Debt Collection

What is a provable debt?

- **Proof of the existence** of the debt
- **Proof of the value** of the debt
- Proof in the form of **written agreement, invoices, emails, letters** or any **other documents** which shows the **value** of the debt, **date** and **how the debt arose**.

There is a **6 year period** in which a creditor may initiate court proceedings. It is important to **take action quickly** when trying to recover a debt. If left beyond six years, you will need to apply for an extension of the action to the court.

How much is the debt?

- **Under $6,000**: You can pursue this in the Minor Civil Claims Court. This allows an easy process for you to represent yourself, without expensive legal fees.
- **Over $6,000**: Not eligible under Minor Civil Claims Court, it is advisable that you seek legal representation.

Options

To reclaim your money, you can;

1. **Negotiate**:
   Communicate over the phone, in person, by email or by writing the debtor a letter. This can allow you to resolve the issue without having to initiate costly procedures and may preserve the relationship between you and the debtor.

2. **Letter of request**
   This is a formal letter to debtor requesting or reminding them to pay debt. When drafting, use a non-threatening tone. The debtor is reminded before further action taken.

3. **Letter of Demand / Final Notice of Claim**
   Formal request for debt to be paid; Includes statement that creditor intends to take legal action if debt not paid (usually within 21 days).

4. **Enforceable Payment Agreement (EPA)**
   An agreement for the debtor to pay the debt in instalments. In return, the creditor will not commence legal action or report debt to credit referencing agencies.

5. **Going to court**
   When considering starting proceedings, consider whether there is sufficient proof of debt. Proceedings can take a long time and will involve costs and fees that creditor will have to pay (usually recoverable if creditor wins).

6. **Debt collectors**
   Debt collecting agencies specialise in recovering the debt for a fee. ALOS does not provide this service.

7. **Writing the Debt Off**
   Debt recovery can be time consuming and costly financially and to the detriment of relationships. Debtors may in some cases decide to write-off the debt, if in the course of business it may be tax-deductible.

For further information about your rights and responsibilities, contact the Adelaide Legal Outreach Service on (08) 8118 5200 or email us at alos@adelaide.edu.au to arrange an interview.