

Tough time with debts should demand tough action

There has always been an element of bad debt in the Irish economy, even when times were good and business was booming. But while many businesses tended to be relatively lax about debt collection in the past – adopting an ‘it will be paid eventually’ attitude – the reality is that business in 2008 requires prompt payment; otherwise companies could be facing the prospect of extinction, even if they appear profitable on the surface.

“The key to recovering debts is to act quickly,” said Declan Devereux, senior associate solicitor and head of the debt recovery unit at O’Rourke Reid,

lutions in Ireland and Britain.

“In the last couple of years, debts have become significantly more difficult to collect. Previously, it was usually a question of placing the matter in the hands of your solicitors, and you would generally get a positive response. But these days, companies are having to go further down the legal process in order to be paid.”

Bad debts are often a culmination of lax credit management, and it is difficult for a company which has been operating in a relatively loose manner to try suddenly to tighten things up. But the sooner a company looks to make its credit management and debt collection more robust, the



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more likely it will be that it will get paid what it is due. Robust debt collection will often find itself following a legal route.

“The courts are certainly seeing more activity these days,” said Devereux. “There was a time when the District Court had a sizable enforcement list, but that had declined over recent years. However, the circle is beginning to turn again, and the size of the enforcement list is going up again.”

Thus, the initial letter from a solicitor is often only the first stage in the debt collection process (whereas in the past, it was often the last stage before payment). Warning letters are now less likely to receive a positive response, and although many

debtors will still pay on receipt of one, more and more cases are needing to progress through the legal levels.

“When times were better, the ones who were not paying were usually those who were unwilling, rather than unable to pay; or else they were people who had some issue with the debt,” said Devereux.

“But we’re increasingly seeing debtors who have an inability to pay – and hence, companies will find it difficult to collect. But my advice to debtors would always be, where possible, to pay, because there is an incentive to pay early, in terms of avoiding interests and costs associated with legal action. They can also avoid the

possibility of publication, which can affect them further down the line.”

Still, while many debtors may recognise the incentives around early payment, they may still find themselves in a situation where cashflow simply won’t allow them to pay. So the first thing that the creditor should do is to act quickly.

“The longer they leave the debt, the less likely it is that

they will be paid,” said Devereux. “For example, if the debtor is a trade debtor, they may have a number of debts, and the quicker the creditor gets in there, the more likely it is that they will receive some payment. It’s the age-old thing – if people are phoning enough, the debtor will pay just to get them off their backs.

“The whole thing can be a test of your resolve as a cred-

itor. But if you bring in a solicitor, you are saying that you mean business. Idle threats are no good, so if you give a deadline for a payment and if that payment is not met, then you need to move things to the next stage.

“There’s no magic formula, and a lot of it is common sense – you have to know who you are dealing with,” said Devereux.