

How to Get Paid – 3 step Legal Guide

This guide outlines what you can do to help you get paid!

- What can I do to help be paid for my products or services?**
1. Have a strong set of Terms and Conditions.
 2. Send Invoices with clear invoice terms and a short payment period.
 3. If customers do not pay within the payment period, you can send a Letter of Demand.

STEP 1 - BUSINESS TERMS AND CONDITIONS

There are 3 main items to include in your Terms and Conditions to help you get paid for your products or services.

1. **Scope – Products or Services:** You may have a Proposal or an Order Form to set out what products and/or services the customer wants. The Proposal or Order Form needs Terms and Conditions attached. This is part of the contract between you and the customer. Having a clear scope helps avoid disputes. Clear scope and less disputes means that you are more likely to be paid.
2. **Acceptance:** Well-drafted Terms and Conditions set out how a customer can accept them. This can include:
 - a. signing the Terms and Conditions;
 - b. scrolling through and clicking to accept the Terms and Conditions online;
 - c. confirming by email that they accept the Terms and Conditions;
 - d. receiving the Terms and Conditions and instructing you to proceed with providing the products and/or services; or
 - e. paying a deposit or paying in full.
3. **Payment:**
 - Well-drafted Terms and Conditions set out your payment methods, terms and requirements.
 - You may be paid in full up-front, or take a deposit, or have customers pay on a regular basis e.g. monthly.
 - If customers pay afterwards, you can choose how many days you want to allow. You may require payment on 7 days, 14 days, 30 days etc.
 - Your Terms and Conditions can state that if an invoice is unpaid, you may (i) cease providing products or services, (ii) charge interest on unpaid amounts, (iii) engage debt collection services, and/or (iv) take the matter to court.
 - You can use the Terms and Conditions and Invoice as a proof of debt in court.

STEP 2 - INVOICES

Once you have provided the service or product, be sure to invoice promptly. It seems obvious, but it may surprise you how often businesses fail to follow this important step. However, regardless of how efficiently you invoice your customers, if your invoice lacks necessary details, customers may dispute the invoice and delay paying you.

1. **Scope of Work:** Clearly identify the scope of work i.e. the products and/or services provided.
2. **Amount:** The invoice needs to set out all amounts owing, including amounts for the services or products, and amounts for delivery, tax and other items.
3. **Refer to Terms and Conditions:** Referring to your Terms and Conditions can also help to ensure that you are paid. Well-drafted Terms and Conditions address your rights to be paid and the consequences if payments are not paid. This can encourage customers to pay.
4. **Payment Time:** Having a shorter payment time helps you get paid quickly. You may require payment on 7 days, 14 days, 30 days etc. A shorter period helps you get paid more quickly, or helps you realize quickly if a customer has not paid.
5. **Tips:** Make it easy for people to pay by offering several payment methods like direct debit, cash, cheque, credit card and online payment platforms. You may offer a discount for early or upfront payment. Customers are often motivated to pay more quickly if they can pay a lesser amount – even a slight discount can make a difference.

STEP 3 - LETTER OF DEMAND

Misunderstandings can arise and customers can be difficult. Even if you have strong Terms and Conditions and invoice promptly, sometimes payment is delayed or there is a dispute.

Dispute: If there is a dispute about the products or services provided, you need to address this. If you sell to consumers, you must follow the consumer guarantees in the Australian Consumer Law, regarding when you must give a refund, repair or replacement. The Australian Consumer Law also sets out when you are not required to give a refund, repair or replacement, including for change of mind. Please let us know if you would like information on this.

No payment: If payment is not made, you can escalate the matter by sending a Letter of Demand.

Letter of Demand: A Letter of Demand is a formal request for payment of an outstanding debt that you are owed. This can be drafted on your own or with the assistance of a lawyer.

The Letter of Demand should include:

- the amount of the debt owing;
- a clear description of the debt;
- evidence of the debt, including the Proposal or Order Form and Terms and Conditions;
- the invoice(s) sent;
- a payment deadline (e.g. 14 days); and
- how the debt can be paid e.g. direct debit, cash, cheque, credit card and online payment platform.

You can include any correspondence, e.g. emails, that show agreement to pay for the products and/or services that you have provided to the customer.

You can include in your Letter of Demand that if the debt is not paid within the payment deadline, then you will commence legal proceedings to claim the debt.

NEXT STEPS - COURT PROCEEDINGS

All state and territory courts have a Small Claims Division of the Local Court for small claims debt recovery. The amount of the small claim varies by state. In NSW claims of up to \$10,000 are heard in the Small Claims Division of the Local Court. You can attend by yourself or with a lawyer.

To start a case, you need to fill out a Statement of Claim form. You can get this at your Local Court or on the Uniform Civil Procedure Rules website. The Statement of Claim includes the details of the debt and the debtor. The Statement of Claim needs to be filed at the Local Court and a filing fee will need to be paid.

If you continue with legal proceedings, the Letter of Demand, Invoices, and Terms and Conditions, can be taken to court and used as evidence of the debt owing.

If your claim is greater than \$10,000 but under \$100,000, it can still be heard in the NSW Local Court but in the General Division. Claims over \$100,000 will generally be heard in the District or Supreme Court.

Would you like to strengthen your Terms and Conditions or send a Letter of Demand?

Would you like a free initial assessment? We provide fixed prices for your peace of mind.

Contact LegalVision today | T: 1300 544 755 | E: info@legalvision.com.au | legalvision.com.au