



What can you do?

If someone owes you money or will not return property owned by you, there are different ways you can try and recover it. You can:

Talk about it – You should try to sort it out with the person who owes you money and come to an agreement. A Community Justice Centre can assist by providing free mediation to help you reach an agreement. The factsheet *Settling Small Claims Disputes by Mediation* tells you more about this service.

This can result in a better, faster and cheaper outcome than if you decide to take the matter to court.

Send a letter of demand – If talking about it doesn't work, you can write a letter to the person who owes you money or has your property. Include in the letter:

- how much they owe you and what it is for (or details of the property to be returned)
- what steps you have taken to recover the money (or property)
- when you want the debt paid or the property returned, and
- and what action you will take if it is not paid

This may be enough to get the person to make arrangements to pay or return the property, rather than going to court.

Take legal action – If you still cannot reach an agreement you can consider taking legal action to recover the money or property. You will need to complete a *Statement of Claim* form and lodge it at a Local Court.

Legal action for recovery of debts under \$100,000 is usually started in the Local Court. Claims for more than \$100,000 are started in the District Court. It is recommended that you get legal advice before starting a claim in the District Court.

Disputes between tenants, landlords, traders and consumers can be started in the Consumer, Trader and Tenancy Tribunal (CTTT), a specialist tribunal that deals with disputes. Find out more from the CTTT website at www.fairtrading.nsw.gov.au/cttt

You should consider carefully before starting legal action, particularly the risks involved.

Risks – Going to court can be expensive and take a lot of time. Going to court does not guarantee that you will get your money, and there are fees that you have to pay that cannot be refunded if you lose the case. You also need to consider whether the person who owes you the money is in a position to be able to pay.

Debts outside NSW – If the debt occurred outside of NSW or the person or business that owes you the money lives or is located outside NSW, you should get legal help about where you can start your legal action.

Time limits – To start an action in the Local Court the debt must not be more than six years old, but there are some exceptions to this rule. You should get legal help if this is the case.

Responsibility – If you start legal action you must be able to prove your claim if it is disputed. You may also be ordered to pay the costs of the other party if you cannot prove your claim.

Remember that it is your responsibility to pursue your claim for payment; this is not the responsibility of the court. You must also attend court if and when requested.

It is recommended that you seek independent legal advice if you need help with forms or making decisions about your claim.

Where to get Forms

All forms are available from your nearest Local Court or can be downloaded or printed from the Lawlink website at www.lawlink.nsw.gov.au/lawlink/spu/ll_ucpr.nsf/pages/ucpr_for_ms

Need help?

Local Courts can be found in cities and major towns. Find your nearest Local Court at www.lawlink.nsw.gov.au/lc

LawAccess NSW is a free legal information, assistance and referral service for people who live in NSW or who have a legal problem in NSW. Contact LawAccess NSW on 1300 888 529 (TTY 1300 889 529), website www.lawaccess.nsw.gov.au

If you need an interpreter, telephone the NSW Government Translating and Interpreter Service on 131 450 - ask them to put you through to LawAccess NSW.