

LETTER OF DEMAND

A letter to recover debt owed

Caxton Legal Centre Inc.

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Disclaimer

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CONTENTS

What is a Letter of Demand?	2
Why send a Letter of Demand?	2
Sample Letter of Demand—debt owed	3
Alternative first paragraphs	4
Responding to a Letter of Demand	4

WHAT IS A LETTER OF DEMAND?

A letter of demand is sent from one party to another when the first party wishes to claim money they believe is owing to them. The letter states the amount that is outstanding, a timeframe for action and advises that further proceedings may be commenced without further notice if the debt is not paid.

The party owing money is known as the debtor and the party claiming money is the creditor.

WHY SEND A LETTER OF DEMAND?

A letter of demand serves two purposes:

1. It warns the other party of the intention to take further action unless the debt is paid and gives them a final opportunity to pay the money outstanding.
2. If the debt is not paid and the matter proceeds to a court or tribunal, the letter of demand can be used as evidence that there have been steps taken to resolve the matter and recover the money owed.

Copies of any relevant documents (e.g. contracts, letters of agreement and invoices) should be listed and attached to the letter of demand to assist the debtor to identify the transaction and their liability to pay.

It is advisable to send the letter of demand by registered post or fax to confirm receipt and retain a copy.

Only one letter should be sent, and the sender should be prepared to act on any consequences outlined in relation to non-payment.

SAMPLE LETTER OF DEMAND—DEBT OWED

Sender's name	Ms Alice Smith 2/3 Fourth Street West End Qld 4101
Date	1 January 2014
Recipient's name	Mr Andrew Brown 8 Ninth Street Fortitude Valley Qld 4006
Polite opening	Dear Mr Brown
Reference line	Payment of money owed
Brief summary of the agreement or incident and what went wrong	I am writing about the \$400 that you borrowed from me in April 2013. When I lent the money to you, you agreed that you would repay the whole amount before 31 January 2014. That time is now well passed.
Brief summary of any prior attempts to resolve the problem	I have spoken to you several times since May 2013, and you say you will pay me back, but you have not given me any money at all.
Clear statement of the demand	I am now writing to demand that you pay me the \$400.
A reasonable time (normally 14 days) to respond	You need to pay me the full amount in cash or by bank cheque before 17 July 2014.
Clear and honest statement about what will happen if no response is received	If I do not receive any response from you within 14 days of the date of this letter, I will make a claim in the Queensland Civil and Administrative Tribunal without further notice to you.
Contact information	My telephone numbers are 3888 098 or 0432 45 290.
Polite ending	Yours sincerely
Signature	<i>Alice Smith</i>
Sender's name	Ms Alice Smith

ALTERNATIVE FIRST PARAGRAPHS

Consumer guarantee

I am writing about the RunAmok shoes I purchased for \$250 from your Chermside store on 11 April 2013. I specifically told the salesman Alex that I required good quality, waterproof runners that I could wear to run every morning. Alex recommended the RunAmok shoes and told me that they would last at least a year running every day. They were, in fact, falling apart after only four weeks.

Car accident

I am writing about the accident that occurred at the intersection of Vulture and Boundary Streets in West End on 3 May 2013. You drove your red Honda Jazz registration 987 ZYX into the back of my green Toyota Starlet registration 321 DEF while I was stopped at the red light. I have now had two quotes for repairs to my Toyota, both of which I enclose. The lesser quote is for \$400, and I am willing to accept this amount to settle this matter.

Seek legal advice if the claim is disputed. For example, if it is a dispute with a bank or another person then a community legal centre may be able to assist.

If the claim is not disputed, contact the creditor and attempt to negotiate settlement of the matter on a 'without prejudice' basis. This means that if the matter proceeds to court later, a different stance can be taken. It can also be useful for a creditor to negotiate with a debtor on a 'without prejudice' basis so that the right to sue for the full amount remains if a satisfactory compromise is not reached.

WHAT TO AVOID

When sending a letter of demand, be careful not to:

- harass the debtor—they have the right to complain about this behaviour to particular government agencies and the police
- send a letter which is designed to look like a court document—this is illegal.

RESPONDING TO A LETTER OF DEMAND

Letters of demand from a creditor or debt collection agency should not be ignored.

The letter should be read carefully and if there are any matters that are unclear or if further details are needed, write to the creditor (and keep a copy of the letter).

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