



DebtcolTM
Intelligent Debt Collection

The process of Contractual Terms



A Guidance Paper by  Debtcol
Intelligent and cost-effective debt collection

The process of Contractual Terms

An overview

In this guide we are providing essential information on such matters as account opening, credit checking, invoicing, chasing for payment and insolvency issues. If you wish to improve your cash flow and avoid bad debts, these guides will be an invaluable source of information.

Terms of Business

- Agreeing payment terms with your customers in advance is vital. It is widely accepted that agreeing payment terms is one of the biggest issues for SMEs. However, payment terms should be incorporated into your standard terms and conditions and should not normally be varied.
- Before you agree to supply services or goods to any customer or client, making your trade and payment terms clear and unambiguous is absolutely essential. Negotiating changes or agreeing extensions to your payment terms, must take place at the point of sale, not afterwards.
- Make sure all your employees are aware of your payment terms and do not allow your staff to vary your payment terms without expressed permission. Any variation to your standard payment terms should always be confirmed to your customer in writing.
- In the event of non payment or any disagreement, the actual terms of the contract will become the single most important consideration for the courts when deciding any dispute. Proving your entitlement to payment will be more difficult if no contractual terms exist.
- Making assumptions about how and when your customer will pay is not only dangerous, but is likely to result in conflict or worse, a dispute.
- Most businesses would benefit from a regular review of their standard terms of business and payment terms. When reviewing or changing any terms of business, expert advice should always be taken.

Considering the payment terms

- You must, of course, identify what payment terms are generally acceptable within the industry in which you work. However, you must also think carefully about what terms are right for your own business.
- Consider whether you should simply accept payment within 1 month or 30 days. Why not insist on payment within 14 or even 7 days? How would a reduction in your payment terms reduce your borrowing or improve your cash flow?
- Consider also whether you should insist on payment of a deposit or a payment on account. This may well improve your cash flow or allow for the purchase of supplies and would reduce your risk to non-payment and exposure.
- As a general rule, you should not extend the payment terms for your customers any longer than the terms on which you pay your own suppliers. If you do, you will need the finance or a finance facility in place to bridge the gap between the time you pay and the time you get paid.

Entitlement to interest on late payments

- Although most businesses will have standard terms providing for the entitlement to interest, most businesses will not have considered whether the standard 8% clause normally provided is appropriate for their particular circumstances
- The courts may allow claims for interest rates up to 30% per annum (subject to a test of reasonableness i.e. that the interest claimed is a genuine estimate of loss rather than a penalty) and contractual interest can also be compounded – this is not possible if statutory interest provisions are relied upon.
- Where a contractual entitlement to interest does not exist, The Late Payment of Commercial Debts (Interest) Act 1998 fills the gap, as it implies a contractual term in business to business transactions, allowing interest to be claimed as a contractual right at 8% above base rate. There is also a right to claim a fixed late payment fee intended to help towards the administrative costs of recovery. However, if your reasonable costs of recovering the debt come to more than the compensation, you can claim this as well.



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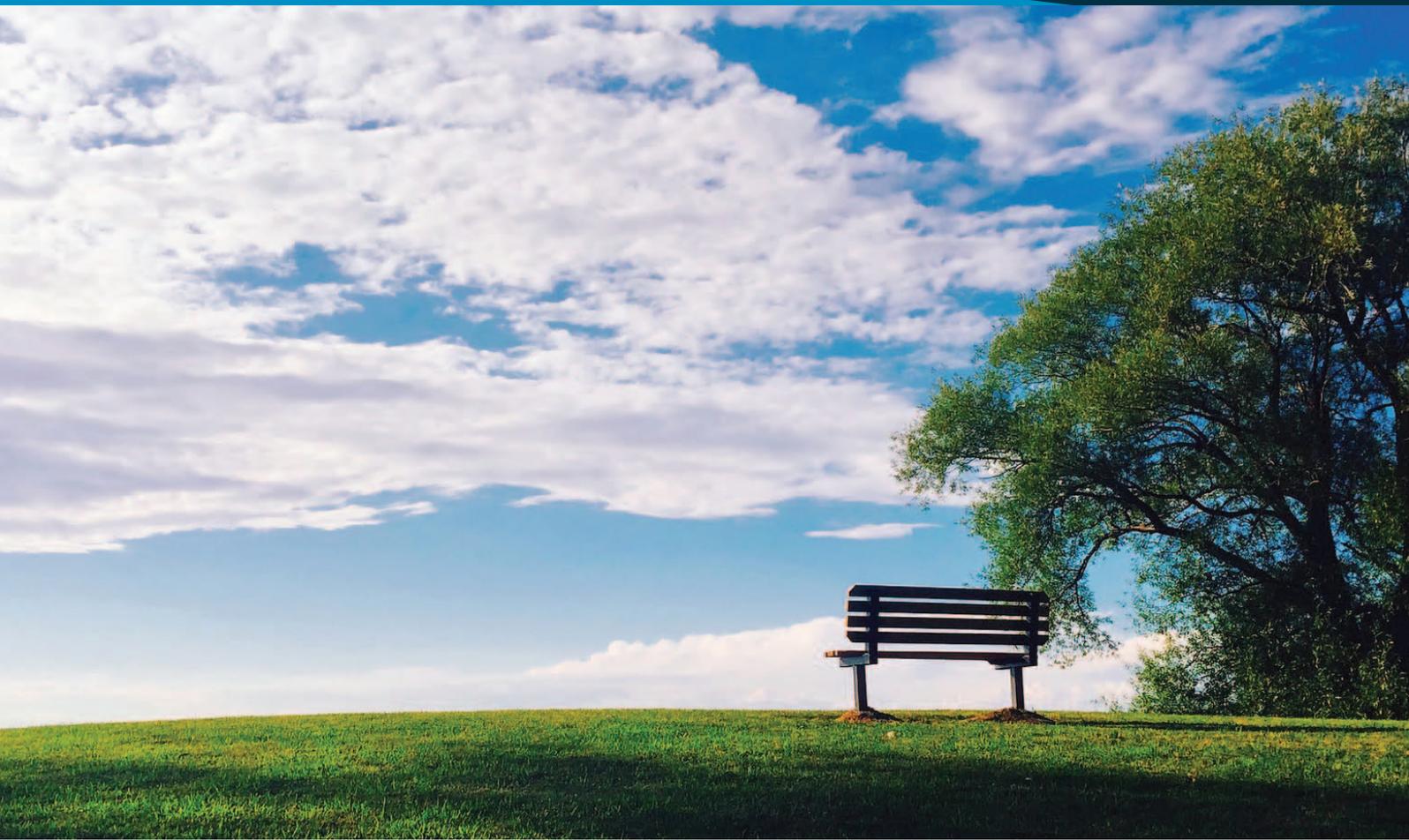
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This document explains the relevant position only in general terms and omits details less commonly experienced for the sake of brevity. It is not intended to be used as formal advice about your actual situation, for which you should consult us specifically and not rely upon this document.

Debtcol would be pleased to advise you formally and you should contact Paul Davies (Director) to arrange this by calling 01489 550 496.

Debtcol regrets it is unable to accept any responsibility to anybody who seeks to rely on this document.

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