

Gillian Harding, a solicitor at HRJ Law, a legal firm with offices in Hitchin and Welwyn Garden City is on hand to answer your legal problems. Please email them to gillian.harding@hrjlaw.co.uk. We regret that no personal correspondence can be entered into.

What measures can I put in place to help protect my business during the economic downturn?

One of the first things I advise my clients to do is to check their standard terms and conditions of business. A clear comprehensive set of terms and conditions can't prevent disputes completely but it can make them run more smoothly, take less time and cost less by reducing arguments over their interpretation.

At a time when banks have tightened lending terms (particularly in relation to certain business sectors), you may also see an increase in the number of your customers who fail to pay on time but you can take measures to protect your business by:

- Requiring payment up front of all or a proportion of the price you are charging;
- Ensuring that your payment terms (including remedies for non-payment) are clearly stated in your standard terms;
- Including a retention of title clause in your standard terms so that you can recover your goods in the event of non-payment;
- Ensuring that the interest you charge on overdue payments is reasonable (it could be void if it is too high) and linked to the base rate. With such a low Bank of England base rate, you might also want to give yourself the option of claiming interest under the Late Payment of Commercial Debts (Interest) Act 1998 in your terms;
- Undertaking credit checks of new customers;
- Looking at the payment record of existing customers to determine whether you consider them to be a bad risk;
- Chasing slower payers and enforcing your credit terms;
- Getting guarantees from your customer's parent company (or even its directors), where appropriate;
- Ensuring that your long term supply agreements enable you to increase prices (whether you have any current intention to do so or not) to reflect increases in the RPI, the cost of raw materials, transport costs and other overheads such as energy costs.

You should also review your provisions relating to liability, which should provide you with reasonable protection without being unreasonably strict. After all, an exclusion cause which ends up being held to be void by a Court will not be doing you any good.

Please note that the answers provided are for general guidance only. If you have any legal problems you should always ensure that you obtain specific legal advice.



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