity, there are standards in place in other sectors (such as water companies, utility companies and telecoms companies) which determine how debts in those sectors should be collected. In addition to these standards, the CSA has a Code of Practice which highlights best practice in debt collection and all CSA members sign a declaration to adhere to the Code of Practice.

Where debt collection activity is regulated by the FCA, there are rules and guidance in place which companies must abide by; these are set out in the FCA's Handbook, specifically in the Consumer Credit sourcebook. It is also worth noting that if you have concerns about a company that is carrying out an activity that is regulated by the FCA, you might be able to take your concerns to the Financial Ombudsman Service (FOS), the body that considers complaints about regulated activities, brought to them by customers.

### **If a debt collector visits my property, they can take my possessions**

It is a common misunderstanding that debt collectors / debt collection agencies (DCAs) and Enforcement Agents (also known as bailiffs) are the same. This is not the case.

Debt collectors and DCAs cannot take possessions from your property. If you are visited by a debt collector at your home (often referred to as a 'doorstep collection' or 'reconnection'), the purpose for the visit will likely be to put you in touch with a company that you owe money to or to discuss the repayment of a debt, possibly even setting up an affordable repayment arrangement. A doorstep collector can only enter your property if you allow them and inviting them into your property to discuss the debt will not result in them taking any possessions – it is purely for discussing the debt or connecting you to the creditor. If you want to know more about what is expected of a doorstep collector, you can find information in section 9 of our Code of Practice.

Enforcement Agents (sometimes referred to as "bailiffs") do have powers to remove goods, however, there are rules governing whether and how they can enter a premises, which will depend on the type of court order they are enforcing, and what goods can be removed. Fees for enforcement are set by law, and will be added to the total owed.

An Enforcement Agent is extremely unlikely to force entry into a residential premises on their first visit – this is a myth. In practice, forced entry is very rare for residential premises, but if you are in any doubt, please refer to the enforcement company in question or a free debt advice organisation. Enforcement Agents are, however, entitled to force entry into commercial premises.

**It is always advisable to engage with your creditors at the earliest possible moment, before it is outsourced to a third party DCA and certainly before it ends up in court.**

**I've been asked by a debt collector to provide my personal information but I'm worried about what they will do with it.**

It is entirely understandable that you would be cautious about disclosing personal information, particularly if you aren't aware of the company or initially what they are calling about over the phone.

From the debt collector's perspective, they have to make sure that they are speaking to the right person before divulging any information, to make sure that they are not breaching data protection or any of the other rules and guidance they have to comply with. They may ask for information such as your date of birth, a middle name, part of your address so that they can check this against their records to make sure you are the person they are meant to be speaking to – often before they can tell you what they are calling about.

If you haven't heard anything from the company previously, you could check whether they are a member of the Credit Services Association and signed up to the CSA Code of Practice by visiting the Our Members section of our website ([www.csa-uk.com](http://www.csa-uk.com)).

It is also worth being aware that the use of your personal data is covered by data protection law, which means that if you disclosed it to them and it was used for an illegal purpose, the company could face serious consequences from the data protection regulator, the Information Commissioner's Office. However, as noted above, the primary purpose for a collection agency to ask for your personal information is to make sure you're the right person and to make sure their records are accurate.

**I've paid off my debt so now I want the default on my credit file removed as it's affecting me getting credit**

Your creditors (the people you owe money to) have an obligation to report the management of your account, including any defaults or missed payments, to the UK Credit Reference Agencies (CRAs). This is to ensure that other potential creditors are aware of your financial situation and can make informed decisions about whether providing or extending credit is appropriate. In order to make sure that they are lending responsibly, creditors must assess a customer's financial situation and consider whether any credit is affordable. They do this by asking about your income and expenditure and by carrying out a credit check with the CRAs.

Default entries will remain on a person's credit file for 6 years from the date of default.

If your default entry were to be removed, it could lead a potential creditor to have an inaccurate picture of your financial circumstances and grant credit that you might not be able to afford, which could lead to financial distress or hardship, as well as accusations of irresponsible lending.

**After six years, if I have not been contacted by my creditor, then I do not have to pay as the debt has become statute barred**

In England and Wales, the definition of 'statute barred' is an action, agreement or right that can no longer be the subject of legal action because the time limit imposed by the limitations legislation has been exceeded. In the context of debt collection, it means that legal action cannot be taken to enforce a debt that is statute barred.

In Scotland, a debt that is statute barred is considered 'extinguished' and can no longer be recovered, through legal action or collection activity.

In theory, therefore, if there has been no correspondence between a creditor and their customer within the defined time limit (6 years in England, Wales and Northern Ireland; 5 years in Scotland), no written acknowledgment from you, the customer, that the debt is owing, and no repayments made, then the debt may indeed become statute barred.

If a debt becomes statute barred, it has different significance in different jurisdictions. In England and Wales, although a statute barred debt can no longer be pursued through legal action, this does not mean that the debt can no longer be collected nor does it mean that the debt is no longer owed.

### **I keep receiving debt collection letters at my property for someone who doesn't live here.**

If you are receiving post from debt collection agencies for someone who does not reside with you, this may be because the person the letters are addressed to has previously lived at the property. Alternatively, it may be the result of inaccurate data.

In such circumstances, you should write on the envelope "NOT KNOWN AT THIS ADDRESS" and put it back in the post. The letter should be returned to the sender, who should then carry out a process known as tracing, where the company tries to locate the correct contact information for the customer. You should do this for all incorrectly-addressed post you receive, regardless of who the sender is.

In some instances, the information available to the debt collection agency might continue to indicate that the customer lives at that property. This could mean that there is information held on databases that continues to connect the customer to your property and you might need to engage with those sources to rectify the information. The 3 main Credit Reference Agencies will be able to help you with this.

If you continue to receive post like this, simply keep returning it marked as above – but do not worry, the debt is not registered to the address where you are living, nor will it stop you from applying for credit, should you want to.

You can find out more about tracing, including how the process works and what to do if incorrect information is held about you, in our tracing information sheet.

### **The debt collection agency has imposed unreasonable fees on my debt**

A debt collection agency generally carries out debt collection activity on instruction from the creditor. They do not add fees, charges or interest to the debt, unless the creditor instructs them to do so. The creditor is the ultimate owner of the debt and is therefore responsible for imposing any additional charges. Any charges or fees that are imposed should only be those permissible under the agreement, the terms and conditions, or the relevant law.

In some cases, the agreement or terms and conditions may contain provisions that allow the creditor to recover the cost of collection, which might mean that a debt collection agency's costs are added to the debt. Even in this instance, the additional charge is being imposed by the creditor, not the agency.

Where a debt is purchased, the company that has purchased the debt takes on responsibility for imposing any fees, charges or interest. In most cases, a debt purchaser will cease adding costs to the debt, even if they are permitted to do so under the agreement, T&Cs or the law.

Fees, charges and interest may be added if the creditor or debt purchaser decides to pursue legal action to recover the debt. Similarly, if a court order is granted and enforcement action becomes necessary, further costs may be incurred.

# Contact us

Credit Services Association  
2 Esh Plaza  
Sir Bobby Robson Way  
Great Park  
Newcastle Upon Tyne  
NE13 9BA

**W:** [www.csa-uk.com](http://www.csa-uk.com)

**T:** +44 (0) 191 217 0775

**F:** +44 (0) 191 236 2709

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 @CreditServicesA