Specialist enforcement of Council debts

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Partner

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Client Relations Manager
Wilkin Chapman LLP – 450 staff cover all aspects of legal work – can assist with any legal or insolvency matter. 140+ strong recoveries team.

Unique “cradle to grave” insolvency offering from pre action equity check to post order administration/dividend - all in one organisation. Drives down potential cost exposure for Council and customer.

And me? Joined firm as a solicitor in 2009 – fighting the corner for creditors since - manage and deliver the “Resolution” service.
The areas we work in (Council)

**Pre enforcement**
- Data “cleansing” – bulk debt review/sort, home owner identification etc;
- Bulk Solicitor’s letters; and
- Issues around contested liability – advices on liability, contested liability order applications, applications to set aside liability orders, case stated, judicial review, representation at Valuation Tribunal, challenging rates avoidance schemes etc

**Enforcement**
- We regularly take instruction and advise on strategies to address debts which include (but again not limited to):
  - Council tax*;
  - Business rates*;
(*predominantly through insolvency or charging order and order for sale proceedings)
The areas we work in (Council)

- Property related debt – service charge, ground rent, maintenance etc
- Social care debt;
- Commercial/sundry;
- HBOP;
- Tenant arrears; and
- Salary/pension overpayment.
- Advice with scenarios such as foreign company debtors, deceased estates and debtors who are known to be vulnerable.
- Other scenarios outside of the above that come up - work on the basis that we can act on any legal scenario
Some common / increasing trends

- 50% increase in case instructions
- Significant cash collected
- Increase in static cases
- Increase in automatic homeowner checks
- Habitual won’t payers – serial complainers and litigants
- Insolvency support
- Request for support across debt types inc sundry and ASC
- Solutions for dealing with customers known to be vulnerable
- More new Councils taking services
- Increased demand from existing clients
- Support for all aspects of NDR
- Increase in solicitors lettering
An update on our numbers
What's new?
Can’t v Won’t – what do we see most often?

- Asset rich – cash poor
- Off shore – tax efficient
- The convicted fraudsters
- The vexatious litigants
- The physically aggressive
- The chancers
- The abandoned/problem property
- 14+ prior opportunities?
England and Wales overall?

1 in 433 adults insolvent

Figure 2: Individual insolvencies in England and Wales (quarterly data, seasonally adjusted)
England and Wales overall?
Higher risk sectors

- Construction: 3,400
- Wholesale & Retail Trade; Repair of Vehicles: 2,800
- Accommodation & Food Service: 2,500
- Administrative & Support Service: 2,200
- Transportation & Storage: 2,000
- Manufacturing: 1,800
- Professional, Scientific & Technical: 1,500
- Information & Communication: 1,200
- Other Service Activities: 1,000
- All others (inc. unknown, non-trading & dormant): 800
- Human Health & Social Work: 600

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Continued pressures

- Legislative change
- Budget
- Firefighting
- Expertise
- Campaign against committal action
- Campaign against EA activity
- Resource
- Ethical collections
- Reputation but involuntary creditor with statutory obligations
- Politics
- Benefits regime
- BAU – service provision
- Balancing the books
Getting the balance right...

Will not

Won't

Finding the best approach to

Debt

Recovery

Debt Recovery

thinking outside the box

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Maximising use of the tools left
Scenario 1

Unable to pay debts as fall due?

£5k+ debt and £20k+ asset?

Less certain – co and ofs?

Asset rich – cash poor

Best way to realise asset for benefit of creditor?
Scenario 2

Problem landlords

Impact on tenant?

Avoiding service?

Bankruptcy or co and ofs?

Whereabouts unknown? Tracing?
Scenario 3

Within or outside of EU?

NDR – Court of competent jurisdiction?

Foreign company

Property interest in England and Wales?

Uncertainty with asset? Charges?
Scenario 4

Deceased estates Deprivation?

- Pre or post death debt?
- Action against executor? Breach of duty?
- Out of exemption and in to billing?
- Tactics to trigger activity?

Additional text:

Last Will and Testament

ARTICLE 1: Funeral expenses & payment of debt

The ashes shall be interred in a public cemetery.

The executor shall pay all reasonable expenses of death, including funeral expenses and estate administration expenses.

This clause gives your name and address.

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Scenario 5

- Cleanse/segmentation?
- Strategy? CCJ of CCJ sake?
- Letters?
- Quick and cost effective way to progress volume

Bulk static debts
Charging orders

Final charging order

Claim No.

Claimant

Defendant

20.

[Master] [District Judge]

sitting at

and the court orders that

1. The charge created by the order made on the
   modified by this order.

2. The interest of the defendant (claimant)
   in the asset described in the schedule
   the amount now owing under a
   judgment or order given on
   in claim no. together with any further interest becoming due and if
   the costs of the application.

3. Those costs are to be added to the judgment debt.

The Schedule

The address of the land or property charged is

[the title to which is registered at H. M. Land Registry under Title No.]

[particulars of securities, funds etc. charged]

STOP NOTICE

To [the Bank of England]

Take notice that, in relation to the securities specified in the schedule to this order, you may not, without notice to

[register any transfer, or make any redemption payment, or, in the case of a unit trust, deal with the units, or,

where dividends or interest are included in the order, pay any dividend or interest.

SFT Final Charge Order (March 2016)

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Charging order vs bankruptcy

• Typically charging order where:
  – borderline/no equity/insufficient equity to pay unsecured claims;
  – unknown whereabouts to personally serve bankruptcy (or known to be out of the Country);
  – known/suspected vulnerability; or
  – below £5k

• Otherwise bankruptcy may be more effective for payment sooner

• Restrictive restrictions?
Passive insolvency – make it work
Tackling static debt

tackle your static debt

- Incoming EA Return/ Bespoke “Pre Committal” report
- Excel file to Wilkin Chapman for data cleanse, containing names and addresses of debtors
- Wilkin Chapman cleanse data within 48 hours

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Tackling static debt

Wilkin Chapman send file back to Council including details of property owners, residency score, directorships, deceased’s, propensity to pay score etc.

Council review cleansed data, and decide upon next enforcement activity for each case.

- Debt address owned by debtor and below £5000: Charging Order
- Property owner and debt above £5000: Resolution Report – potential insolvency
- Non property owner: Appropriate lettering campaign

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Wrap around support – Wilkin Chapman LLP
Any questions?

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