RISK PROTECTOR

Your First Line of Defence Against Director Liability, ATO Enforcement and Asset Exposure

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 12

Creditor Legal Threat First Response Plan

What to do immediately when a creditor threatens legal action

admin@riskprotector.com.au | +61 466708100 | www.riskprotector.com.au | ABN 71 696 228 770

BEFORE YOU BEGIN — READ THIS FIRST

A creditor legal threat is not the same as a legal action — but it is the signal that one is coming. The gap between a threat and a formal legal step can be very short. Creditors who engage solicitors and issue formal demand letters have already made the decision to pursue legal action — they are simply giving you a final opportunity to pay before the proceedings begin.

The most important thing to understand is this:

How you respond in the first 48 hours determines whether this becomes a manageable situation or a crisis.

Ignoring it, paying the wrong people, transferring assets or making admissions without advice can all make your position dramatically worse. This plan tells you what to do — and what not to do — before you spend a dollar on legal fees or make a single phone call to the creditor.

HOW TO USE THIS PLAN

Work through every step in order. Tick each one when complete and record the date and time. This is an information and stabilisation plan — it tells you what to gather and what to stop doing. It does not tell you how to resolve the threat. That requires a full picture of your structural position, which is what the A13 assessment is designed to provide.

PHASE 1 — Stabilise — Stop Everything That Could Make It Worse

Hours 0 to 4 — Before you call anyone or do anything

STEP	Action Required	Done	Completed
1 CRITICAL	**Read the threat or demand document carefully and completely** Read every word. Note the creditor name, the amount claimed, the basis of the claim, any deadline stated and the name of any solicitor involved. Do not assume you know what it says — the details matter enormously.	☐ DONE	Date / Time
2 CRITICAL	**Photograph or scan every document received** Create a digital copy immediately and email it to yourself. This timestamps when you received it and ensures it cannot be lost. Include the envelope if it was posted — the postmark date may be relevant.	☐ DONE	Date / Time
3 CRITICAL	**Do NOT contact the creditor or their solicitor yet** Any verbal or written response you make to a creditor or their solicitor before you understand your full position can be used against you. Do not call to negotiate. Do not send an email to dispute the claim. Do not make any admission about the debt — even informally.	☐ DONE	Date / Time
4 CRITICAL	**Do NOT make any payments to this creditor or any other creditor from company funds** Paying one creditor while others remain unpaid — especially when insolvency is possible — can be challenged as a preferential	☐ DONE	Date / Time

	payment and reversed. All payments from company funds should stop pending advice.		
5 CRITICAL	**Do NOT transfer any personal or company assets** Any transfer of assets after receiving a creditor threat can be challenged as fraudulent conveyancing. This includes moving money between accounts, transferring property, paying family members or making gifts. Stop all non-ordinary transfers immediately.	☐ DONE	Date / Time

Creditor name: ____________ | Amount claimed: $____________ | Deadline in notice: ____________ | Solicitor named: YES / NO

PHASE 2 — Gather Information — Understand What You Are Dealing With

Hours 4 to 24 — Know your position before anyone acts

STEP	Action Required	Done	Completed
6 CRITICAL	**Confirm whether the claimed debt actually exists and the amount is correct** Check your own records — invoices, contracts, account statements and payment history — against what the creditor is claiming. Note: whether the debt is disputed or correct affects your response strategy entirely. Do this yourself before involving anyone else.	☐ DONE	Date / Time
7 CRITICAL	**Identify what type of legal threat this is** Is it an informal demand letter? A solicitor's letter of demand? A Statutory Demand under the Corporations Act? A court application? Each carries different timeframes and consequences. A Statutory Demand has a 21-day deadline that triggers presumed insolvency if not responded to. Identify the document type precisely.	☐ DONE	Date / Time
8 IMPORTANT	**Check your records for any contracts, terms or agreements that relate to this claim** Locate the original contract, purchase order, supply agreement, lease or facility document that created the obligation. This is information only — do not send it to anyone yet. You need to know what exists before deciding what to do with it.	☐ DONE	Date / Time
9 IMPORTANT	**Contact your accountant for financial position information only — not to act** Ask these specific questions only: What is the current cash position of the business? Are there other creditors with overdue amounts? Is the company currently solvent? Do NOT ask them to contact the creditor or respond on your behalf. You need this information to understand your options — not to trigger action yet.	☐ DONE	Date / Time
10 CRITICAL	**Contact Risk Protector before instructing any professional to act** Before you spend money on legal fees or instruct anyone to respond to this threat, contact Risk Protector. The free A13 Structural Exposure Assessment will give you a complete picture of your structural position — your personal guarantee exposure, your asset protection position and your overall director liability — so that any advice you then receive is targeted, relevant and effective.	☐ DONE	Date / Time

Debt confirmed: YES / NO / DISPUTED | Document type: ____________ | Company solvent: YES / NO / UNSURE | A13 requested: YES / NO

PHASE 3 — Assess Your Position

Hours 24 to 72 — Understand every dimension of your exposure

STEP	Action Required	Done	Completed
11 CRITICAL	**Determine whether you have a personal guarantee on this facility** Check whether you personally guaranteed this debt — bank facility, lease, trade account or supply agreement. If yes, this is not just a company problem — it is a direct personal liability. Locate the guarantee document and note the scope, amount and trigger conditions.	☐ DONE	Date / Time
12 CRITICAL	**Assess whether your personal assets are exposed to this creditor's claim** If a personal guarantee exists, or if the creditor has obtained a judgment, identify which of your personal assets are potentially reachable — home, savings, investments. This is for your information only at this stage — to understand the true stakes of what you are dealing with.	☐ DONE	Date / Time
13 IMPORTANT	**Identify whether the claim is disputed, admitted or partially admitted** Make a clear written note of your position on the debt: Do you owe the full amount? Do you dispute part of it? Do you dispute all of it? Is there a counterclaim? This clarity is essential before anyone responds on your behalf — a poorly framed response can inadvertently admit a claim you had grounds to dispute.	☐ DONE	Date / Time
14 CRITICAL	**Confirm the deadline and what happens if it passes** For a Statutory Demand — if not responded to within 21 days the company is presumed insolvent. For a solicitor's letter — the creditor can file court proceedings. For a court application — you may have a very short window to respond. Know exactly what the consequence of inaction is and by when.	☐ DONE	Date / Time
15 IMPORTANT	**Document everything — every conversation, every decision, every action** Keep a written log with date, time, who you spoke to and what was discussed or decided. If this matter escalates to litigation or liquidation, this record demonstrates that you acted promptly, responsibly and in good faith from the moment the threat was received.	☐ DONE	Date / Time

Personal guarantee exists: YES / NO | Personal assets at risk: YES / NO / UNSURE | Claim disputed: YES / NO / PARTIAL | Deadline: ____________

WHAT NOT TO DO — ACTIONS THAT WILL MAKE YOUR SITUATION WORSE

✕ **Do NOT contact the creditor or their solicitor to negotiate without advice.** Any admission, offer or concession made without a full understanding of your position can permanently damage your ability to dispute the claim or negotiate a favourable outcome.

✕ **Do NOT make payments from company funds to this creditor above ordinary trading terms.** Payments above ordinary amounts or outside normal terms can be challenged as preferential payments by a liquidator if the company later becomes insolvent.

✕ Do NOT transfer or move personal or company assets. Any transfer that occurs after receiving a legal threat can be challenged as fraudulent conveyancing — even if the transfer was for legitimate reasons — if it reduces the assets available to creditors.

✕ Do NOT assume a disputed debt means you have no obligation to respond. Even if you dispute the debt, a Statutory Demand or court application requires a formal response within the stated timeframe. Missing a deadline because you believe the claim is wrong can result in catastrophic consequences.

✕ Do NOT instruct a solicitor to respond before you understand your full structural position. Legal fees can escalate rapidly. Before instructing anyone to act, contact Risk Protector for a free A13 assessment so that any legal advice you receive is informed by a complete picture of your exposure.

YOUR MOST IMPORTANT NEXT STEP

A creditor threat does not sit in isolation. Your personal guarantee position, your asset protection structure, your ATO obligations and your overall director liability all determine how exposed you really are — and how effectively you can respond. Understanding that complete picture before spending money on legal fees is not caution — it is the smartest financial decision you can make right now.

The Risk Protector A13 Structural Exposure Assessment

Free. Confidential. The only forensic structural assessment of its kind available to Australian directors.

Visit **www.riskprotector.com.au** and click the **GET MY FREE A13 ASSESSMENT** button.

No obligation. No cost. Absolute discretion.

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