

Corporate Debt Recovery Framework

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This document is also available in Welsh

VERSION CONTROL

| Version | Version Date | Author | Description |
|---------|--------------|--------------|---|
| 1 | October 2012 | David Barnes | Introduction of policy framework |
| | | | Revised policy framework (to take effect from April 2019) associated with changes to : <ol style="list-style-type: none"> 1. Bailiff Regulations and Fees 2. Removal of committal as a sanction for the non-payment of Council Tax. 3. Revised internal working practices for the collection of sundry debt involving the development of a more robust escalation process for disputed invoices. 4. |
| 2 | May 2019 | David Barnes | |

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1.0 Introduction

1.1 This document details the Councils policies on the billing, collection and recovery of monies due to the Council.

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The policy framework will ensure that the Council and its partner organisations will treat all debtors fairly and, where possible they will promote free debt advice services. Where appropriate, payment agreements will be put in place to assist debtors in adverse financial circumstances. The decision to agree a repayment timetable will be influenced by the willingness of the debtor to take advantage of the debt advice at an early stage.

- Acknowledge that financial capability and vulnerability are sometimes underlying issues around non payment.

The policy framework will seek to promote financial inclusion and early intervention by recognising that debtors may have underlying problems with money management or may not be receiving all the financial assistance to which they are entitled.

4.0 Policy Framework Aims and Objectives

4.1 The key aims are to :

- Ensure the Council provides bills promptly and remind people quickly if they do not pay.
- Offer efficient and flexible payment methods
- Encourage people to make early contact to avoid the build up of debt
- Inform people of their entitlement to benefits, discounts and exemptions to ensure maximum take-up and that net bills/liabilities are issued
- Inform people of the general availability of income related benefits such as Universal Credit, Pension Credits, Housing and Council Tax Reduction
- Take positive action to prevent arrears from occurring in the first place, maximising income and entitlement at an early stage
- Take recovery action against deliberate non-payers or those who delay payment without genuine reason while always working to identify and assist those who find it difficult to pay
- Where people have fallen or are likely to fall into arrears, a commitment to work with them to get them back on track

between April and January inclusive, but the Council also welcome taxpayers to pay over 12 months. As the financial year progresses, less months are available, so the number of instalments reduces. Between 1st May and 31st December the number of instalments is the number of whole months less one. New bills created from January will usually be given one instalment payable within 14 days from the date of the bill.

3.0 The Recovery Process

3.1 The Council only has to prove recovery documents are issued in time and in line with regulations; it is not necessary to prove customers have received them.

3.2 As Council Tax and Business Rates are statutory charges it is very important that taxpayers give it a high priority when looking at their finances. If monthly instalments are paid late, or not at all, the Council will take action to recover the overdue amounts by sending documents that explain the consequences of delaying or not making payment. Taxpayers are actively encouraged to contact the Council without delay if they experience difficulties in paying their bill.

3.3 The Council has a planned annual recovery and enforcement timetable that sets out the dates for the issue of all recovery documents like reminders, final notices and summonses. It also details magistrates transmitting accounts for further recovery action through the use of Enforcement Agents. The enforcement taken will be:

Reminders and Final Notice Stage:

3.4 Apart from any accounts issued near the end of a financial year, all bills include a monthly instalment scheme. It is a taxpayer's responsibility to make sure that instalments are paid on time. If taxpayers do not pay, or if they make occasional or irregular payments that are not received on or by the due date, they will be considered overdue. If this happens, recovery action will be taken, initially in the form of a 1st Reminder Notice .

3.5 Legislation allows for reminders to be sent immediately after an instalment is due but the Council will usually allow

- 3.9 Additionally, a Final Notice will also be issued if part or all of an instalment is overdue for a third time. This requires the full annual charge that is outstanding, rather than just the overdue instalment, to be paid in full within seven days. If payment is not made as required a summons will be sent for the full amount outstanding for the year together with associated costs of £50 for the issue of the summons.
- 3.10 Dependent on how promptly taxpayers pay, no more than two reminders and one final notice will be issued in a financial year before a summons is issued. Where the right to pay by instalments is lost due to consistent late payment, or no payment, this will only be forfeited for the current financial year; the right to pay by instalments will be reinstated when subsequent W \ H Charges become due
- 3.11 Reminder and Final Notices confirm the full range of payment methods available and include information to encourage taxpayers to get in touch with the Council to discuss payment difficulties. The Council will, where appropriate, re-instate a taxpayer's instalment schedule

appear, however, unless the taxpayer has a valid defence then the Court is obliged to grant a Liability Order.

Liability Order stage

- 3.17 Following the issue of a Liability Order, the Council will write to the taxpayer in an effort to secure full payment or to make a suitable payment agreement. The notification will also provide details of potential consequences of enforcement action (and additional enforcement (Bailiff) costs) if the taxpayer does not make payment or fails to make a payment agreement.

within 10 days in order to pay the amounts due in full or set up a realistic repayment plan.

If taxpayers fail to engage or set up a repayment plan at the compliance stage, the liability order(s) will be passed to the Enforcement Agent for a visit to be undertaken. If the Enforcement Agent is required to visit there is a fixed fee of £235 plus 7.5% for any balance due above £1,500.

The enforcement agent will normally ask taxpayers for payment in full, however the enforcement agent will normally also enter into a Controlled Goods Agreement which also provides taxpayers with an opportunity to pay.

If possessions are subject to a Controlled Goods Agreement these goods cannot be disposed or sold without the enforcement agents consent.

If taxpayers refuse to sign a Controlled Goods Agreement the enforcement agent can take goods to the value of the debt whilst at the property. There are additional costs of £110 plus 7.5% for any balance due above £1,500 if goods have to be removed and sold.

If the enforcement agent decides the value of the goods is insufficient to pay the amount outstanding and there is no prospective of making payment agreement, or the taxpayer cannot be traced the enforcement agent will normally return the Liability Order to the Council which ends the enforcement agent action.

- 3.20 If enforcement agent action proves unsuccessful, the Council will then consider whether to take further recovery action, dependent on the specific personal and financial circumstances of each individual case and with due regard to the most effective way for the Council to collect :

Charging Order ± For taxpayers owing £1,000 or more, the Council may apply to the County Court for an Order that places a charge on the taxpayer's property and the court, in certain circumstances, empowering the sale of the property if the taxpayer does not pay. The obtaining of a charging order does not prompt automatic payment of the amount outstanding; providing there is sufficient equity in the property value following the repayment of any outstanding mortgage or other existing registered charges, it secures payment of the debt when the property is sold. Before such action is taken, the Council will always send a final letter inviting the taxpayer to a pre-arranged meeting in an effort to make a payment agreement.

Bankruptcy ± For taxpayers owing £5,000 or more, the Council may also consider taking bankruptcy action. Before such action is taken, the Council will always send a final letter inviting the taxpayer to a pre-arranged meeting in an effort to make a payment agreement. Bankruptcy will be considered, only as a last resort, in line with the policy in Appendix 6.

4.0 Write Offs

- 4.1 The Council recognises that where a debt is deemed to be irrecoverable, especially after all recovery options have been considered and/or taken, prompt write off of such debts is appropriate and good practice in certain circumstances and in line with the policy in Appendix 7.

APPENDIX 2 - Housing Benefit Overpayment and Council Tax Reduction Policy

1.0 Introduction

- 1.1 Overpayments of Housing Benefit and Council Tax Reduction are established through a change in benefit entitlement. They are described as an amount of benefit that has been awarded but to

1.8 Official error overpayments are only recoverable if the claimant or the person from whom recovery of the overpayment is sought could reasonably have known that an overpayment was occurring at the time the overpayment occurred.

2.0 Prevention of Overpayments

2.1 Overpayments are often difficult and time consuming to administer. They can cause difficulties for claimants and their families as they try to manage on limited incomes. They are to be avoided where possible. This will be achieved by:

- Telling claimants how to avoid overpayments, with letters, in leaflets and during verbal communications
- Encouraging claimants to maintain contact with us
- Processing information quickly and accurately to minimise overpayments
- Offsetting any new or underlying entitlement

3.0 Identifying Overpayments

3.1 The Council will aim to act on any information received in relation to a claimants change in circumstances within seven days of having received sufficient information to identify that an overpayment has or will be occurring.

3.2 This action will in the first instance include the suspension of further ongoing payments of incorrect benefit.

3.3 The Council will endeavour to identify any change in circumstances that would result in an overpayment still outstanding after seven days by:

- Undertaking a check of the Department for Work and Pensions records held on the Customer Information System if sought could re

5.0 Calculation of Overpayments

- 5.1 Where an overpayment has occurred the Council must invite claimants to provide sufficient information for any underlying entitlement to benefit for the overpayment period to be assessed.
- 5.2 The full amount of the overpayment should be recovered unless the health or financial circumstances of the person from whom recovery is being sought suggest a lesser amount would be appropriate.
- 5.3 In all cases the overpayment should be recovered as quickly as possible.

6.0 Notification Letters

- 6.1 All notification letters must be dated and issued to all affected persons within fourteen days of the Council having made the decision.
- 6.2 The notification must include the reasons for the decision, the right to request a further statement and the time limit for doing so and the claimants appeal rights and the time limit for doing so.
- 6.3 Copies of the notification letter must be able to be reproduced in the event of an appeal, complaint or proceedings taken against the Council.

7.0 Decisions on Recoverability

- 7.1 In all cases where an overpayment has arisen the Council should consider whether an official error has caused or contributed towards the overpayment.
- 7.2 Where the Council has identified an overpayment, which was caused or contributed to by an official error, it should decide whether recovery of the overpayment is appropriate under the guidance issued by the Department for Work and Pensions.
- 7.3 Before recovery action begins consideration will be given as to whom is the most appropriate person to recover the overpayment from. This may in certain cases mean that further information is required from the affected parties.
- 7.4 Recovery should then be made from the most appropriate persons who may be:
 - The claimant
 - The person to whom the payment of benefit was made
 - The person who misrepresented or failed to disclose the material fact
 - The partner of the claimant if the partner was living with the claimant at the time of the overpayment and at the time the decision to recover was made
- 7.5 In all cases where the overpayment was the result of proven fraud the overpayment should, in the first instance, be sought to be recovered from the person who misrepresented or failed to disclose a material fact

APPENDIX 3 - Sundry Debt Policy Framework

1.0 Introduction

- 1.1 The Council charges and collects income from a diverse range of activities, customers and range of public bodies and private businesses. Sundry debt does not include Council Tax, Business Rates, Housing Rent or Housing Benefit Overpayments.
- 1.2 The value of invoices raised can range significantly from a few pounds to several hundred thousand of pounds and therefore, taken together, the value of all of these sundry debts is considerable.
- 1.3 It is essential that the Council recovers all collectable debt owed to it and the purpose of this policy aims to:
 - Maximise the collection of the Councils income
 - Ensure that, where possible, payment up front is received ensuring whenever possible that collection of the fee or charge involved takes place prior to the service being provided so that credit is only given when essential to do so
 - Ensure clear terms and conditions of payment appear within documentation
 - Ensure invoicing and recovery procedures are carried out on an accurate and timely basis, encouraging debtors to

2.0 Corporate Responsibilities

2.1 All officers involved in the issuing and recovery of sundry debt invoices must ensure that:

- The Corporate Debt Recovery Policy is adhered to (specifically Appendix 3 ± Sundry Debts)
- The aims of the policy are adhered to
- The parts of this policy that apply to their Service areas are correctly followed
- Specific attention is paid to prohibit the practise of not resolving invoice disputes within a reasonable period
- Budget Managers are fully aware of their responsibilities
- Relevant systems and procedures are in place
- Officers involved in the debt collection process are appropriately trained and are aware of their corporate responsibility

2.2 The Corporate Finance Manager, Revenues Manager with Internal Audit support will provide assurance that this Policy is adhered to and is effective.

3.0 Raising an Invoice

3.1 A commercial approach should be adopted where fees and charges are obtained in advance or at the time of service provision. Where goods or services provided need to be paid for after this, then the Council offers credit facilities wherever it is considered prudent to do so.

3.2 Prompt invoicing is essential to efficient debt collection; the longer the period, the less likely is prompt settlement. Invoices must therefore be raised within 10 days of the service being delivered or due.

3.3 By raising an invoice, the originating service agrees approval to take appropriate recovery action through the Corporate Debt Recovery Team, including court action when necessary, is granted at the time the debt is raised.

3.4 Invoices m0.0000c3(ry)-11(0.0000c3T8MC /P ₹t945 T)8(n 423.004d-3(rvi)5(ce)-3()-11(a)-3

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- o Executors or Personal Representatives ± P X V W E H D G G U M V H G H Peter Smith!, Executor o I - D P H V % U R Z Q ' H F H P O S O N A G R U representatives of James Brown Deceased . The full postal address(es) of the executors/personal representatives must be stated.

3.9 An invoice should not be raised where:

- o A purchase order or written agreement has not been received
- o It cannot be proven that the goods and/or services have been supplied
- o If the debt is already bad or doubtful

4.0 Payment Terms

4.1 The Council will collect monies owing to it fully and promptly in line with the 30 day standard terms as outlined on the invoice. The standard terms apply to all sundry debtor accounts raised by the Council and should not be deviated from unless with the prior approval of the Corporate Finance Manager.

4.2 All requests from customers to enter into payment agreements must be referred to the Corporate Debt team regardless of the amount owed. The Corporate Debt team will set up and monitor all payment agreements.

4.3 Payment terms beyond the 30 day period will only be granted where a customer is not able to settle the debt in full in one payment.

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journals relating to the ledger code. Refunds will only be processed where there are no other debts outstanding and due from that customer.

5.6 All credit values of £1 or under will be transferred to the Councils Central Fund after the expiry of one financial year plus the current financial year. The same process will also followed for any credit balances where Corporate Debt/Accounts Receivable Control Team is unable to trace the debtor.

6.0 Dispute Resolutions

6.1 Where a customer disputes an invoice with the service, the service must notify the Corporate Debt team immediately to prevent the recovery process continuing. Equally, where a customer contacts the debt team rather than the service to dispute the invoice, the matter will be referred to the service responsible for raising the invoice and recovery will be held. Full notes and reasons for the dispute must be added to the customers account.

6.2 To ensure the efficiency of debt collection and good customer service, all disputes must be resolved by the service responsible for raising the invoice within 20 working days of the dispute being raised. The Corporate Debt team must be notified of the outcome of the dispute.

6.3 A dispute is not resolved unless it meets one of the following conditions:

- Customer is correct and gets a full credit
- Customer is partly correct, gets a partial credit and accepts revisions
- Customer is not correct and accepts the charge
- Customer is not correct but does not accept the decision of the service and the service is prepared to support the commencement or continuation of recovery proceedings.

6.4 Where disputes are not resolved within 20 working days of the dispute being raised, outstanding disputes will be escalated to senior service manager within the service area initiating the invoice.

6.5 Following a case referral to a senior service manager, if the service does not resolve the dispute or provide a viable reasons within a further 5 working days as to why the dispute cannot be resolved the disputed debt will be escalated to the relevant chief officer for review and resolution.

6.6 For all unresolved disputes exceeding 35 working days, the Corporate Debt team will raise a credit note to remove the debt from the system and reverse the income from the service. The service responsible for raising the invoice will be notified when this happens. It will then be the responsibility of the service for the re-raising of the invoice once the dispute is resolved, if appropriate.

action is limited and in these cases the invoice will be considered for write off in accordance with the write off guidance in appendix 7.

8.0 Credit Notes

8.1 There is a clear distinction between raising a credit note and writing off a debt.

8.2 A credit note to cancel or reduce a charge must only be issued to

- Correct a factual inaccuracy or administrative error in the raising of the original invoice
- Cancel an invoice where a dispute has not been resolved within 28 days
- Adjust the amount of debt due
- Cancel an invoice where the service is unable to provide sufficient documentary evidence to support the recovery of an outstanding invoice.

8.3 All credit notes must be supported by evidence that validates the reason for reducing or cancelling the invoice.

2.6 Court cases will be heard at the County Court and in most cases, the County Court Judge will make an Order for Possession but suspend the Order if the contract holder pays the weekly ongoing rent plus a specified amount towards the arrears.

2.7 If the Courts decide to not

APPENDIX 5 - Bankruptcy Policy

1.0 Introduction

1.1 The Council is committed to using the most effective recovery methods available and this policy will ensure that the & R X Q F L O ¶ Vision Use of Bankruptcy is consistent and complies with all relevant legislation and best practice.

1.2 Council Tax and Business Rate regulations allow for debts over £5,000 to be considered for bankruptcy providing that Liability Orders have been obtained. For Sundry debts and Housing Benefit overpayments, bankruptcy proceedings may be taken against debtors who owe more than £5,000 where a County Court Judgement has been granted in respect of the debt.

1.3 The Council also recognises that serious nature of bankruptcy which may result L Q D Q L Q V R O Y H Q W S H U V R Q ¶ V S U R S H U W E H W Q J Y H V \ realises and distributes payment among the creditors in final settlement of their claims. The serious nature of this action cannot be underestimated as the consequences could result in a person losing their home and possessions and be liable to pay a charge and statutory fees/costs associated with bankruptcy amounting to several thousand pounds.

1.4 Given that the Council is not a preferential creditor for the purposes of bankruptcy there is no guarantee of a dividend being paid. The Council will only consider using bankruptcy as a last resort and final option and will take a cautious and diligent approach in deciding if bankruptcy is reasonable action to take.

1.5 Bankruptcy action takes place in the debtors local County Court with bankruptcy jurisdiction unless the debtor resides in London, in which case the action takes place in the High Court or the Central London High Court.

1.6 The Revenues Team will manage the administration of bankruptcy cases and proceedings in respect of Council Tax, Business Rates, Sundry Debt and Housing Benefit overpayments, with the assistance from Legal Officers in appropriate cases.

2.0 When bankruptcy Action may be taken.

2.1 The Corporate Debt Team may consider using bankruptcy proceedings in the following circumstances:

- Where the debt exceeds £5,000 and the debtor appears to have sufficient assets or equity to ensure the debt is recoverable by the Official Receiver of the Insolvency Service or the Trustee in Bankruptcy.
- Where the debtor is not prepared to make a payment agreement to clear the debt within a reasonable and acceptable timescale.
- Where other methods of recovery are considered inappropriate or have failed and bankruptcy action, as a last resort, appears to be a fair and proportionate course of action.

3.0 Recording Information and Decisions

3.1 When the Council consider bankruptcy proceedings, a log of events will be

APPENDIX 6 - Write Off Policy

1.0 Introduction

- 1.1 The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is important so that the Council can budget for bad debts. An integral part of debt recovery is the effective management of bad debts to ensure that resources are applied efficiently to the collection of monies outstanding which can reasonably be expected to be collected.
- 1.2 The Council will seek to minimise the cost of write offs to the local taxpayers by taking all necessary and appropriate recovery action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures and considerations as outlined in this Corporate Debt Recovery Policy Framework.
- 1.3 Write offs will be carried out in accordance with the Councils Financial Procedure Rules, and only in cases where:
 - The demand or invoice has been raised correctly and is due and owing;
and
 - There is a justified reason why the debt should no longer be pursued.
- 1.4 The Corporate Finance Manager/Section 151 Officer will have the authority to write off debts of up to £10,000 (in agg

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Small Debts and debts
Uneconomical to pursue

When all recovery processes have been tried or considered and where the cost of proceeding to recover would be cost prohibitive to the Council and to its taxpayers.

Debts subject to a
Relief Order

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Where debts owed to the Council are subject to and included in

- 3.4 Where the Council is re-claiming VAT on debts where part payment is received, the entitlement to bad debt relief on VAT is based on the amount outstanding for the supplies made. For a single supply, where no payment is received, the amount of VAT accounted for can be reclaimed. If a part payment of the debt is received, a refund can only be claimed on the VAT relating to the amount still unpaid.
- 3.5 HMRC advise that payments should be allocated to the earliest supply made unless the customer specifies that a payment is for a particular supply and pays for that supply in full.
- 3.6 In bad debt cases where everything except the VAT element is paid, if the customer refuses to pay the VAT element of an invoice and this is the only element outstanding, relief is limited to the VAT element of the total debt outstanding. For example, if the charge was £100 (which was paid) and £20 VAT remains outstanding, the Council is entitled to re-claim VAT of £3.33 (i.e. 1/6 of £20).
- 3.7 Any bad debt relief claimed on sales must be at the same rate of VAT as used for those sales, that is, 20% from 4 January 2011, 17.5% from 1 January 2010 to 3 January 2011 and 15% from 1 December 2008 to 31 December 2009.
- 3.8 If VAT is re-claimed on a bad debt and a payment is later received from the customer, the VAT element included in the payment must be paid over to HMRC in the tax period in which the payment is received.
- 3.9 For any technical queries on VAT treatment of invoices please refer to the & R X C Tax Advisor.