

# Ten things to know about debt recovery strategies for independent schools

## 1. Know your client

It should be appreciated that an independent school will need to liaise with a plethora of students, parents and families that are all from different backgrounds and all facing their own difficulties and challenges. For this reason, our first strategy is to 'know your client'. For example:

- Are the parents divorced? If so, a court order may govern who pays what.
- Does one of the parents live abroad? If so, debt recovery proceedings can look very different if you need to serve documents abroad.
- Are you dealing only with one parent? Ought you consider a personal guarantee?
- It may be sensible to carry out credit checks. Ensure that you have afforded yourself this right in documentation and notify the parents of your intention to carry out such searches.

## 2. Don't let late payments escalate

One or two term payments can domino into thousands of pounds, so it is important to tackle late payments early. Ensure you have a robust management system in place which allows you to check for payment and record payment agreements by implementing a dunning process. This is a four-stage letter process to chase payment, starting with a reminder, to more appropriate language later in the process. Where possible however, try and hold in-person meetings, discussions regarding finances are always going to be difficult so where possible, remain empathetic.

## 3. Terms and conditions

When (if) the need arises to progress matters, you will need to rely upon your terms and conditions. Make sure that you have robust terms and conditions in place and, most importantly, that they are incorporated into the contractual relationship. Ensure that parents/guardians are aware of the terms and conditions from an early stage and that you are also aware of your terms and conditions. A large proportion of conversations regarding late payment of fees will be held on the telephone. Make sure that you are applying the right terms at the right time.

Your terms and conditions can be integral to recovering unpaid invoices, so you should make them work for you. Try and include the following:

- Accelerated payment clauses: this ensures if one invoice becomes outstanding, then all invoices not yet outstanding will fall due and payable.
- Deposit protection: ensure that deposits can be used towards unpaid invoices.
- Interest: charge interest so to protect the school's financial position in situations of late payment.
- Late payment/legal fees: chasing payment can be time consuming – allow the school time to recover late payment fees and/or legal fees. If you have afforded yourself the ability to do so, make sure you utilise this time in the appropriate way.
- Governing law: make sure that English law applies, and the English court has jurisdiction to hear any disputes.

Of importance is the need to be fair and reasonable. A court does not look kindly on unfair terms.

#### 4. Recording information

A good strategy to always keep in mind is in relation to recording information. This allows you, your solicitors and the fee payer to easily be referred to in correspondence and communications. This can drastically reduce the number of disputes. For example, if you have had a phone call take a detailed attendance note and share it with the fee payer – this is their opportunity to dispute the facts of the phone call.

#### 5. Don't underestimate payment plans

We appreciate that, financially, payment plans are not always beneficial to the school. However, when compared to no payment at all, payment plans will always come out on top. Open and frank conversations can sometimes be the best. If a parent cannot make payment in a lump sum, quickly move them onto an appropriate payment plan. Although, be sure that any agreement does not supersede your terms and conditions.

#### 6. Know when enough is enough

Chasing payment is time consuming and can be costly so it is important to have ongoing discussions internally and with the fee payer to determine when enough is enough. Do you need to escalate matters further or perhaps remove the child from the school?

#### 7. Policies

An argument often made by debtors is that they should be entitled to a bigger bursary or that the services of the school are not satisfactory. Our suggestion would be to:

- Have a clear, unequivocal policy in place regarding bursary entitlements, share it with parents and make sure they have read and understood it.
- In situations of non-payment, determine the root cause of the issue. Offer the fee payer the opportunity to raise any concerns or issues. If they do not, and later try to suggest otherwise, it will be a difficult argument to evidence.
- Have a clear fee policy. Make sure people know when they need to make payment, how they can make payment, and what to do when they do not think they can make payment.

#### 8. Notice the red flags early

It is important to notice the red flags early and take the appropriate action. It is not always easy to notice the red flags however and some that we have seen, and which have escalated to formal proceedings, include:

- A parent, residing abroad, wishes to take sole responsibility of school fees. This is a red flag because in the event of non-payment, tracing the parent is likely to be very difficult, let alone recovering any sums.
- Non-attendance at school, or parents not turning up to parents evening etc.
- Parents making loose references to inadequate school services.

#### 9. Don't underestimate the assistance of third parties

A proactive debt recovery agency can elevate your efforts following your dunning letter process. Many tracing agencies offer a 'no trace, no fee' service so if fee payers have moved address, you can utilise these services to locate the fee payer.

#### 10. Keep one eye on the wider picture

Each scenario that you are faced with will be different in its own way, it is important not to lose sight of the bigger picture – recovering the money due to your school! Liaise with your solicitors to work out what information they want or need if they are to assist you in the future. This way, you can keep an accurate log of information and correspondence which will help in the future, if you need to escalate!

## Key contacts

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