



Derby City Council

**Council Cabinet**  
**7 December 2016**

Report of the Cabinet Member for Strategy and  
Policy

**ITEM 18**

## **Strategy and policies for the collection of debts**

### **SUMMARY**

- 1.1 Derby City Council provides a wide variety of key services to its customers, citizens, businesses and communities and as a result is required to collect large sums of money. In 2016/17 this sum is expected to be around £250million for council tax, business rates and sundry debts alone.
- 1.2 With such large sums to collect from a wide variety of citizens and businesses it is inevitable that some people or businesses will not pay their bills. Therefore it is very important that the Council has robust strategies and policies in place for collecting debt.
- 1.3 Revenue collection has never been more important. The Government's austerity programme has seen the money given to Derby City Council to deliver vital services cut by tens of millions of pounds. Further, the localism agenda will result in greater reliance on collection of local taxation and other revenue, for example the move to 100% Business Rates retention by 2020.
- 1.4 This report introduces the Council's Collection Strategy, Council Tax Recovery Policy, Business Rates Recovery Policy and Sundry Debt and Miscellaneous Income Policy. Together these documents set out the Council's approach to the collection of these key revenues streams. They aim to ensure that recovery action is consistent, transparent and proportional and that collection is maximised at minimum cost. Further, the policies aim to ensure that a distinction is made between those that have the means to pay, but will not, from those that genuinely find themselves in a position where they cannot pay.
- 1.5 Equalities Impact Assessments (EIAs) have been completed for all strategies and policies included in this Cabinet report and are attached at appendix six. The content of the EIAs should be taken into account as part of considering the proposed Collection Strategy, Council Tax Recovery Policy, Business Rates Recovery Policy and Sundry Debt and Miscellaneous Income Policy which are attached at appendices two to five.

## **RECOMMENDATIONS**

- 2.1 To approve the:
- (a) Collection Strategy,
  - (b) Council Tax Recovery Policy,
  - (c) Business Rates Recovery Policy and
  - (d) Sundry Debt and Miscellaneous Income Policy.
- 2.2 To delegate any future operational amendments to the strategy or any of the policies listed at 2.1, including consequential amendments arising from changes to statutory or case law, to the Chief Executive in consultation with the Director of Finance.

## **REASONS FOR RECOMMENDATION**

- 3.1 To ensure that the Council has a proper framework in place for the collection and recovery of council tax, business rates, sundry debts and miscellaneous income.
- 3.2 To ensure that the Council's ability to collect debt is maximised and at minimum cost.
- 3.3 To minimise the possibility of any claims made against the Council for maladministration or judicial review being successful and therefore protecting the Council's reputation and financial position.



## **SUPPORTING INFORMATION**

- 4.1 The Council's Collection Strategy is a set of overarching principles which provide a framework for the Council's approach to collecting debt. It has been developed around the principles of consistency, transparency and proportionality and through its operation the Council will seek to maximise collection and minimise the costs of collection. Although maximising collection is a key theme, the Collection Strategy distinguishes between those that have the means to pay, but will not and those that genuinely cannot pay. For those that have the means but will not pay, then all the recovery methods open to the Council will be explored, including, but not limited to, attachment of earnings, referral to enforcement agents and insolvency action. For those that cannot pay, the Council will seek to provide additional help and support.
- 4.2 The Council Tax Recovery Policy, Business Rates Recovery Policy and Sundry Debt and Miscellaneous Income Policy sit below the overarching Collection Strategy. These individual recovery policies provide more detail as to the recovery options open to the Council, the general order in which the Council will take recovery action and any local limitations that will apply. Whilst the Council will always seek to comply with the recovery order and limitations set out in the policies it reserves the right to follow a different order or to remove a particular limitation, in any particular case. Such steps will only be taken if it complies with statutory law. As with the Collection Strategy the individual policies seek to provide support where appropriate. This includes putting in place an extra, non-statutory step, in the Council Tax Recovery Policy for those households in receipt of maximum Council Tax Support (Action before Summons – part 7) and also different arrangements should the case progress to enforcement agent stage ( part 13 – paragraph 13.8). Further all policies include clear vulnerability criteria at appendix one.
- 4.3 Under the Council's constitution the administration of council tax, business rates and sundry debts is delegated to the Chief Executive. Should Council Cabinet approve these initial policies it is recommended that authorisation to approve any future operational amendments should be delegated to the Chief Executive in line with this delegated authority.
- 4.4 Having an approved set of strategies and policies will enhance the Council's governance arrangements and will minimise the potential for successful claims being made against the Council for maladministration or judicial review. This will be particularly important if the Council has to take advanced recovery actions, for example bankruptcy against an individual.
- 4.5 Equality Impact Assessments (EIAs) for the Collection Strategy and associated policies have been undertaken and are included at appendix six. These EIAs have highlighted positive outcomes for the equality groups.

## OTHER OPTIONS CONSIDERED

- 5.1 Do not have a Collection Strategy and associated policies. This is discounted because it will mean the Council misses an opportunity to improve its revenue collection, reduce the costs associated with revenue collection and improve its reputation for governance and transparency.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>IT Officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Olu Idowu, Head of Legal Services Toni Nash, Head of Finance David Cox, Head of HR Liam Salmon, Information Software Systems Manager Martyn Marples, Director of Finance Ann Webster, Equality and Diversity Lead
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	John Massey 01332 643774 john.massey@derby.gcsx.gov.uk None Appendix 1 – Implications Appendix 2 – Collection Strategy Appendix 3 – Council Tax Recovery Policy Appendix 4 – Business Rates Recovery Policy Appendix 5 – Sundry Debt and Miscellaneous Income Recovery Policy Appendix 6 – Equality Impact Assessment documents (These are available on CMIS)

## IMPLICATIONS

### Financial and Value for Money

- 1.1 The Collection Strategy and associated policies will aim to maximise council tax, business rates and sundry debt revenue collection and to minimise the costs associated with collecting it. Under normal circumstances any costs associated with collecting debts will be pursued from the debtor.

Further, having such policies in place will minimise successful claims being made against the Council, for example maladministration which in turn will minimise the opportunity for costs being awarded against the Council.

### Legal

- 2.1 The primary legislation for the administration of council tax is the Local Government Finance Act 1992 and for business rates it is the Local Government Finance Act 1988.

The Council's constitution delegates the administration of council tax, business rates and sundry debts to the Chief Executive.

### Personnel

- 3.1 Undertaking all recovery actions open to the Council will increase workload in certain areas. For example an increase in the number of insolvency cases or litigation cases the Council pursues will increase the workload of the Council's legal service which currently is not believed to be sufficiently resourced to meet that challenge and is likely to result in some pressure on the services budget that will, if appropriate, be subsequently identified as requiring additional resource provision.

### IT

- 4.1 None.

### Equalities Impact

- 5.1 EIAs have been completed for the strategy and policies included with this report and have highlighted positive impacts for the equality groups.

### Health and Safety

- 6.1 None.

### Environmental Sustainability

- 7.1 None.

## **Property and Asset Management**

8.1 None.

## **Risk Management**

9.1 The policy minimises the risk of any reputational damage to the Council.

## **Corporate objectives and priorities for change**

10.1 Maximising revenue collection will make more money available for the Council to deliver vital services to citizens, communities and businesses across the city.



Organisation & Governance  
Finance Department

# DERBY CITY COUNCIL COLLECTION STRATEGY

Document owner	John Massey
Document author	John Massey
Document manager	Dean Horton
Approved by and when	Council Cabinet 7 December 2016
Date of document	16 November 2016
Version	12.0
Document classification	Internal
Document distribution	Internal
Document retention period	Until date of next review
Location	
Review date of document	Annually

**If you require this document in large print, on audio tape, computer disc or in Braille please contact the document manager.**

Date Issued	Version	Status	Reason for change
August 2016	1-5	Drafts	Initial policy
17/18 October 2016	6.0/7.0	Drafts	Initial policy
20 October 2016	8.0	Draft	Following EIA with Derby Advice
21 October 2016	9.0	Draft	Tidied and marked up for EIA
26 October 2016	10.0	Draft	Changes following EIA on 25 Oct 2016
2 November 2016	11.0	Draft	Changes following legal input
16 November 2016	12.0	Draft	Tidied ready for Cabinet

Equality impact assessment record	
Date of assessment	25 October 2016
Summary of actions from EIA	1. To engage with the Derby Diversity Forum annually to promote ways for members to access benefits and provide information update on changes to benefits – to include the Department from Work and Pensions. 2. To explore a SMS messaging facility for deaf

	customers.
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## **Executive Summary**

Derby City Council is responsible for collecting very large sums of money. In 2016/17 this sum will be around £250 million for Council Tax, Business Rates and Sundry Debts alone.

Revenue collection has never been more important. The Government's on-going austerity programme is predicted to see further cuts in Government funding, whilst the localism agenda will result in greater reliance on collection of local taxation and other revenue, for example the move to 100% Business Rates retention by 2020. Given these twin pressures it is vital that the Council has a collection strategy in place that will maximise revenue collection at minimum cost while seeking to protect vulnerable families across the City.

This document sets out Derby's City Council's Collection Strategy for the following revenue streams:

- Council Tax;
- Business Rates;
- Sundry Debts;
- Housing Benefit Overpayments.

It includes the overarching principles that Derby City Council will seek to apply, when collecting debts. The overarching principles set out in this document are scalable and can be applied to other revenue streams for example Council House rent or Car Parking penalty notices.

This Collection Strategy is intended to work alongside other debt collection policies the Council has, including the:

- Council Tax Recovery Policy;
- Business Rates Recovery Policy;
- Sundry Debt and Miscellaneous Income Policy;
- Fair Repayment Promise.

## **1. Introduction and scope**

The collection principles outlined in this strategy will apply to the collection of the following revenue streams:

- Council Tax;
- Business Rates;
- Sundry Debts;
- Housing Benefit Overpayments.

## **2. General Principles**

When undertaking its collection function the Council will apply the following principles:

- That collection of debts will be based upon the principles of consistency, transparency and proportionality;
- That the customers, citizens and businesses of Derby have a responsibility to pay for the services they receive and the taxes they are liable for;
- That the majority of debts owed to the Council are priority debts and as such the Council expects that debtors will give priority to the repayment of these debts over most other debts that they may owe, for example catalogue debts. The list of priority and non-priority debts is shown at Appendix 1;
- That the cost of collection will be minimised by promoting efficient payment methods like Direct Debit wherever possible. Other payment methods that support self-service such as Automated Telephone Payment (ATP) payments and the Internet will also be promoted ahead of other methods. Other methods of payment are also available;
- That different collection processes will apply to those customers identified as “can’t pay” and “won’t pay” and that we will work, where possible, with other Council teams and voluntary sector partners to secure the best solution for the Council and the customer, for those classed as “can’t pay”;
- That where appropriate the Council will use its discretionary powers to minimise debts, for example awarding Discretionary Rate Relief for Business Rates.

## **3. Maximising Collection**

Through the operation of this Strategy the Council will aim to maximise the collection of debts owed. This will be achieved through taking a “firm but fair” approach.

In all cases steps will be taken to gain intelligence about a customer’s ability to pay by taking a full income and expenditure assessment where possible. The aim of any repayment plan should be to ensure that the customer’s indebtedness to the Council

does not increase. The Council recognises that income associated with disabilities should be used for the expenses associated with the disability; this will lead to more expenses, which are also taken into account in the calculation. This means disabled people are not disadvantaged by the assessment process.

**Won't Pay cases** - In cases where it is identified that the customer has the means to pay but will not, then the following approach will be taken:

- All enforcement options open will be explored and the most appropriate enforcement action taken. This will require staff who are adequately trained on recovery processes and have the autonomy to take decisions on enforcement methods.
- Payment arrangements will be based upon income and expenditure information, which will therefore minimise the chances of the arrangements being broken.

**Can't Pay cases** – In cases where it is identified that the customer does not have the means to pay then the following approach will be taken:

- We will work closely with our own Welfare Reform team, Derby Advice service and our partner organisations in the voluntary sector, for example the local Citizen's Advice and Law Centre, including empowering them to make payment arrangements on the Council's behalf. In appropriate cases this will include agreeing a payment arrangement in line with the Council's Fair Repayment Promise.
- Steps will be taken to maximise the customer's income and therefore increase their ability to pay debts. This will include signposting eligibility to welfare benefits (see part five for more detail) and reducing payments for non-priority debts through negotiation.

#### **4. Maximising Customers' Income**

In order to increase a customer's ability to pay debts owed to the Council, steps will be taken to maximise their income. This will be achieved by:

- Ensuring that appropriate staff are adequately trained to identify possible entitlement to other income streams, including welfare benefits, and can signpost these effectively.
- Utilising Council resources and third sector partners, for example those developed under the Universal Services Delivered Locally pilot, to provide additional support to customers. This will include helping customers to gain financial and digital inclusion skills to help them into work.
- Ensuring all appropriate written documentation includes adequate advice, written in plain English, on how and where customers can receive help and advice about debt problems and income maximisation, including entitlement to:

1. Housing Benefit and Council Tax Support;
  2. Council Tax Discounts, Reliefs and Exemptions;
  3. Business Rates Reliefs and Exemptions;
  4. Working Tax Credit;
  5. Pension Credit;
  6. Welfare Benefits – including Universal Credit;
  7. Work replacement benefits – for example the variants of Employment and Support Allowance, Personal Independence Payments or Disability Living Allowance;
  8. Discretionary Housing Payments, Council Tax Hardship & Local Assistance – although in line with the Council's Single Discretionary Award Scheme this should be in a co-ordinated fashion instead on the basis of multiple single interventions.
- Ensuring other media channels, for example the Council's website, signpost information about where to receive help and advice about debt and how to maximise income;
  - Assisting people whose first language is not English to access other welfare benefits, reductions and reliefs wherever possible by linking in with the Derby Diversity Forum.

## 5. Minimising Costs of Collection

Through the operation of these general collection principles the Council will:

- Minimise the costs associated with the collection of debt;
- Promote greater choice and access for customers having to pay for services and local taxes.

This will be achieved by:

- **Promoting and incentivising cost effective payment methods** – The Council formally recognises Direct Debit as its preferred payment method for the collection of Council Tax and Business Rates and will incentivise Direct Debit as appropriate. This does not necessarily mean giving customers financial inducements to choose this method but by offering multiple payment dates to suit customers' personal budgets or by considering more choice on the frequency of payments, for example weekly or monthly schemes.
- **Promoting cheaper self-service options** – The Council will promote its Derby Direct to You self-service portal to maximise the use of self-service payment options such as Internet or the ATP line. As well as delivering savings, the 24/7 access associated with such payment methods will enable customers to pay debts at a time and place suitable to them.

- **Maximising Payment in Advance** – Maximising payment in advance will increase cash flow and income for the Council, whilst reducing costs by minimising the number of bills and invoices issued and reducing debts.

## **6. Minimising the number of invoices**

For non-statutory fees and charges, for example Sundry Debts, the Council will aim to minimise the number of invoices raised. This will be achieved by:

- (a) Securing full payment in advance;
- (b) Using consolidated invoices in cases where there is a regular charge for goods or services provided.

Where possible the Council will operate a minimum invoice amount, below which invoices should not be issued.

## **7. Providing Information to Customers**

In addition to detailing the amount payable, the date by when a payment(s) should be made and a description of the charge, the Council will, wherever possible, include the following information on all accounts:

- The payment options available;
- A contact number for queries, including Minicom and email address, in relation to the accuracy of the account
- A contact number for repayment queries, including Minicom and email address, (if different to the number in the bullet point above);
- The potential implications of not paying the debt, including extra costs, court action and enforcement options;
- A Data Protection Act 1998 Fair Processing Notice that sets out the extent to which information held by the Council about the individual may be shared internally and externally to assist with effective administration, and enforcement of liability.

Where it is necessary to issue further recovery documents (for example a reminder or a summons) the Council should, wherever possible, include all the information listed above.

We can provide the information in a format to meet a customer's specific needs on request including;

- Braille;
- Large Print;
- Audio media
- Community Languages.

Where steps have been taken to meet individual needs then this information should be stored to ensure that future information is supplied in the same format.

The Council will ensure that arrangements are in place to use language translators/interpreters, including British Sign Language (BSL), to assist people whose first language is not English. We will also use text relay for customers with hearing impairments. All information or documents should be in plain English.

## **8. Early Intervention**

Contact with customers should be as early as possible to ensure that:

- Any costs associated with collection (for example enforcement agent fees and court fees) are minimised;
- Remedies are put in place whilst debt levels are at a minimum, and therefore solutions are more likely to be effective.

## **9. Sharing Information**

Within an organisation as large and diverse as the Council there will be many instances where a customer owes different debts to different departments and as a result individual but incomplete pieces of intelligence about the debtor are known.

Obtaining a complete picture of a citizen will deliver the following benefits:

- Repayment plans will be based upon a customer's total indebtedness and ability to pay;
- Certain intelligence may result in an assessment that a customer is vulnerable and therefore ensuring that inappropriate enforcement methods will not be used.

Effective sharing of data can be achieved by:

1. Ensuring that all computer systems used to bill and recover money satisfy statutory requirements and offer the full range of recovery options;
2. Subject to the limitations of the Data Protection Act, staff involved in the collection of debts are given access to the full suite of systems holding relevant data;

3. Subject to the limitations of the Data Protection Act, staff are given appropriate training on the use of the full suite of systems given under two above;
4. Subject to the limitations of the Data Protection Act, staff may liaise with internal Council teams who deal with vulnerable customers with complex needs, as appropriate;
5. Ensuring that where data sharing is required a full and robust Fair Processing Notice (FPN) is included on relevant pieces of correspondence, website etc. Details of the structure of an FPN and where it should be included can be confirmed by the Information Governance team;
6. Ensuring that partner organisations have in place policies and procedures to ensure compliance with Data Protection principles, appropriate Customer Service Standards, Equalities legislation and effective procedures for investigating customer complaints.

All of the actions in section 9 of this Strategy are subject to any limitations imposed by the Data Protection Acts and Human Rights legislation. Before putting in place arrangements to share data, confirmation of its legality should be obtained by the Council's Information Governance team.

## **10. Multiple Debts**

In cases of multiple debts the Council will work, where possible, with Derby Advice and other voluntary sector partners to deliver effective solutions for customers.

Sharing of data and information will be key to delivering effective solutions and will be shared in accordance with the principles included in section 9 of this Strategy.

Although individual departments reserve the right to pursue individual debts separately, wherever possible, existing debt collection policies for customers with multiple debts should be used - for example the Fair Repayment Promise for customers with Council Tax and Housing Rent debts.

## **11. Use of Other Agencies**

Where appropriate the Council will work with external agencies, subject to a relevant procurement exercise, to ensure effective collection of debts, for example external enforcement agent firms.

Before instructing such firms the Council will ensure that a strict code of conduct is in place, together with procedures for dealing with vulnerable people, who come to their attention.

The use of enforcement agents will be considered a measure of near last resort.

## **12. Irrecoverable Debts**

The Council will vigorously pursue all monies owed to it. However, it recognises that there will be certain circumstances where it will not be able to collect all the debts owed and that some accounts below a certain value will be uneconomic to collect.

Once such debts have been identified, the Council will ensure that there is clear guidance to staff detailing the action to be taken prior to an account being written-off.

All debts written-off must be appropriately authorised. Any member of staff wishing to write-off a debt should refer to the relevant Scheme of Delegation.

Write-off authorisations should be kept securely so that they can be called upon should a request be made by Internal/External Audit.

Should a debt be written off and then subsequently the reason for the write off is not appropriate – for example a debtor that has absconded is traced – the debt will be written back on and pursued.

### **13. Debt Ownership**

Current accounting practices mean that departmental budgets are credited in full as soon as an invoice is raised, irrespective of whether payment in part or full is received.

Should the level of uncollectable debts be higher than the amount provided for within departmental bad debt provisions this will result in budget pressures as income will not meet expectations.

Increasing departmental ownership of debt will help to minimise this risk and will be achieved by:

- Highlighting the impact on service budgets of debts being uncollectable;
- Write-offs being actioned regularly and information about write-offs being passed to departments regularly;
- Departments receiving information about bad debtors quarterly so that repeat business to these customers (where there is a choice) is minimised.

### **14. Bad Debt Provision**

Accepting that some debts cannot be recovered, the Council should make arrangements to provide for bad or doubtful debts.

In making such arrangements consideration should be given to the type and age of debt.

The amount of bad debt provided for must be reviewed annually and must be realistic based upon the type, age and level of overall debt.

### **15. Customer Feedback and Disputes**

The Council will endeavour to resolve any disputes in relation to debt collection informally and at the earliest possible opportunity and will ensure that debtors are fully aware of the ways in which they can contact the Council in order to discuss any dispute they may have.

Where part of a debt is disputed, the Council will endeavour to collect the undisputed amount at the earliest possible stage whilst also dealing with the disputed debt.

If a customer wishes to make a complaint regarding the way in which the Council has undertaken to recover a debt, they will be advised of the Customer Feedback procedure and will be given assistance in registering a complaint.

### **16. Strategy Review, Monitoring and Governance**

The Head of Revenues, Benefits and Exchequer Services (HRBES) will monitor the effectiveness of this Strategy. The HRBES will bring any issues with its operation to the section 151 officer for consideration.

This Strategy will be reviewed regularly to ensure it is kept relevant and takes account and advantage of changes in legislation, new approaches and new ways of working.

### **Priority and Non-Priority Debts**

The Council recognises the following as having equal priority

- Rent arrears – as it can result in eviction
- Council Tax – as it can result in imprisonment, enforcement agent action, bankruptcy or attachment of earnings/benefit orders
- Business Rates – as it can result in enforcement agent action, insolvency or imprisonment
- Mortgage arrears – as it can result in repossession
- Other secured loans – as it can result in repossession

### **Other priority debts include:**

- Fuel debts – as they can result in disconnection
- Income tax or VAT – as they can result in bankruptcy or imprisonment
- County Court Judgments (eg for non-payment of a Sundry Debt of Housing Benefit Overpayment)– can result in enforcement agent action, attachment of earnings or bankruptcy
- Fines/compensation orders – can result in imprisonment
- Maintenance/Child Support – as it can result in repossession of goods or in extreme cases imprisonment
- Hire purchase – if for essential goods, eg for a car if needed to get to work
- Water rates – can result in County Court Judgment
- Penalty Charge Notices – can result in enforcement agent action

### **The following are considered to be non-priority debts**

- Credit/store cards
- Unsecured personal loans
- Bank overdrafts
- Credit/interest free/hire purchase agreements
- Catalogue debts
- Money borrowed from family or friend



# DERBY CITY COUNCIL COUNCIL TAX RECOVERY POLICY

Document owner	John Massey
Document author	John Massey
Document manager	Dean Horton
Approved by and when	Council Cabinet 7 December 2016
Date of document	16 November 2016
Version	8.0
Document classification	Internal
Document distribution	Internal
Document retention period	Until date of next review
Location	
Review date of document	Annually

**If you require this document in large print, on audio tape, computer disc or in Braille please contact the document manager.**

Date Issued	Version	Status	Reason for change
17/ 18 October 2016	1.0 – 2.0	Drafts	Initial policy
20 October 2016	3.0	Draft	Following feedback from Derby Advice
21 October 2016	4.0	Draft	Tidied and marked up for EIA
26 October 2016	5.0	Draft	Changes following EIA on 25 Oct 2016
2 November 2016	6.0	Draft	Changes following legal input
15 November 2016	7.0	Draft	Changes following O&G DMT / COG
16 November 2016	8.0	Draft	Tidied ready for Cabinet

Equality impact assessment record	
Date of assessment	25 October 2016
Summary of actions from EIA	Update list of vulnerable customers to include disabled people who may not be claiming disability benefits

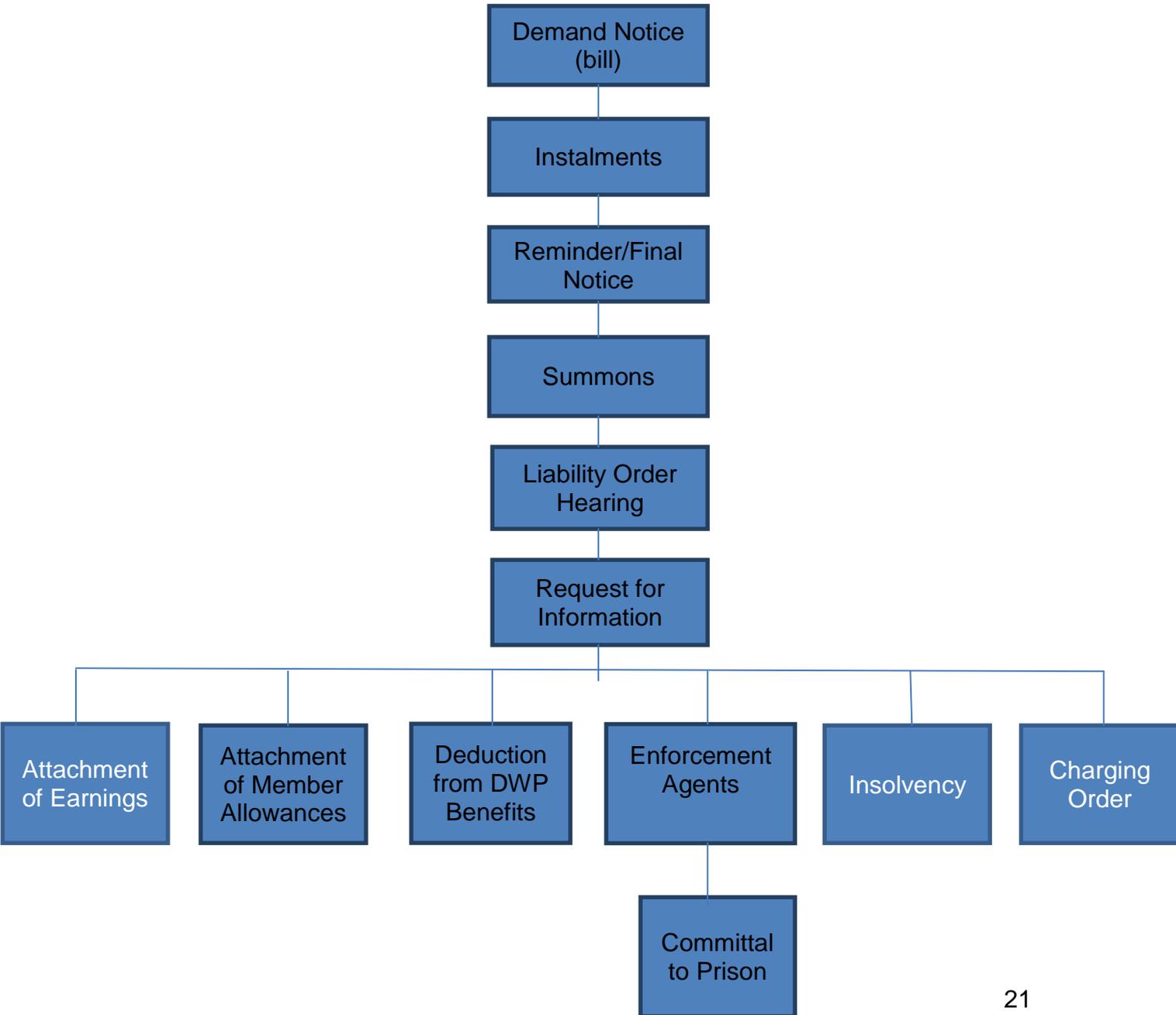
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**1. Introduction**

This document sets out the processes the Council will follow when collecting Council Tax. It supports the Council’s overarching principles for the collection of debt which are set out in the Collection Strategy.

**2. Legal Framework**

The legal framework for the collection and enforcement of Council Tax is provided by the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992 (Statutory Instrument 1992/613). The collection process and recovery options open to the Council are shown in the table below.



### **3. Demand & Adjustment Notices (Bills)**

**3.1** Annual demand notices will be issued in February or March prior to the financial period 1 April to 31 March.

**3.2** Where there is a change in circumstance or an amendment to the amount due or the instalment amounts the Council will issue an adjustment notice.

**3.3** Unless separate arrangements are agreed with a Council Taxpayer, all demand and adjustment notices will include the appropriate number of instalments as set out in Schedule 1 of the Council Tax (Administration and Enforcement) Regulations S.I. 1992/613 as amended.

**3.4** All demand and adjustment notices will be served in accordance with 233 of the Local Government Act 1972.

### **4. Joint and Several Liabilities**

**4.1** Joint and Several liability means in law that all collectively, or individually, of the jointly liable parties are responsible for the whole Council Tax liability. As a result the Council can lawfully recover the whole amount of Council Tax due from any one of them alone, or by action against all.

**4.2** Wherever possible the Council will seek to make people jointly liable for Council Tax and will issue bills in joint names.

**4.3** When Council Tax is not being paid, the Council will take action for recovery of the debt against any or all of the jointly liable parties.

### **5. Methods of Payment**

**5.1** The Council will offer a variety of payment methods to ensure Council Taxpayers have a choice of how, when and where to pay.

**5.2** Direct Debit is the Council's preferred method of payment and will be promoted and incentivised by offering a variety of dates, frequency and number of instalments.

**5.3** Methods of payment will be clearly shown on demand and adjustment notices and other appropriate literature.

### **6. Reminders/Final Notices**

**6.1** Reminders will be issued within 14 working days of an instalment being missed. The reminder will inform Council Taxpayers of the amount in arrears and that payment is required within seven days and that failure to pay will result in further recovery action being taken for the full year's charge.

**6.2** Following a reminder, if instalments are brought up to date no further action will be taken providing future payments are made in line with instalment plans. If payment is not made the Council will cancel a Council Taxpayer's instalment and start proceedings to issue a summons.

**6.3** If payment of a second instalment is missed the Council will send a second reminder. If the missed instalment is received within seven days then no further action will be taken providing future payments are made in line with instalment plans. If payment is not made, the Council will cancel the instalments and start proceedings to issue a summons.

**6.4** If the account is brought up to date but falls behind for a third time, the Council will send a final notice; at this point the full outstanding amount will become payable, and the right to pay by instalments will have been lost.

**6.5** Therefore the Council will issue a maximum of three reminders during any financial year. Failure to pay the full amount of the final notice will result in a summons, which will incur costs.

## **7. Action before Summons**

**7.1** The following action is not required by law but has been designed to provide extra help and support for certain households who receive the maximum amount of Council Tax Support (CTS) available under the Council's CTS Scheme.

**7.2** Households that can demonstrate financial hardship and are willing to engage may be subject to an intervention from the Council's Welfare Reform Team (WRT). If an intervention is made the WRT will seek to put in place a personalised support plan which may include a Council Tax repayment plan. If a repayment plan is agreed then no further action will take place providing payments are made as agreed. If the Council Tax payer defaults on the arrangement the Council reserves the right to continue with recovery action without further dialogue.

## **8. Summons and the Application for a Liability Order**

**8.1** Where Council Taxpayers fail to respond to a reminder/final notice or default on an arrangement to pay, the Council may apply to the Magistrates Court for a liability order to be issued. Liability orders empower the Council to legally take enforcement action to recover the amount owed.

**8.2** A summons will be sent to each person named on the demand/adjustment notice and summons costs will be incurred. In cases of Joint and Several liabilities only one set of costs will be applied for between all jointly liable parties.

**8.3** If the Council Tax payer pays the amount of the summons (that is, the full amount outstanding for the year) plus costs prior to the court hearing, the hearing will not proceed and the Council will not obtain a liability order.

**8.4** If the Council Tax payer does not pay the summons amount plus costs prior to the hearing, the hearing will proceed and the Council will ask the Magistrates to grant a liability order plus additional costs.

**8.5** At any time after the summons has been issued the Council may agree to a repayment arrangement. In such cases the Council will still apply for a liability order but if payments are received as agreed, no further recovery action will be taken following the application for a liability order. Further, depending upon the circumstances, the Council may decide to write-off any costs following payment of the full balance. Should the arrangement be broken the Council reserve the right to pursue recovery action without the need for further dialogue.

**8.6** At the hearing the Council must satisfy the Magistrates that it has set and attempted to collect the Council Tax in accordance with the law. The Council must also confirm that the Council Tax payer named on the summons is liable and that all or part of the debt remains unpaid.

**8.7** Council Tax payers can appear at a liability order hearing to defend the Council's application for a liability order. Valid defences include that:

- the Council has not demanded Council Tax in accordance with the regulations;
- the amount has been paid in full with costs;
- the Council Tax payer named on the summons is not the liable person.

**8.8** If the Magistrates accept the Council's evidence they must grant it a liability order. All applications for liability orders include an application for costs.

## **9. Liability Orders/Requests for Information**

**9.1** A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable. The recovery procedures may be applied to one or more than one of the joint taxpayers.

**9.2** Once a liability order has been granted a letter will be sent to the Council Taxpayer(s) advising them that they have 14 days in which to pay in full or make an arrangement, otherwise further recovery action will be taken. The letter will ask the Council Tax payer certain questions about their income and employment status and will also clearly advise of the cost implications should further recovery action be necessary. The information received will be used to establish the most appropriate recovery action from the methods available, which are set out below.

**9.3** Where the Council already holds relevant information about a Council Tax payer (for example employment details) the Council may choose not to send the letter set out in section 9.2.

**9.4** Failure to provide the information requested may result in the Council Taxpayer being prosecuted in the Magistrates Court for which a fine, entirely separate to the Council Tax liability, may be imposed by the court.

## **10. Attachment of Earnings**

**10.1** If the customer is in paid employment and the Council has their employer's details, the Council may ask the employer to make deductions from their salary. Employers are legally required to comply with an attachment of earnings order and may deduct a nominal administration charge.

**10.2** The law allows the Council to make up to two attachments of earnings orders at a time. If two orders are in place and the Council Tax payer can evidence financial hardship as a result then the Council may reduce the number of orders to one or consider alternative action. Cancelling an attachment of earnings order will only occur in exceptional circumstances.

**10.3** The amount deducted is a percentage of the customer's salary, as set out in legislation. A table showing the percentage deductions will be sent to the debtor.

## **11. Attachment of Members Allowances**

**11.1** This process is available in respect of an elected member of any billing authority or any major precepting authority (with the exception of the City of London and the Metropolitan Police) against whom a liability order has been granted.

**11.2** It is not limited to members of the billing authority or major precepting authorities whose Council Tax is under collection.

**11.3** An Attachment Order is directed to the local authority of which the debtor is a member and operates as an instruction to the authority to make deductions from attachable allowances payable to the debtor.

## **12. Attachment of Department for Works & Pension (DWP) Benefits**

**12.1** Job Seekers Allowance, Pension Credit, Income Support, Employment Support Allowance and Universal Credit can all be attached to pay Council Tax arrears.

**12.2** If the customer is receiving one of these benefits, the Council will ask the DWP to make regular deductions from the benefit and make payments to the Council.

**12.3** The DWP regulations specify the recovery amounts to be deducted from benefit. Recovery may be by a fixed amount or a percentage of entitlement, depending on the benefit in payment. Other priority debts being recovered for other creditors may also affect the amount recovered.

## **13. Enforcement Agents**

**13.1** Following the granting of a Liability Order, where a Council Taxpayer fails to make contact with the Council or fails to make or maintain a payment arrangement (including orders under attachments to earnings or deductions from benefit) the Council may instruct its Enforcement Agents to collect the debt on the Council's behalf.

**13.2** All enforcement companies authorised to act on behalf of the Council will be certificated. At all times the Council's Enforcement Agents will work to CIVEA's Code of Conduct and the Council's Vulnerability Criteria (shown at Appendix 1). Our Service Level Agreement with Suppliers meets the Council's Diversity and Equality principles.

**13.3** The Enforcement Agent will send a statutory Notice of Enforcement where a fee of £75.00 is charged. This initial stage is known as the "Compliance Stage" and will last for at least 22 days. Throughout this period the Enforcement Agent will attempt to contact the debtor by telephone and letter on at least 12 occasions to encourage payment or at least engagement.

**13.4** If full payment or an arrangement is not made (and maintained) during the compliance stage the Enforcement Agent will visit the Council Taxpayer's home with the aim of "Taking Control of Goods" and gaining full payment. There will be only one charge of £235.00 (plus 7.5% where the debt is over £1,500.00) irrespective of the number of visits the Enforcement Agent makes to the property. Visits will only be made where the Council Tax debt is £150.00 or greater. Cases below this amount will be referred back to the Council after the Compliance Stage to consider alternative action.

**13.5** The Enforcement Agent may remove goods to be sold at auction or might return the case saying there are no goods to remove known as "nulla bona". Certain goods are classed as exempt goods and cannot be removed. Such goods are those used in connection with a debtor's employment or are required to meet the basic needs of the debtor or anyone in the debtor's household. The list of exempt goods is set out in paragraph four of The Taking Control of Goods Regulations 2013.

**13.6** Where it becomes clear that the debtor belongs to one of the vulnerable groups set out at Appendix 1 the visit will stop immediately and the Enforcement Agents will contact the Council for advice. The Enforcement Agents will take no further action until approval has been given by the Local Taxation Manager or a Council Tax Team Leader.

**13.7** Enforcement Agents will not enter a property where the only people present are either children or an adult that belongs to one of the vulnerable groups set out in Appendix 1.

**13.8** Households who receive the maximum amount of Council Tax Support (CTS) available under the Council's CTS Scheme will be referred to Enforcement Agents subject to the following principles:

- The debt outstanding will be at least £70.01. Cases below this value will be considered for other action,
- Prior to the Compliance Stage starting the Enforcement Agents will send an extra letter encouraging the Council Taxpayer to contact them to discuss payment. No fees will be added at this stage,
- Cases will only progress as far as the Compliance Stage and if unsuccessful will be returned to the Council to consider alternative action.

## **14. Further Recovery Options open to the Council**

**14.1** Where the forms of action detailed in sections ten to 13 of this policy have either been unsuccessful, are not considered to be appropriate, or the Council Taxpayer has failed to make contact with the Council or has broken arrangements, the Council may pursue other recovery options that may have more serious implications for the Council Taxpayer. These actions include:

- Insolvency
- Charging orders
- Committal to prison.

**14.2** Any action to recover amounts by these methods will be considered on its own merits, on an individual case by case basis, having regard to the 'Recovery Checklist'. The Recovery Checklist is an internal document designed to ensure there is sufficient governance when recommending cases for advanced recovery methods. It can be completed by any member of the Council Tax team but must be authorised by a Council Tax Team Leader or the Local Taxation Manager.

**14.3** The Recovery Checklist will include the following information;

- A record of why other methods of recovery are not appropriate, and
- Where little or no personal contact has been made details –details of at least one visit to the property, and
- A record of information gathered and the reasons for the proposed action.

### **14.4 Insolvency**

**14.4.1** The detailed procedures setting out the process for taking this action is contained within the Council's "Using Insolvency Proceedings and Charging Orders for the Collection of Local Taxation and Sundry Debts" procedures notes. These must be strictly followed in all cases.

**14.4.2** Bankruptcy and winding up (liquidation) action will only take place if all the conditions below are satisfied:

- The value of the debt is £5,000 or more;
- It has been approved by the Local Taxation Manager;
- The recovery methods set out in sections ten – 13 of this policy have been unsuccessful or are not considered appropriate;
- The debtor is not classed as vulnerable (as set out in the procedure notes referred to in 14.4.1 above);
- There has been at least one unsuccessful home visit;
- To the best of the Council's knowledge the debtor has sufficient realisable assets to pay all of the debt and all of the costs incurred.

**14.4.3** In all cases the process will start with the service of a Statutory Demand and if this is not successful will proceed to a Bankruptcy Petition or winding up petition being presented by the Council.

**14.4.4** In all cases the Council will work closely with its legal team or, subject to the relevant procurement process, an external partner that is an expert in the field of bankruptcy and insolvency proceedings.

## **14.5 Charging Orders**

**14.5.1** The Council may make an application to the County Court for a Charging Order to be registered against a Council Taxpayer's property, where the amount of Council Tax outstanding is over £1,000. The costs associated with this type of action are high, and may be added to the amount of the Order.

**14.5.2** Following the granting of a Charging Order, if the debt is not paid the Council may apply to the County Court for an order for sale, which may result in the property being sold and the amount subject to the Charging Order, including costs, being paid to the Council from the proceeds of sale.

**14.5.3** The detailed processes and safeguards to be followed (except the value which is £1,000 for charging orders) are set out in sections 14.4.1 and 14.4.2 of this Policy.

## **14.6 Other Insolvency Actions**

**14.6.1** Other insolvency routes exist which fall short of making an individual bankrupt or winding up a company. These include;

- Administration Orders;
- Company Voluntary Agreements;
- Creditors Voluntary Arrangements; and
- Individual Voluntary Arrangements.

**14.6.2** Depending upon the individual circumstances the Council reserves the right to support or contest any of the insolvency actions set out in 14.6.1 above. The decision must be authorised by a Council Tax Team Leader or Local Taxation Manager.

## **14.7 Committal to Prison**

**14.7.1** The Council can apply to the Magistrates Court to have a Council Tax payer committed to prison for a maximum of 90 days. The Council is likely to take committal action against a Council Tax payer when:

- Taking Control of Goods by the Enforcement Agent on goods has been attempted and failed;
- The Council Tax payer has no property or assets;
- The Council Tax payer has previously broken agreed payment arrangements;
- The Council Tax payer has failed to provide employment or benefit details.

**14.7.2** If the Magistrates send a debtor to prison, whilst the council tax debt remains, it can no longer be enforced. In such cases writing off the debt is likely to be the appropriate course of action.

## **15. Write-offs & Write-ons**

**15.1** Although every effort will be taken to collect every Council Tax debt it is inevitable that some debts will need to be uncollectable. The reasons for this include but are not limited to;

- The debtor absconds;
- The debtor dies and has no estate;
- The debtor is declared bankrupt or is subject to other insolvency proceedings;
- A court remits the debt.

**15.2** The actions taken before recommending a debt for write-off will depend upon the individual circumstances, and are included in the local write off procedures used by staff.

**15.3** All write-offs have to be approved by the appropriate officer or Council Cabinet in accordance with the financial levels set out in the Council's Financial Procedure Rules.

**15.4** Should a debt be written off and then subsequently the reason for the write off is not appropriate – for example a debtor that has absconded is traced – the debt will be written back on and pursued.

## **16. Customer Feedback and Disputes**

The Council will endeavour to resolve any disputes in relation to debt collection informally and at the earliest possible opportunity and will ensure that debtors are fully aware of the ways in which they can contact the Council in order to discuss any dispute they may have.

Where part of a debt is disputed, the Council will endeavour to collect the undisputed amount at the earliest possible stage whilst also dealing with the disputed debt.

If a customer wishes to make a complaint regarding the way in which the Council has undertaken to recover a debt, they will be advised of the Customer Feedback procedure and will be given assistance in registering a complaint.

If the complaint is about the actions of the Council's Enforcement Agents the Council will ensure that the Enforcement Agents conduct a thorough internal investigation and report their findings and what action will be taken as a result of their investigation.

## **17. Policy Review, Monitoring and Governance**

The Head of Revenues, Benefits and Exchequer Services (HRBES) will monitor the effectiveness of this Policy. The HRBES will bring any issues with its operation to the section 151 officer for consideration.

This Policy will be reviewed regularly to ensure it is kept relevant and takes account and advantage of changes in legislation, new approaches and new ways of working.

**Enforcement Agents – Vulnerability Criteria**

The Council's current definition of "vulnerable person" for the purpose of Enforcement Agent action includes, but is not limited to:

- Any debtor over the state pension age
- Any debtor who is disabled, whether or not in receipt of disability benefits
- Any debtor who is a single parent
- Any debtor who has or appears to have mental health problems
- Any debtor who is pregnant
- Any debtor who has difficulty speaking or understanding English

The Council expects its Enforcement Agents to be able to identify where it feels a debtor is vulnerable but does not necessarily come under any of these categories.

Where it is identified that the debtor may be in a vulnerable category the Enforcement Agents will refer the case to the Council for advice before proceeding with the Enforcement Stage.



Organisation & Governance  
Finance Department

# DERBY CITY COUNCIL BUSINESS RATES RECOVERY POLICY

Document owner	John Massey
Document author	John Massey
Document manager	Dean Horton
Approved by and when	Council Cabinet 7 December 2016
Date of document	16 November 2016
Version	8.0
Document classification	Internal
Document distribution	Internal
Document retention period	Until date of next review
Location	
Review date of document	Annually

If you require this document in large print, on audio tape, computer disc or in Braille please contact the document manager.

Date Issued	Version	Status	Reason for change
17/18 October 2016	1.0 / 2.0	Drafts	Initial policy
20 October 2016	3.0	Draft	Following feedback from Derby Advice
21 October 2016	4.0	Draft	Tidied and marked up for EIA
26 October 2016	5.0	Draft	Changes following EIA on 25 Oct 2016
2 November 2016	6.0	Draft	Changes following input from legal
15 November 2016	7.0	Draft	Changes following O&G DMT/COG
16 November 2016	8.0	Draft	Minor corrections and tidied for Cabinet

Equality impact assessment record	
Date of assessment	25 October 2016
Summary of actions from EIA	Update list of vulnerable customers to include disabled people who may not be claiming

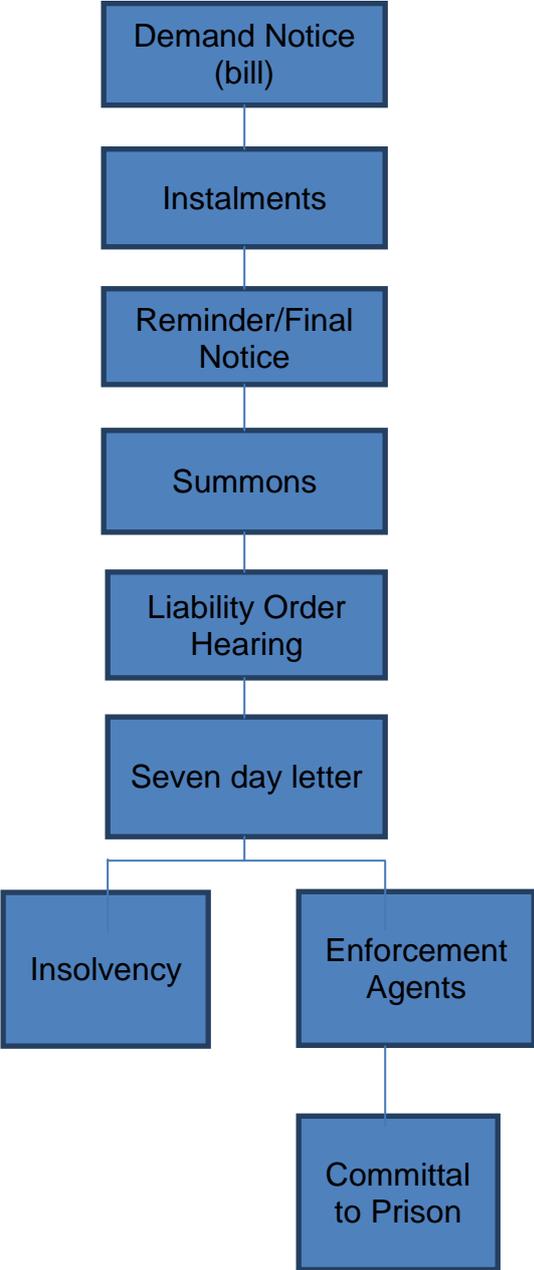
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**1. Introduction**

This document sets out the processes the Council will follow when collecting business rates. It supports the Council’s overarching principles to the collection of debt which are set out in the Collection Strategy.

**2. Legal Framework**

The legal framework for the collection and enforcement of business rates is provided by the Local Government Finance Act 1988 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (Statutory Instrument 1989/1058). The collection process and recovery options open to the Council are shown in the table below.





### **3. Demand & Adjustment Notices (Bills)**

**3.1** Annual demand notices will be issued in February or March prior to the financial period 1 April to 31 March.

**3.2** Where there is a change in circumstance or an amendment to the amount due or the instalment amounts the Council will issue an adjustment notice.

**3.3** Unless separate arrangements are agreed with a business ratepayer, all demand and adjustment notices will include the appropriate number of instalments as set out in schedule 1 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (S.I. 1989/1058) as amended.

**3.4** All demand and adjustment notices will be served in accordance with 233 of the Local Government Act 1972.

### **4. Joint and Several Liabilities**

**4.1** Joint and Several liability means in law that all collectively, or individually, of the jointly liable parties are responsible for the whole business rates liability. As a result the Council can lawfully recover the whole amount of business rates due from any one of them only, or from all.

**4.2** If applicable the Council will seek to make people jointly liable for business rates and will issue bills in joint names.

**4.3** When business rates are not being paid, the Council will take action for recovery of the debt against any or all of the jointly liable parties.

### **5. Methods of Payment**

**5.1** The Council will offer a variety of payment methods to ensure business ratepayers have a choice of how, when and where to pay.

**5.2** Direct Debit is the Council's preferred method of payment and will be promoted and incentivised by offering a variety of payment dates and number of instalments.

**5.3** Methods of payment will be clearly shown on demand and adjustment notices and other appropriate literature.

### **6. Reminders/Final Notices**

**6.1** Reminders will be issued within 10 working days of an instalment being missed. The reminder will inform business ratepayers of the amount in arrears and that payment is required within seven days and that failure to pay will result in further recovery action being taken for the full year's charge.

**6.2** Following a reminder, if instalments are brought up to date no further action will be taken providing future payments are made in line with instalment plans. If payment is not made the Council will cancel a business ratepayer's instalment and start proceedings to issue a summons

**6.3** If payment of a second instalment is missed then the right to pay by instalments is lost and the whole amount for the year becomes due. At this stage the Council will send a second reminder (also known as a final notice) requesting that the full amount for the year is paid within seven days. If payment is not made within seven days then the Council will start proceedings to issue a summons.

**6.4** Therefore the Council will issue a maximum of two reminders during any financial year. Failure to pay the full amount of the final notice will result in a summons, which will incur costs.

## **7. Summons and the Application for a Liability Order**

**7.1** Where business ratepayers fail to respond to a reminder/final notice or default on an arrangement to pay, the Council may apply to the Magistrates Court for a liability order to be issued. Liability orders empower the Council to legally take enforcement action to recover the amount owed.

**7.2** A summons will be sent to each person named on the demand/adjustment notice and summons costs will be incurred. In cases of Joint and Several liabilities only one set of costs will be applied for between all jointly liable parties.

**7.3** If the business ratepayer pays the amount of the summons (i.e. the full amount outstanding for the year) plus costs prior to the court hearing, the hearing will not proceed and the Council will not obtain a liability order.

**7.4** If the business ratepayer does not pay the summons amount plus costs prior to the Hearing, the Hearing will proceed and the Council will ask the Magistrates to grant a liability order plus additional costs.

**7.5** At any time after the summons has been issued the Council may agree to a repayment arrangement. In such cases the Council will still apply for a liability order but if payments are received as agreed, no further recovery action will be taken following the application for a liability order. Further, depending upon the circumstances, the Council may decide to write-off any costs following payment of the full balance. Should the arrangement be broken the Council reserve the right to pursue recovery action without the need for further dialogue.

**7.6** At the hearing the Council must satisfy the Magistrates that it has set and attempted to collect business rates in accordance with the law. The Council must also confirm that the business ratepayer named on the summons is liable and that all or part of the debt remains unpaid.

**7.7** Business ratepayers can appear at a liability order hearing to defend the Council's application for a liability order. Valid defences include:

- The Council has not demanded business rates in accordance with the regulations;
- The amount has been paid in full with costs;
- The person named on the summons is not the liable person.

**7.8** If the Magistrates accept the Council's evidence they must grant the Council a liability order. All applications for liability orders will include an application for costs.

## **8. Liability Orders/Seven day letter**

**8.1** A liability order may be made against one or more joint business ratepayers in respect of an amount for which they are jointly and severally liable. The recovery procedures may be applied to one or more than one of the joint business ratepayers.

**8.2** Once a liability order has been granted a letter will be sent to the business ratepayer(s) advising them that they have seven days in which to pay in full or make an arrangement, otherwise further recovery action will be taken. The letter will also clearly advise of the cost implications should further recovery action be necessary.

**8.3** Where the Council already holds relevant information about a business ratepayer the Council may choose not to send the letter set out in section 8.2.

**8.4** Failure to provide the information requested may result in the business ratepayer being prosecuted in the Magistrates Court.

## **9. Enforcement Agents**

**9.1** Following the granting of a liability order, where a business ratepayer fails to make contact with the Council or fails to make or maintain a payment arrangement the Council may instruct its Enforcement Agents to collect the debt on the Council's behalf.

**9.2** All enforcement companies authorised to act on behalf of the Council will be certificated. At all times the Council's Enforcement Agents will work to CIVEA's agreed Code of Conduct and the Council's vulnerability criteria (shown at Appendix 1). Our Service Level Agreement with Suppliers meets the Council's Diversity and Equality principles.

**9.3** The Enforcement Agent will send a statutory Notice of Enforcement where a fee of £75.00 is charged. This initial stage is known as the "Compliance Stage" and will last for at least 22 days. Throughout this period the Enforcement Agent will attempt to contact the debtor by telephone and letter on at least 12 occasions to encourage payment or at least engagement.

**9.4** If full payment or an arrangement is not made (and maintained) during the compliance stage the Enforcement Agent will visit the business ratepayer with the aim of "Taking Control of Goods" and gaining full payment. There will be only one charge of £235.00 (plus 7.5% where the debt is over £1,500.00) irrespective of the number of visits the Enforcement Agent makes to the property.. Visits will only be made where the business rates debt is £150.00 or greater. Cases below this amount will be referred back to the Council after the Compliance Stage to consider alternative action.

**9.5** The Enforcement Agent may remove goods to be sold at auction or might return the case saying there are no goods to remove known as "nulla bona". Certain goods are classed as exempt goods and cannot be removed. Such goods are those that are required to meet the basic needs of the debtor or anyone in the debtor's household. The list of exempt goods is set out in paragraph four of The Taking Control of Goods Regulations 2013.

**9.6** Where it becomes clear that the debtor belongs to one of the vulnerable groups set out at Appendix 1 the visit will stop immediately and the Enforcement Agents will contact the Council for advice. The Enforcement Agents will take no further action until approval has been given by the Local Taxation Manager or a Business Rates Team Leader.

**9.7** Enforcement Agents will not enter a property where the only people present are either children or an adult that belongs to one of the vulnerable groups set out in Appendix 1.

## **10. Further Recovery Options open to the Council**

**10.1** Where the action detailed in section nine of this policy has either been unsuccessful, is not considered to be appropriate, or the business ratepayer has failed to make contact with the Council or has broken arrangements, the Council may pursue other recovery options that may have more serious implications for the business ratepayer. These actions include:

- Insolvency
- Committal to prison

**10.2** Any action to recover amounts by these methods will be considered on its own merits on an individual case by case basis, having regard to the 'Recovery Checklist'. The Recovery Checklist can be completed by any member of the business rates team but must be authorised by the Business Rates Team Leader or the Local Taxation Manager.

**10.3** The Recovery Checklist will include the following information:

- A record of why other methods of recovery are not appropriate, and
- Where little or no personal contact has been made - details of at least one visit to the property, and

- A record of information gathered and the reasons for the proposed action.

## **10.4 Insolvency**

**10.4.1** The detailed procedures setting out the process for taking this action is contained within the “Using Insolvency Proceedings and Charging Orders for the Collection of Local Taxation and Sundry Debts” procedures notes. These must be strictly followed in all cases.

**10.4.2** Bankruptcy and winding up (liquidation) action will only take place if;

- The value of the debt is £5,000 or more;
- It has been approved by the Local Taxation Manager;
- The recovery action set out in section nine of this policy has been unsuccessful or is not considered appropriate;
- The debtor is not classed as vulnerable (as set out in the procedure notes referred to in 10.4.1 above);
- There has been at least one unsuccessful home visit;
- To the best of the Council’s knowledge the debtor has sufficient realisable assets to pay all of the debt and all of the costs incurred.

**10.4.3** In all cases the process will start with the service of a Statutory Demand and if this is not successful will proceed to a Bankruptcy Petition or winding up petition being presented by the Council.

**10.4.4** In all cases the Council will work closely with its legal team or, subject to the relevant procurement process, an external partner that is an expert in the field of bankruptcy and insolvency proceedings.

## **10.5 Other Insolvency Actions**

**10.5.1** Other insolvency routes exist which fall short of making an individual bankrupt or winding up a company. These include;

- Administration Orders;
- Company Voluntary Agreements;
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- Individual Voluntary Arrangements.

**10.5.2** Depending upon the individual circumstances the Council reserves the right to support or contest any of the insolvency actions set out in 10.5.1 above. The decision must be authorised by the Business Rates Team Leader or Local Taxation Manager.

## **10.6 Committal to Prison**

**10.6.1** The Council can apply to the Magistrates Court to have a business ratepayer committed to prison for a maximum of 90 days. The council is likely to take committal action against a business ratepayer when;

- Taking Control of Goods by the Enforcement Agent on goods has been attempted and failed;
- The business ratepayer has no property or assets;
- The business ratepayer has previously broken agreed payment arrangements.

**10.6.2** If the Magistrates send a debtor to prison, whilst the business rates debt remains, it can no longer be enforced. In such cases writing off the debt is likely to be the appropriate course of action.

## **11. Write-offs and write-ons**

**11.1** Although every effort will be taken to collect every business rate debt it is inevitable that some debts will need to be uncollectable. The reasons for this include but are not limited to;

- The debtor absconds;
- The debtor dies and has no estate;
- The debtor is declared bankrupt or is subject to other insolvency proceedings;
- A court remits the debt.

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- Any debtor who is disabled, whether or not in receipt of disability benefits
- Any debtor who is a single parent
- Any debtor who has or appears to have mental health problems
- Any debtor who is pregnant
- Any debtor who has difficulty speaking or understanding English

The Council expects its Enforcement Agents to be able to identify where it feels a debtor is vulnerable but does not necessarily come in any of these categories.

Where it is identified that the debtor may be in a vulnerable category the Enforcement Agents will refer the case to the Council for advice before proceeding to the Enforcement Stage.



Organisation & Governance  
Finance Department

# Sundry Debt and Miscellaneous Income Policy

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Document author	John Massey
Document manager	Dean Horton
Approved by and when	Council Cabinet 7 December 2016
Date of document	16 November 2016
Version	1.7
Document classification	Internal
Document distribution	Internal
Document retention period	Until date of next review
Location	
Review date of document	Annually

If you require this document in large print, on audio tape, computer disc or in Braille please contact the document manager.

Date Issued	Version	Status	Reason for change
February 2013	0.1	Draft	New policy for comments by Controls Board
February 2013	0.2	Draft	Comments & update
April 2013	0.3	Final	Signed off by Controls Board
20 October 2016	1.0	Draft	Revised
20 October 2016	1.1	Draft	Following feedback from Derby Advice
21 October 2016	1.2	Draft	Tidied and marked up for EIA
26 October 2016	1.3	Draft	Changes following EIA on 25 Oct 2016
2 November 2016	1.4	Draft	Changes following input from Director of Finance
3 November 2016	1.5	Draft	Formatting and minor corrections
15 November 2016	1.6	Draft	Changes following O&G DMT / COG and legal advice.
16 November 2016	1.7	Draft	Minor corrections and tidied for Cabinet

Equality impact assessment record	
Date of assessment	25 October 2016
Summary of actions from EIA	Update list of vulnerable customers to include disabled people who may not be claiming disability benefits

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### 1. Introduction

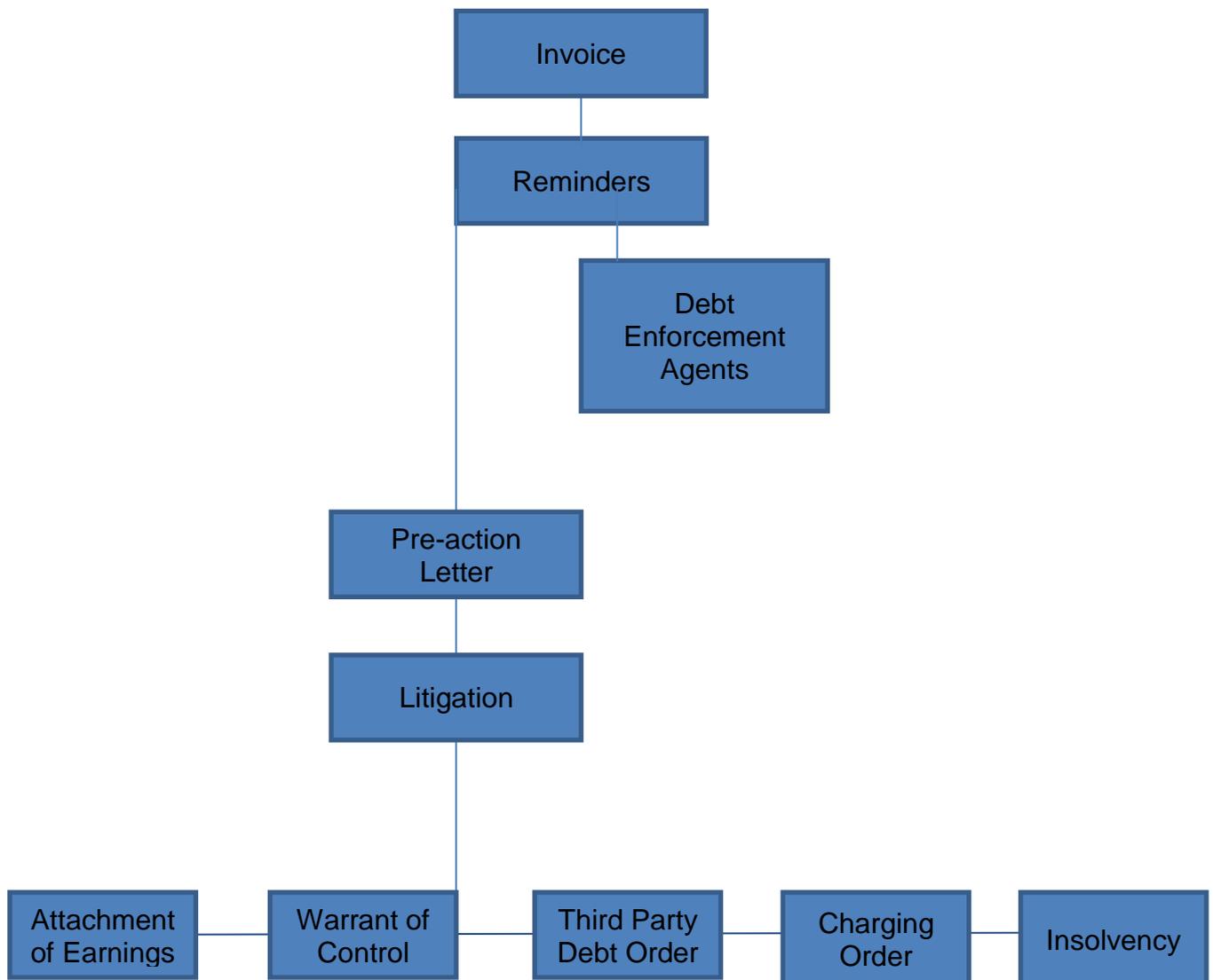
This document sets out the processes the Council will follow when collecting Sundry Debts and Miscellaneous Income. It supports the Council’s overarching principles for the collection of debt which are set out in the Collection Strategy.

### 2. Scope

This policy covers the administration, collection and enforcement of Sundry Debts and Miscellaneous Income.

### 3. Collection Process

The collection process and recovery options open to the Council are shown in the table below.



#### **4. Key Requirements**

The key requirements of this policy are:

- The promotion of payment in advance;
- To minimise the number of invoices issued;
- The promotion of a process of credit control and departmental ownership of debts;
- Ensuring that robust processes are in place for the timely and accurate raising of invoices and record keeping within departments;
- To ensure that debt recovery processes are robust and based upon the principles of consistency, transparency and proportionality;
- To ensure that Departments receive regular and accurate management information regarding outstanding invoices;
- The creation of a robust write-off policy for bad debts.

#### **5. Promotion of Payment in Advance**

**5.1** Departments will make effective arrangements to collect payments in advance of goods and services being provided. If this is not possible and low value goods/services are provided, Departments will consider amalgamating charges into one larger invoice (see section six below).

**5.2** Departments will need to liaise with Internal Audit services to ensure that any proposed payment mechanism is secure.

#### **6. Minimising the Number of Invoices**

**6.1** The Council will aim to minimise the number of invoices raised. This will be achieved by:

- (a) Securing full payment in advance;
- (b) Using consolidated invoices in cases where there is a regular charge for goods or services provided.

**6.2** Where possible the Council will operate a minimum invoice amount, below which invoices should not be issued.

## **7. Credit Control**

Future trading with bad debtors will be avoided and both the Accounts Receivable (AR) team and the Departments providing the good/service have a role to play in achieving this.

### **7.1 Role of the Service Departments**

Departments will ensure the following before providing goods/services:

- Future credit must not be given to customers who have previously been consistent late payers or who have not paid at all;
- That preferential credit limits are not agreed with any customer;
- Wherever possible they check the Corporate Financial system to identify potential bad debtors.

### **7.2 Role of the AR Team**

To assist with credit control the AR team will

- Perform credit checks for all cases where specifically requested by the service department;
- Issue a list of known bad debtors to service departments on a quarterly basis.

## **8. Debt Ownership**

**8.1** Together with the Credit Control measures listed in section seven above, debt ownership by Departments is a key control requirement for maximising income and reducing the incidence of non-payment.

**8.2** Current accountancy policies mean that Departmental budgets are credited in full as soon as an invoice is raised, irrespective of whether or not the payment in part or full is received.

**8.3** Should the amount of uncollectable debts be higher than the amount provided for within Departmental bad debt provisions, this will result in budget pressures as income will not meet expectations.

**8.4** Increasing Departmental ownership of debt will help to minimise this risk and will be achieved by:

- Minimising the number of invoices issued by obtaining payment in advance. If this is not possible amalgamated invoices should be considered where customers receive goods or services frequently for a low value;
- Write-offs being actioned regularly and at least quarterly (if appropriate);
- Departments receiving information about bad debtors quarterly, so that repeat business to these customers (where there is a choice) is not permitted;

**8.5** Where the Department provides goods/services to a known bad debtor and this information was known at the time the goods/services were provided, the Local Taxation Manager has the right to de-activate the account so Departments cannot raise further invoices.

## **9. Invoice Raising and Record-Keeping**

**9.1** It is important that there is a consistent approach across the Council in respect of raising and recovering debt.

**9.2** The following guidelines will be followed when raising invoices and collecting debt:

**9.2.1** Payment in advance for services will be obtained wherever practical;

**9.2.2** If payment in advance cannot be obtained, then as far as realistically possible, Departments will confirm a customer's ability to pay before commencing discretionary work. Assurance will be sought for all goods/ services provided in excess of £100.00;

**9.2.3** Departments will also identify if the customer has other debts due to the Council, or has previously had debts written-off, before extending further credit to the client;

**9.2.4** In line with the principles of minimising invoices through payment in advance Departments must devise appropriate and secure processes for the collection, banking and recording of income in respect of small value services. Internal Audit must be consulted before any local procedures are implemented;

**9.2.5** Departments must maintain evidence of the provision of services, work, goods, or materials to the customer. This will include a signed contractual agreement where appropriate. The failure to maintain adequate records will result in the debt being legally unenforceable;

**9.2.6** Departments must ensure that accurate details are obtained for all customers to whom credit is granted, including the full legal name, home address, telephone number, date of birth and email address. This will help to ensure that any subsequent recovery action is not delayed;

**9.2.7** Departments will ensure that where services, work, goods or materials are supplied to a customer, that invoices are raised in the Corporate Financial system as soon as possible but at the latest within 28 working days. Invoices will include a clear

description of the reason for the charge. Departments must ensure that client details are entered accurately into the system;

- 9.2.8** Wherever possible, there will be a clear separation of duties between staff employed in raising invoices, receiving monies, raising credit notes, recovering unpaid charges and writing out bad debt. If, due to local practicalities, staff perform more than one of these duties, Departments will ensure that a clear audit trail is maintained and sufficient management review of areas of risk takes place;
- 9.2.9** If an account cannot be collected, because it is disputed by a customer, it may be placed on hold for a maximum period of 30 days. This will provide an opportunity to resolve any outstanding matters with the customer. Following the expiry of this period the account will be subject to collection action, unless confirmed otherwise by an authorised officer from the invoice raising Department. All requests for accounts to be placed upon hold will be on the appropriate form and give full reasons why a hold is required. Accounts on hold will be monitored monthly by the AR team by running the relevant management report and confirming with the relevant department whether the hold should remain;
- 9.2.10** The Department must also maintain a record of any subsequent contacts with the customer regarding the invoice. Details of these will be forwarded to the Debtors team to record on the Corporate Financial system;
- 9.2.11** All invoices will be produced and despatched by the AR team on a daily basis;
- 9.2.12** Repayment terms will be clearly stated on the invoice and will normally be 30 days, unless otherwise stated;
- 9.2.13** At any time, after the invoice is issued a member of the AR team may enter into a payment arrangement with the debtor;
- 9.2.14** Arrangements will be monitored monthly by the AR team. Any debtor not paying in line with their arrangement will be sent a letter detailing the amount to be paid to bring the account back up to date and the period by which it must be brought up to date. If payment is not made then recovery action will escalate accordingly;
- 9.2.15** Where full payment is not made within payment terms the AR team will issue reminders to the customer. Reminder notices will be issued not less than 30 days from the invoice date;

- 9.2.16** Should the initial reminder remain unpaid the AR team will issue a second reminder after a further period of 30 days and then a third reminder after another 30 days. If payment has not been received following the issue of a third reminder the account may be passed to an external collection agent to pursue or selected for litigation action;
- 9.2.17** Reports will be provided to Heads of Finance quarterly detailing outstanding debts per cost centre. The Heads of Finance will use this list to discuss debts at management team meetings to further embed debt ownership within Departments;
- 9.2.18** Access to the Corporate Financial System will be provided to all Departmental staff involved in the collection of invoices. However, as a finite number of licenses exist an element of prioritisation may be required. Training on the system will be provided by the AR team or Business Systems team as required;
- 9.2.19** The AR team will undertake all recovery action for all accounts, unless there is specific agreement with the Service Director that devolved or local recovery will take place;
- 9.2.20** Notwithstanding the AR team undertaking recovery activities, all Departments will retain overall responsibility for the recovery of all income due to them, until full payment is received a credit note is raised for the full value of the invoice or it is written off. Departments must therefore take proactive steps to encourage payment during all relevant customer contacts;
- 9.2.21** Departments will ensure that requests for information to support formal recovery action will be provided without delay and issued to all relevant parties (Debtors team, legal services, collection agents etc);
- 9.2.22** The Debtors team (or Department where devolved collection and recovery arrangements have been agreed) will ensure that all payments received are applied to the relevant invoices without delay;
- 9.2.23** Unidentified payments will be posted to a suspense account which will be monitored daily to ensure that all appropriate action is taken to correctly identify the payment and allocate it appropriately.

## **10. Credit Notes**

- 10.1** There must be a clear distinction between raising a credit note and writing-off a debt.

**10.2**A credit note will only be issued to:

- Correct a factual inaccuracy
- Correct an administrative error.

**10.3**Credit notes must be issued by the relevant Department and it is the responsibility of the Departments to ensure that only appropriate people have authority to raise credit notes.

## **11. Collections and Debt Recovery**

**11.1** The Council's approach to the recovery of debt is as follows:

**11.1.1** All unpaid invoices above £10 should receive system generated monthly reminders up to a maximum of three;

**11.1.2** If, following the issue of an invoice and at least three monthly reminders payment is not made the Council will reserve the right to refer any debt of £50 or more to external collection agencies for action. Debts below this value will be considered for other recovery action. If any dispute exists about whether to refer a case to an external collection agent the final decision will rest with the Local Taxation Manager;

**11.1.3** If, following the issue of an invoice and at least three monthly reminders payment is not made the Council will reserve the right to refer any debt of £50 or more for litigation action. Debts below this value will be considered for other recovery action. Prior to commencing litigation action, the Council will write a pre-action letter to the debtor, giving a final opportunity to pay. At this stage, consideration will be given to any payment arrangement proposed by the debtor. If the pre-action correspondence does not result in repayment, the Council will consider applying for a County Court Judgment (CCJ). Once a CCJ has been obtained, the debtor will generally have 14 days to pay in full, unless the court orders payments by instalments. In the event that the debtor fails to pay in accordance with the court order, the Council may rely on any method of enforcement that is available through the court (including: attachment of earnings orders, warrants of control, third party debts orders, charging orders and insolvency proceedings);

**11.1.4** Under the current contract with our Enforcement Agents the collection of Sundry Debts is a free service and therefore there is no impact on departmental budgets. Debts for Residential

Care and Carelink will not be passed to external collection agents;

**11.1.5** Departments will need to notify the Debtors team of any individual vulnerable client, vulnerable client groups or invoice types that should be excluded from the standard process;

**11.1.6** All enforcement companies authorised to act on behalf of the Council will be certificated. At all times the Council's Enforcement Agents will work to CIVEA's Code of Conduct and the Council's Vulnerability Criteria (shown at Appendix 1). Our Service Level Agreement with Suppliers meets the Council's Diversity and Equality principles;

## **12. Write-Offs and Write-Ons**

**12.1** Although every effort will be taken to collect every Sundry Debt and Miscellaneous Income debt it is inevitable that some debts will be uncollectable. The reasons for this include but are not limited to:

- The debtor absconds;
- The debtor dies and has no estate;
- The debtor is declared bankrupt or is subject to other insolvency proceedings.

**12.2** The actions taken before recommending a debt for write-off will depend upon the individual circumstances, and are included in the local write-off procedures used by staff.

**12.3** All write-offs have to be approved by the appropriate officer or Council Cabinet in accordance with the financial levels set out in the Council's Financial Procedure Rules.

**12.4** Should a debt be written off and then subsequently the reason for the write off is not appropriate – for example a debtor that has absconded is traced – the debt will be written back on and pursued.

## **13. Customer Feedback and Disputes**

The Council will endeavour to resolve any disputes in relation to debt collection at the earliest possible opportunity and will ensure that customers are fully aware of the ways in which they can contact the Council in order to discuss any dispute they may have.

Disputes regarding the goods or service provided should be between the customer and the relevant Department. The relevant department must make the Debtors team aware if recovery is to be placed on hold whilst efforts to resolve the dispute commence.

Where part of a debt is disputed, the Council will endeavour to collect the undisputed amount at the earliest possible stage whilst also dealing with the disputed debt.

If a customer wishes to make a complaint regarding the way in which the Council has undertook to recover a debt, they will be fully advised of the Customer Feedback procedure and will be given every assistance in registering a complaint.

If the complaint is about the actions of the Council's Enforcement Agents the Council will ensure that the Enforcement Agents conduct a thorough internal investigation and report their findings and what action will be taken as a result of their investigation.

#### **14. Policy Review, Monitoring and Governance**

The Head of Revenues, Benefits and Exchequer Services (HRBES) will monitor the effectiveness of this Policy. The HRBES will bring any issues with its operation to the section 151 officer for consideration.

This Policy will be reviewed regularly to ensure it is kept relevant and takes account and advantage of changes in legislation, new approaches and new ways of working.

### **Appendix 1**

#### **Enforcement Agents – Vulnerability Criteria**

The Council's current definition of "vulnerable person" for the purpose of Enforcement Agent action includes, but is not limited to:

- Any debtor over the state pension age
- Any debtor who is disabled, whether or not in receipt of disability benefits
- Any debtor who is a single parent
- Any debtor who has or appears to have mental health problems
- Any debtor who is pregnant
- Any debtor who has difficulty speaking or understanding English

The Council expects its Enforcement Agents to be able to identify where it feels a debtor is vulnerable but does not necessarily come under any of these categories.

Where it is identified that the debtor may be in a vulnerable category the Enforcement Agents will refer the case to the Council for advice before proceeding with the Enforcement Stage.