RISK PROTECTOR

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

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 33

Creditor Threat Urgency Guide

How Serious Is This Really?

Read this guide when a creditor has made a threat, sent a demand or indicated they intend to take action

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WHAT THIS GUIDE DOES — AND WHAT IT DOES NOT DO

Not all creditor threats are equal. A strongly worded letter from a creditor who has no legal basis for their claim is a nuisance. A letter before action from a solicitor with a judgment debt in hand is a different matter entirely. The gap between these two situations is significant — and most directors cannot reliably tell them apart without understanding what each type of threat actually signals.

This guide helps you assess the specific threat you are facing — its type, its legal basis, its urgency and its personal consequences for you as a director. It does not tell you how to respond. That requires professional advice. What it does is tell you how urgently you need to get that advice — and what kind.

1	Have the creditor's letter, email or demand document in front of you. Read the entire document before answering any question in this guide.
2	Answer each question YES, NO or UNSURE based on what the document actually says and what you actually know about the debt. Do not assume or estimate.
3	The verdict panel beside each answer tells you what that answer means for the urgency of your situation. Every NO or UNSURE requires attention.
4	If the threat involves a personal guarantee or director liability, the urgency level is always higher than the face value of the debt suggests. Read those questions with particular care.

SECTION 1 — What Type of Threat Is This?

Identify what the creditor has actually done — not what they have said they might do

1 Is the threat in writing — a formal letter, email or document from the creditor or their solicitor?

☐ YES	☐ NO	☐ UNSURE
— The threat is documented and formal. Written threats are the precursor to legal action. They create a record of the creditor's position and your awareness of it. Do not ignore written threats.	— The threat has been made verbally only. While less immediately serious than a written demand, verbal threats should be documented by you immediately — date, time, what was said and by whom.	— You are not certain of the form of the threat. Locate any correspondence from this creditor and read it in full before proceeding.

2 Does the document use the words 'Statutory Demand', 'Section 459E' or refer to winding up the company?

☐ YES	☐ NO	☐ UNSURE
— This is a Statutory Demand or a wind-up threat — the most serious form of creditor action. A Statutory Demand triggers deemed insolvency in 21 days. See Tool 15 immediately. Time is already running.	— The document does not reference a Statutory Demand or winding up. The threat is serious but has not yet reached the most urgent legal threshold. Proceed through this guide.	— You are not certain. Read the entire document again looking specifically for these words. If present in any form, treat as YES and see Tool 15 immediately.

3 Is the document sent from a solicitor or a debt collection agency acting on behalf of the creditor?

☐ YES	☐ NO	☐ UNSURE
— The creditor has engaged professional representation. This signals that informal resolution has failed and the creditor is preparing for formal legal action. The timeline to legal	— The communication is directly from the creditor. This may indicate the creditor is still at an early stage. However direct communications can escalate to solicitor involvement quickly.	— You are not certain who sent the document. Check the letterhead, email address and any reference to acting 'on behalf of' a party. Solicitor involvement changes the urgency level materially.

	proceedings has shortened significantly.		

SECTION 2 — How Legitimate Is the Claim?

Understanding the strength of the creditor's position determines your options

4	**Does your company genuinely owe the amount being claimed — in full, without dispute?**		
	☐ **YES** — The debt is valid and undisputed. Your options are to pay, negotiate or manage the enforcement process. A genuine undisputed debt gives the creditor a strong legal position.	☐ **NO** — The debt is disputed — either the amount is wrong, the obligation does not exist, or there is an offsetting claim. A genuine dispute is a legal defence. Document it immediately and seek legal advice before responding.	☐ **UNSURE** — You are not certain whether the debt is owed or whether the amount is correct. Do not respond to the creditor until you have confirmed the company's position. Contact Risk Protector for their take on the subject.
5	**Does the creditor have a court judgment against the company — or have they mentioned they are applying for one?**		
	☐ **YES** — A court judgment is immediately enforceable. The creditor can apply for a winding-up order, garnishee the company's bank accounts or appoint a sheriff to seize assets without further notice. This is the most advanced stage of creditor enforcement short of a Statutory Demand.	☐ **NO** — No judgment exists yet. The creditor must still establish their claim through the courts before most forms of enforcement are available. You have more time — but not unlimited time.	☐ **UNSURE** — You are not certain whether a judgment has been obtained. Check with your solicitor or conduct a court registry search. An undiscovered judgment can result in enforcement action you were not aware was coming.
6	**Is the amount being claimed less than the company can realistically pay within 30 days from available cash flow?**		
	☐ **YES** — The debt is within the company's current payment capacity. Resolution through payment or a short-term arrangement may be achievable without formal proceedings.	☐ **NO** — The amount exceeds what the company can pay within 30 days. This elevates the threat significantly — the company may be unable to satisfy the creditor's claim without affecting other obligations. Assess the full position before making any payment commitments.	☐ **UNSURE** — You are not certain of the company's current payment capacity. Get an accurate cash position from your accountant before responding to the creditor. Committing to a payment you cannot meet worsens your position.

SECTION 3 — What Are the Personal Consequences for You?

Creditor threats against your company can become personal threats to you as a director

7	**Have you signed a personal guarantee for this debt or this creditor's facility?**		
	☐ **YES** — You have signed a personal guarantee. If the company cannot pay, the creditor can call that guarantee and pursue you personally — your home, your savings, your personal assets. The threat is not just against the company. See Tool 18.	☐ **NO** — No personal guarantee exists for this specific debt. Your exposure is limited to your director obligations — DPN liability for PAYG and SGC — not direct personal liability for this creditor's claim.	☐ **UNSURE** — You are not certain whether you have signed a personal guarantee for this creditor. Check your records immediately. Not knowing is not a defence — if a guarantee exists, the creditor knows about it even if you have forgotten.
8	**If this creditor proceeds to wind up the company, would the company's PAYG withholding and SGC obligations be fully current at that point?**		
	☐ **YES** — Statutory obligations are current. Winding up would not trigger DPN personal liability for PAYG or SGC arrears at this point.	☐ **NO** — PAYG or SGC obligations are in arrears. A wind-up would expose you to Director Penalty Notices for those amounts personally — regardless of the outcome of this creditor's specific claim. Address the statutory arrears immediately.	☐ **UNSURE** — You are not certain of your PAYG and SGC position. Get confirmation from your accountant today. This is the most direct pathway from a creditor wind-up action to personal director liability.

9	**Do you have a clear understanding of your personal asset protection position if this creditor proceeds to enforcement?**

☐ YES —	☐ NO —	☐ UNSURE —
You understand what your personal assets are, how they are structured and which of them are exposed to this creditor through guarantees or director liability. You are in a position to make informed decisions.	You do not have a clear picture of your personal asset exposure. Before any response is made to this creditor, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so that your complete personal exposure is understood before anyone acts on your behalf.	You are partially aware of your personal exposure but have gaps. Those gaps are exactly what an A13 assessment identifies. Contact Risk Protector for their take on the subject before briefing any adviser.

SECTION 4 — Your Overall Situation Assessment

Based on your answers — how urgent is this creditor threat?

✓✓ MOSTLY YES — MANAGEABLE BUT REQUIRING ATTENTION

Your answers suggest the threat is real but is at an early stage and within manageable parameters. The debt is not disputed, no Statutory Demand or judgment exists yet, and your personal position is relatively clear. This does not mean no action is needed — an early-stage creditor threat that receives no response typically escalates to a formal demand within weeks. Engage your accountant or solicitor to manage the communication. Monitor closely.

☐ MIXED ANSWERS — SIGNIFICANT CONCERN REQUIRING PROMPT ACTION

Your answers show a creditor threat that has moved beyond the early informal stage. A solicitor is involved, the amount is significant, a judgment may exist, or a personal guarantee is in play. This situation will not resolve itself and is likely to escalate further without active management. Before briefing any adviser on how to respond, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so your adviser responds with complete structural awareness, not just the immediate creditor position.

✗ MOSTLY NO OR UNSURE — URGENT — THIS THREAT HAS SERIOUS PERSONAL CONSEQUENCES

Your answers indicate this creditor threat is at an advanced or critical stage. A Statutory Demand, court judgment, personal guarantee or DPN exposure may be in play. The personal consequences for you as a director — your assets, your liability, your ability to act — are significant and immediate. Before engaging any adviser, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so that the complete picture of your personal and structural exposure is understood before a single letter is written or a single dollar is paid.

IF THIS GUIDE HAS CONFIRMED YOUR CONCERN ABOUT THIS THREAT

A creditor threat against your company is never just about the company. Your personal guarantee exposure, your director liability for statutory obligations, your asset protection position and your full structural exposure all come into play simultaneously. The Risk Protector A13 Structural Exposure Assessment maps that complete picture before any adviser responds on your behalf.

The Risk Protector A13 Structural Exposure Assessment

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

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This tool is a situation awareness guide only. It is not a diagnostic, not advice and does not replace a professional structural assessment. Risk Protector Pty Ltd provides strategic advisory services only. Not legal or financial advice. Covered by $50M Professional Indemnity Insurance.

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