

# Debt Collection



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## 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](mailto:alos@adelaide.edu.au) to arrange an interview.**

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