

**Harborough District Council, The Symington Building, Adam & Eve
Street, Market Harborough, Leicestershire, LE16 7AG.**

**Corporate Debt Policy.
Sundry Debt**

“Where this Council seeks to collect money, the Council will issue bills promptly and correctly. Where recovery action is required, the Council will act quickly, fairly and impartially, but with due regard to the social welfare and human rights of our customers.”

Contents

- 1. Introduction**
- 2. Strategy**
- 3. Policies Common to all Types of Debt**
- 4. Principles of Enforcement (Sundry debts)**
- 5. Write Offs (Sundry debts only) – See Appendix A3**
- 6. Policies Specific to Sundry Debtors**
- 7. Use of Enforcement Agents – See Appendix A2**

Appendix A1. Anti – Poverty Statement.

Appendix A2. Bailiff’s Code of Practice.

Appendix A3. Write Off Policy.

1. Introduction.

This Strategy ensures that the Council will rigorously collect all monies due to it. The policy ensures that the collection and recovery processes are fair to everyone, especially people on low incomes. This is accomplished by taking account of specific circumstances of each debtor.

Different types of debt have specific powers with regard to levying the charge and collection of sums due as these can be a mixture of Statutory and Non Statutory charges. The method for the billing and recovery of the statutory debts is tightly prescribed by Statute and our enforcement practices must take account of this diversity.

Wherever possible the Council will distinguish between those who **cannot pay** their debts and those who **will not pay** them. Any debtors who are identified as being able to pay, but are unwilling to do so will be dealt with in the most speedy and effective manner to ensure that the full debt is collected as soon as possible within the powers open to the Council.

Where genuine hardship exists, the Council's officers will adopt a more sympathetic and reasonable approach. It is the Council's policy both to ensure that money owed to the Council is recovered in the best manner possible and to ensure that people receive benefits and other reliefs to which they are properly entitled. However, where actions taken by the debtor have contributed to their situation, this will be taken into account in dealing with the case i.e. inappropriate expenditure.

This strategy is intended to ensure that all taxpayers and debtors are treated in a fair and consistent way, taking account of individual circumstances. People with serious debt problems will be encouraged to contact or seek advice from debt counselling agencies as appropriate.

The Council recognises that prompt, firm but fair action in collecting money is essential to ensure efficient and cost effective collection of monies due.

This strategy sets out the general principles to be applied in relation to debt management across all services provided by this Council. It is to be used together with more detailed procedural guidance for staff.

2. Strategy.

2.1 The Aims of the Strategy:

- ✓ To ensure that the Council is pro-active in taking firm but fair action in collecting monies owed and achieving a reduction in the amount of overall arrears due to the Council.
- ✓ To provide a Corporate Debt service that works and takes people's needs into account
- ✓ To ensure that all parts of the Council work the same way on billing, and multiple debts
- ✓ To consider our customers' rights to a reasonable standard of living, be aware of other debts and outgoings when setting up arrangements.

- Take action against deliberate non-payers or those who delay payment without good reason;
- Ensure we make early contact to provide support and advice to avoid debts increasing;
- Encourage our customers to contact us and / or recognised advice agencies as soon as there is a problem and to encourage the use of external agencies to assist individuals.
- Work with people in debt, or at risk of getting into debt, to set payment arrangements they can afford and to stay in touch with customers until their debts are cleared. **See Appendix A2 – Anti – Poverty Strategy.**

2.2 The Primary Regulations Governing Collection

- The Civil Procedure Rules 1999, and subsequent updates.
- The Insolvency Act.
- The Local Government Act 1972.

3. Policies Common to all Types of Debt

- 3.1 Every demand for money will be correctly addressed to the person who is liable to pay it. The name on the demand will be that of a person or body possessing “legal personality”
- 3.2 Demands will, wherever possible, be issued on the day of production.
- 3.3 All notices issued by the Council will comply with the corporate style guidance and be readily identifiable as being from the Council. All bills and notices will be clear, accurate and timely indicating what must be paid and when.
- 3.4 The Council will ensure that all follow up recovery documentation is clear and informative so that debtors are fully aware of the procedures and consequences and options available.
- 3.5 In the interest of economy and where appropriate all demands, reminders and final notices shall be issued by 2nd class post unless contrary to regulations or other statutory or legal requirements.
- 3.6 All relevant information relating to a demand will be kept either in paper or electronic format for up to six years after the demand has been raised in line with Financial Regulations. If at the end of that six years, the demand still remains unpaid, all relevant documentation whether physical or electronic, will be retained until the demand is paid, where it is being pursued, or the debt is written off. All relevant materials will be retained in line with this policy and HDC’s Document Retention Policy for up to six years following the closure of a particular case or longer where there is a lawful reason for doing so.

- 3.7 The Council will attempt at all times to use the most appropriate and effective method of debt recovery in order to maximise income.
- 3.8 The Council will encourage the most cost effective payment methods with the emphasis being on unmediated electronic means where possible. "Unmediated" in the context of electronic payment methods means a method of payment that requires no human intervention by officers of the Council, in order to achieve its crediting to the account in question.
- 3.9 Debts should be collected within the accounting period and before the next amount due. Anything other than this will lead to more hardship and perhaps start a downward spiral on the ability of the debtor to manage all debts.
- 3.10 Officers will be able to intervene in the recovery cycle in appropriate circumstances to deal with hardship or dispute situations. This includes the ability to make deferred payment arrangements where immediate payment is impossible due to lack of means. Recovery procedures should not be so rigid as to :-
- Cause unnecessary hardship
 - Prevent an individual approach and flexibility where appropriate
- 3.11 Equality and diversity considerations will be taken into account in accordance with the Council's Equalities Policy. Specifically staff seeking to recover debts will have regard to:
- Ensuring information is accessible through translations, larger print versions or sign language, as appropriate to the needs of the debtor. (This will be available by arrangement)
 - The need for home visits where the debtors are unable to access advice services.
- 3.12 Where the potential for a statutory benefit or discount exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities and they will be assisted and encouraged to apply for these.
- 3.13 The Council will encourage people with payment problems to come forward early to discuss their individual circumstances.

- 3.14 The Council welcomes the involvement of welfare agencies where authorised by the debtor in connection with debts due to the Council and recognise the benefits that these organisations can offer both the debtor and the Council in prioritising repayments to creditors and in maximising income available to the debtor.

The Council recognises and values the provision of advice from the following agencies and will work in conjunction with them for the benefit of the debtor.

- Age Concern
- Citizens Advice Bureau (CAB)
- Shelter
- Leicester Money Advice

- 3.15 The Finance Services Team will ensure that in cases of multiple debts there will be close liaison between service providers. Multiple debts are where a debtor has significant debts in more than one service area e.g. council tax and housing benefit overpayment. Such cases can present problems in determining the relative priority of the individual debts for both the individual concerned and the staff preparing settlement.

Overall our approach will be a proactive one to provide for multiple debt payment. In assessing the payment we will have regard to:

- The size of the debt
- Its relative priority, a decision needs to be made as to the Council's priority of debt management and allocation of payments.
- Consequences of failure to pay
- Circumstances of debtor
- Increases in the debt

- 3.16 The Council recognises that prompt recovery action is key in managing its debt and maximising income. The Council therefore aims to:

- Regularly monitor the level and age of debt.
- Set clear targets for the recovery of debt.
- Have clear written recovery procedures.
- Set priorities for specific areas of debt and assess recovery methods to ensure maximum recovery.
- Regularly review irrecoverable debts for write-off.

- 3.17 All accounts that are written off will be written off against the income code against which they are raised.

- 3.18 Where a Debt Collection Agency is procured to assist with the delivery of a service the flow of information between the Council and the agency should, wherever possible, be in a secure electronic format and strictly in accordance with the national standards for enforcement agents.

- 3.19 Where legislation permits, the Council will seek to levy and recover from the debtor any and all costs / fees that are legitimately due from the debtor to the Authority or its agents. Only in exceptional cases, where it would not be in the public interest to pursue costs / fees will they be waived. These cases would need to be referred to the Chief Financial Officer.
- 3.20 Where either national or local performance indicators exist the Council will strive for top quartile performance and will publish our actual performance against these targets as required. Progress reports will be made available at regular intervals during the year.
- 3.21 We will ensure enforcement staff are adequately trained to deal with the public or their representatives and provide clear advice on recovery matters and general advice on benefits.
- 3.22 We will also ensure that staff are provided with awareness training on money advice and debt counselling. This will enable them to give qualified advice to debtors and refer them to the correct bodies for specialist advice.

4. Principles of Enforcement (all debts)

4.1 The Council will follow the principles outlined below.

- ✓ Our action will be **proportional**
- ✓ Our approach will be **consistent**
- ✓ Our actions will be **transparent**

Additionally our intention will be to be firm and fair and our manner will be courteous.

4.2 **Proportionality** – Proportionality allows for a balance to be struck between the potential loss of income to the Council and the costs of compliance.

4.3 **Consistency** – Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aim to achieve consistency in:

- ✓ The advice the Council gives.
- ✓ The use of our powers.
- ✓ The recovery procedures used.

The Council recognise that consistency does not mean simple uniformity. Officers need to take account of many variables such as:

- ✓ The social circumstances of the debtor.
- ✓ The debtor's payment history.
- ✓ The debtor's ability to pay.

4.4 **Transparency** – Transparency is important in maintaining public confidence. It means helping people to understand what is expected of them and what they should expect from the Council. It also means explaining clearly the reasons for taking any recovery / enforcement action.

Transparency is a key part of the Council Officer's role. If action is required, the reasons why must be clearly explained, in writing, where required. If action is required time scales must be clearly stated. A distinction must be made between advice and legal requirements.

Communications should be in plain English and other mediums upon request.

An opportunity must be given to discuss what is required to comply with the law before formal enforcement action is taken. A written explanation must be given of any rights of appeal against formal enforcement action either before or at the time the action is taken.

5. Write Offs (Sundry debts)

- 5.1 The Council recognise that where a debt is irrecoverable, prompt and regular write off of such debts is good practice.

All debts will be subject to the full recovery, collection and legal procedures as outlined in this policy.

Irrecoverable debts will be referred to the authorised signatory at a pre-agreed frequency and in a pre-agreed format. **See Appendix A3 for the detailed Write Off Policy.**

The limitations for writing off irrecoverable debts are those contained within the Council's Financial Regulations.

6. Policies Specific to Sundry Debtors

- 6.1 The responsibility for the billing, collection and recovery of sundry debtor demands is held by the relevant member of the Corporate Management Team.
- 6.2 Service providers will endeavour to obtain payment in advance or at the time of service delivery wherever permissible.
- 6.3 Except in the case of a demand payable by instalments or as otherwise contractually agreed, the settlement terms for all demands will be within 14 days.
- 6.4 Recovery action will commence no later than 14 days after the demand has fallen due. Recovery action progressions (unless otherwise agreed) are:-
- ✓ Reminder 1 – 15 days after invoice date
 - ✓ Reminder 2 – 7 days after reminder letter 1
 - ✓ Bailiffs / legal action – 7 days after reminder letter 2 (details will be passed to the service area)
 - ✓ Action taken will be dependent upon the type of debt and service area.
- 6.5 Actions to recover possession of property will be dealt with in accordance with the provisions of the individual legal documents governing occupation of the property.
- 6.6 The costs of enforcement action / litigation to recover sundry debtor invoices will be charged against the budget of the service raising the invoice. Any costs recovered from the debtor will be credited against these sums.
- 6.7 The Finance Services Team will be able to charge the debtor interest and recover costs if within the legislation, from the first reminder letter being issued. Details will be included in the reminder letters issued.
- 6.8 Sundry debtor invoices will be raised using the E Financials debtors system.

- 6.9 All statutory methods of enforcement of debts shall be available for use. These include:
- ✓ Attachments of Earnings
 - ✓ Warrants of Execution (taking possession of goods / charging order on land / securities)
 - ✓ Third party Debt Orders
 - ✓ Insolvency
 - ✓ Possession proceedings
- 6.10 Prior to statutory methods of enforcement being taken, officers may use, where cost effective to do so, external collection agents, visits to the debtor's home by designated Council Officers and telephone contact with the debtor as an alternative means of recovering sundry debts.
- 6.11 Where legally permissible, the provision of future services to the debtor will be suspended until outstanding debts are settled.
- 6.12 Every demand for money will be correctly addressed to the person who is liable to pay it. The name on the demand will be that of a person or body possessing "legal personality", this is the responsibility of the service area. If a service area requests a credit to be issued as a result of the "legal personality" being incorrectly determined by the service, this will result in an administration charge to the service area.
- 6.13 Ownership of all sundry debts rests with the originating services and they can issue an instruction to cancel an invoice. It is the responsibility of the originating services to correspond with or discuss with the debtor issues relating to the validity of the debt.
- 6.14 In the event of a query or dispute in relation to an invoice, it is the responsibility of the Service Department that raised the original request to resolve all matters other than those of a payment nature. Recovery action will be suspended until the query or dispute has been resolved.
- 6.15 The Service Department must liaise with Income Section to resolve the matter within 10 working days of the query or dispute being raised.
- 6.16 If an invoice remains in dispute for longer than 60 working days, it will be assumed that the debt is no longer due and will be cancelled to the original revenue code and the appropriate Service Manager informed.
- 6.17 Should the dispute be subsequently resolved after cancellation of the original invoice, a new invoice request will need to be submitted.
- 6.18 The Finance Services Team will provide reports to the originating services on a regular pre-agreed basis as to the value of their outstanding accounts.

7. Use of Enforcement Agents (Bailiffs)

Bailiffs are employed as a last resort and follow a strict code of conduct agreed with the Council and in accordance with the National Standards for Enforcement Agents. After all attempts to gain payment have failed, a debtor's account will be passed to the bailiffs for collection.

The bailiff is employed to obtain goods belonging to the debtor and sell them to pay off the debt.

Bailiffs will make arrangements for payment under guidelines provided by the Council. Bailiffs' charges are substantial but are not discretionary. They are laid down in legislation.

Once an account is passed to the bailiffs, all future payments must be made directly to them. Unless there are exceptional circumstances no arrangements or payments will be accepted by the Council.

The bailiffs strict Code of Practice, ensures that approval to remove must be sought from the Council prior to the removals of goods from the debtors homes. **See Appendix A2.**

APPENDIX A1

COUNCIL ANTI –POVERTY STATEMENT

The Council:

- Understands the impact that financial difficulties can have on a customer and the stress that it can cause. The Council believes it is also in the customer's interest for a debt to be recovered to help break the cycle of social exclusion.
- Believes that customers have a responsibility to pay any monies due to the Council and in particular that those affect their home, personal liberty and livelihood (ie Council Tax and Non Domestic Rates)
- Will try and encourage customers to contact the Council as soon as they have a difficulty in meeting their payments
- Will treat each customer as an individual and will take account of the circumstances of the customer while recognizing the need for monies outstanding to be paid.
- Understands the customers obligation to their close dependents.
- Will train our staff to support the customer as much as possible and to explore the possibility of advising the customer of any benefits, reliefs or discounts to which they may be entitled
- When dealing with multiple debts will try and reach agreement with the customer on how payments are to be allocated. This will usually be in accordance with paying off priority debts first and advising customers of the consequences of taking, or not taking, certain courses of action.
- Will ensure that customers are aware of recovery action that could be taken against them if they fail to make payments or agree a suitable payment arrangement
- The Council will liaise and work with advice agencies (Market Harborough & Lutterworth Citizens Advice Bureau and Money Advice Units in particular) to try and provide a viable solution for a customer's payment problems
- Will seek to develop strategies in the future to start profiling customers and using information across a range of agencies to identify trends with a view to interacting with customers at an earlier stage to try and prevent them from accumulating debts.

APPENDIX A2

The Council currently uses one Bailiff Company, and has signed service level agreement in place.

**Bristow & Sutor.
Civil Enforcement Agents
Bartlett Road
Washford
Redditch
Worcestershire, B98 0FL.**

**JACOBS
6 Europa Boulevard
Birkenhead
Wirral, CH41 4PE**

APPENDIX A3

Harborough District Council – Detailed Write Off Policy.

1. Purpose of this policy

The purpose of this policy is to prescribe the standard procedures to be followed by officers within the Finance Services Team when it is considered inappropriate to continue to collect and enforce the recovery of Sundry Debtors.

2. Financial Implications

In accordance with Financial Regulations, the Chief Finance Officer has authorisation to write off debts. Before monies can be considered for write off, documentary evidence confirming actions taken to recover and trace the debt must support the request. Details of the numbers and values of cases written off under delegated power will be reported to the Cabinet Committee for information purposes. The Chief Finance Officer will set the limits with regards to the amounts to be written off by Cabinet and write offs below the limit can be authorised by the Finance Manager.

The Cabinet will be requested to write off debts (in line with the Constitution) at regular intervals and will be detailed individually stating the name of debtor (Exempt information), the period of debt, the amount of debt and the reason the debt is irrecoverable.

3. Circumstances when it will be appropriate to write off monies

It will be necessary to write off irrecoverable debts in a variety of circumstances. These can be categorised as follows:

- ✓ **debts where the debtor / company is insolvent (Bankruptcy / Liquidation) and Administrative Receivership cases
- ✓ **debts where the debtor has served a custodial sentence in respect of the debt
- ✓ **debts where the debtor is deceased and the estate is insolvent
- ✓ **debts which are remitted by the courts due to hardship
- ✓ debts where the debtor has absconded
- ✓ small value non-recurring debts
- ✓ debts which are uneconomical to collect or where it is considered inappropriate to continue with legal or recovery action due to an individual's known personal or financial circumstances.
- ✓ debts where a company has ceased to trade leaving no assets
- ✓ debts which cannot be legally enforced

4. General Guideline:

Although the **amount** of the debt would normally dictate the amount of time and resource allocated in trying to collect the various debts, in some of the circumstances shown above (marked with **) the debt must be written off irrespective of the amounts involved. Each heading is detailed below explaining actions that will be taken by the Council.