» **BANKING POWER** But interest rate cuts are doing little reduce the impact of the credit crunch and it's filtering through to most businesses

North west is

- Bad debtors are passing on problems
- Firms struggle to break vicious circle

SHERYL MOORE

LATE payment can often be the death knell for firms. All too often a profitable company can be brought to its knees by its customers holding back or defaulting on payment.

It is a problem that is rife in all sectors, and in the current climate of the so-called credit crunch, experts predict that the problem is only going to get worse.

A recent survey by Cattles Invoice Finance found that the north west has been the hardest hit region for bad debt, with the average company losing £12,152 each year through loss of payments compared to the national average of £4,713.

Paul Reeves, director at business rescue and recovery firm, Leonard Curtis, said: "In the current climate late payment is unfortunately something companies are going to have to deal with more and more.

Darren Cottenden, regional managing director at Cattles Invoice Finance

"It is a vicious circle – your customers fail to pay you on time, you in turn delay paying our own suppliers."

Over the years, the government has introduced measures to help firms in the fight against late payment including the 1998 Late Payments of Commercial Debt (Interest Act) which allows firms to charge interest at eight per cent plus base rate. But it has proved to be a fairly toothless tiger and has not become a major deterrent for firms which regularly withhold payment.

Darren Cottenden, regional managing director at Cattles Invoice Finance, says that despite the legislation, the vast majority of north west small and medium sized firms are still left in a double bind.

He said: "Either they charge interest and risk jeopardising future orders from disgruntled customers or face accepting losing money to late payment as a fact of life.

"Few businesses relish waiting between 60 and 90 days for payment on an outstanding invoice.

"Moreover, as trading conditions continue to get tougher in 2008 and accounts departments hold off making payments to protect their own cash flow position, some difficult decisions lie ahead."

Mike Key, commercial litigation partner at Glaisyers solicitors, says there are many tricks that companies regularly employ to delay invoice payment or even avoid paying them altogether.

He said: "Some of the more common examples include requesting copies of invoices after claiming that original invoices were lost in the post or saying payment of an invoice is delayed due to it being 'processed through the accounts department'.

"Other frequently used excuses are that a director must sign all cheques and that all the directors are out of the office at the moment.

"Also some companies frequently raise spurious arguments to query the quality of the goods or services. In this case, if the claim is unfounded, you would have no option but to proceed to litigation."

» **SIGNS OF THE TIMES** The credit crunch is not just affecting the property market

There are a number of leg routes open to businesses their efforts of chasing debt a unsuccessful.

Andrew Ryan, litigation par ner at Davies Blank Furnis says that as a first step your s licitor can help you to prepare letter of claim compliant wi the Civil Procedure Rules. payment is still not forthcom ing, one option, where the de is not disputed, is to serve a sta utory demand, and if the debt still not paid, to present a pe ition on the debtor which w have the ultimate effect of ban ruptcy, if an individual, or liqu dation if a company.

However he warns that pr senting a petition is relative expensive and, in the event bankruptcy/liquidation, yo probably would not recov your debt.

He said: "If the claim is f less than £5,000, you cou bring a claim in the small clain court, where you do not nece sarily need legal assistanc Your solicitor can be on hand guide you as necessary witho full involvement.

"If the dispute involves a su in excess of £5,000 then th court procedures are more fo mal and you are likely to nee legal advice.

"Once you obtain a jud ment, there are a number of o tions your solicitor can discu with you as to how to enforce These include seizure of good by a bailiff; obtaining a charg over property of the debtor an

Mike Key commercial litigation partner at Glaisyers solicitors

presenting a petition for th bankruptcy or liquidation of th debtor."

However some experts b lieve that it is crucial the bu ness bosses take a long ter commercial view when consi ering their options.

If the 'hit them with a b stick' route is taken, there is a ways the possibility that the r lationship will be ruined, an worse, there is an extreme good chance the customer question cannot pay for som genuine reason.

Paul Reeves said: "If a bus ness takes a customer unable pay down the legal road, there a good chance that custom will end up in an insolven process.

"The business will incur leg costs, and as an unsecur creditor of the customer, would have little hope of rec vering any of the monies owe If the relationship allows, a be ter approach is to broker an u official payment arrangement

"We are finding these i creasingly common. Essential it is an informal Company Vo untary Arrangement (CVA whereby both parties agree

dealt a damaging debt blow

time-to-pay deal. This significantly increases the chances of the business actually being paid, and will safeguard the relationship should it be intrinsic to the long-term success of the company."

While all bad debts can not be anticipated, there are a number of preventative measures companies can adopt to ensure they are dealing with businesses that can afford to pay their bills.

Derek Buckley, director at commercial litigation agents Park Lane Partnership, says companies should try not to get themselves in a situation where they are actively pursuing debt.

Derek Buckley, director at commercial litigation agents Park Lane Partnership

He said: "Make pre-checking the credit worthiness of a prospective client routine. It could save a lot of time, aggravation and money. A few preliminary checks include looking at a prospective client's or a partner's trading history, their financial stability and personal business histories. We estimate only around five per cent of businesses do these simple steps. No wonder unscrupulous payers thrive."

Cash flow will become even more critical in these tough economic times, and Chris Ratten, director at Tenon Recovery, says the key to managing cash flow is to understand the people you are dealing with.

He commented: "This means not only speaking to your customers, but visiting them on a regular basis so you have a real feel for what they do.

"Companies can ask clients for a copy of their latest management accounts so that you can see the strength of their balance sheet and how their business is funded. If they can't produce this basic information then there should be concern.

"Ensure that customers are regularly monitored, as there are always tell tale signs when a company is beginning to struggle. Irregular buying patterns or sudden increase in demand may indicate that a business has run up their limit with another supplier."

When faced with outstanding debts, it often pays to call in the experts quickly. Syndey Fulda, head of dispute resolution at Berg Legal, added: "The key to successful recovery is effective management.

"It is important to keep records, ensure that those responsible for managing your firm's debt communicate, persevere and listen. You must be ahead of the game and be prepared to act quickly. It is often a false sense of economy to seek a DIY remedy and it pays to instruct solicitors."