



**South
Derbyshire**
District Council

Debt Management and Credit Control Policy

April 2016

Corporate Services Directorate

Introduction

The Debt Management and Credit Control Policy combine the Corporate Debt Recovery Policy and Sundry Debtor Control Policy into a single document.

The Policy provides an updated framework for service delivery that continues to recognise that debt occurs for a variety of reasons and seeks to draw the distinction, and therefore, the approach to be taken when, on one hand, there may be a deliberate intention not to pay and, on the other, non-payment may be as a result of a simple oversight or a change in personal circumstances.

The framework fully supports the Council's Corporate Plan and provides a methodology that can be used to drive continuous improvement in collection and service delivery and ensure excellence in Customer Services by ensuring customers are treated fairly.

The Policy provides the core principles that apply to the Council's collection and income management processes and procedures whilst the Appendices, provide supporting detail.

Organisation of actual recovery routines will be set out in departmental process manuals to reflect the need to respond promptly to changes in legislation and or local circumstances.

It should be noted that application of the Policy will be monitored by the Director of Finance and Corporate Services and will be subject to scrutiny and review.

The contents of Debt Management and Credit Control Policy are as follows:-

1. Overview
2. Underlying Principles of the Policy
3. Policy Guidelines

Appendices

- A Guidance on Legal Entities
- B Enforcement Agents' Code of Conduct

1 OVERVIEW

- 1.1 The Director of Finance and Corporate Services has responsibility, under Section 151 of The Local Government Act 1972, for the proper administration of the financial affairs of the Council.
- 1.2 Financial procedure rules covering this area are to be found in Section 27 D2 (paragraphs D2.1 to D2.14 including the guidance notes) of the Council's Constitution.
- 1.3 This Policy is based on recommendations set out in best practice and guidance issued by various professional bodies and the government, which details the way in which the Council intends to collect monies due to it from both individuals and businesses.
- 1.4 In short, the Council will use the most effective method of debt recovery, appropriate to each case and the nature of the debt, in order to maximise income due to it
- 1.5 It is, however, inevitable that from time-to-time the Council will be required to pursue recovery, from persons and or businesses experiencing genuine financial difficulty.
- 1.6 This means that an agreed and transparent policy of how the Council manages and collects debts is considered key to ensuring consistency, sensitivity and best practice in such situations to ensure the best outcome for all parties.
- 1.7 The Policy covers the following debts owed to the Council,
 - Council Tax and Business Rates
 - Housing Rents
 - Benefit overpayments
 - Sundry debts, e.g. commercial rents, fees and charges
- 1.8 The Policy sets out the general principles and standards to be followed in matters such as:
 - Contact arrangements with the Council
 - General guidelines on payments and arrangements
 - The rules on enforcement activity, including use of the courts
 - The manner in which agents act on the Council's behalf

- 1.9 Integral to the Policy is the provision of support mechanisms such as:
- Welfare and Housing Benefit advice
 - Housing options support for the prevention of homelessness
 - Signposting to partner organisations such as the CAB
- 1.10 The approach to collecting debt in South Derbyshire is one that provides clear and unequivocal advice and practical help to those who are prepared to make use of it but is equally robust with those who do not or will not.

2 UNDERLYING PRINCIPLES

Billing and Collection

2.1 Every request for payment shall be properly addressed. The minimum standard to be followed is:

- Title
- First name
- Family name (*all names where a joint and several liability exists*)
- Full postal address
- Post code

Note that the Registered Office of a business is also required in addition to the trading address (*Please see **Appendix A** for examples of the correct legal entities to be used*).

2.2 All relevant information relating to a bill will be kept either in paper, scanned image format or otherwise in accordance with the Council's Document Retention and Management Policy. Telephone contact and e-mail addresses should be requested and retained *provided a 'fair processing notice' has been published by the department concerned*.

2.3 Where an invoice is required it shall be created by following the Agresso procedures set out in the **How to** section on the Intranet. Invoices may be for small amounts in the case of 'peppercorn' or 'ground rents'.

2.4 Under no circumstances should a service or facility be provided to a company that is in receivership or any individual who is in the process of being declared bankrupt. Suitable checks on Companies who have voluntary agreements that allow them to continue trading should be made. A Company Search should be made at Companies House to elicit the relevant information. *A check at Companies House should be made before transacting with any limited company to validate the company name and number and ensure that it is still active.*

2.5 Similar rules should apply to individuals who are attempting to clear debts under voluntary arrangements, such as Debt Relief Orders or an Individual Voluntary Arrangements (IVA). Advice should be sought from Legal and credit checks made through Finance or the Client Services Team.

Payments

- 2.6 Where possible the Council will encourage pre-payment for services and/or the use of non-returnable deposits to ensure the on-going viability of service provision in financial terms.
- 2.7 The Council's preferred method of payment is electronic or automated methods and this is encouraged as much as possible.
- 2.8 Payment methods accepted are as follows:
- Automated Telephone Payments/Mobile device
 - The Internet
 - Direct Debit
 - Credit and Debit cards
 - At a Post Office and other Payment Points
 - Cash machine
 - Contactless devices
 - Prepayment
- 2.9 The Council will always encourage the most cost effective payment methods by customers and will offer the widest possible means of customer contact and access to its services and for it to contact its customers. As such the Council will keep under constant review advances in technology.

Recovery and enforcement

- 2.10 The Council will use the most effective method of debt recovery, appropriate to each case, in order to maximise income. This may involve the use of external enforcement agents, who will be properly referenced and certificated to carry out such functions and carry the necessary indemnities and insurances. They will of course work to the Council's prescribed Code of Conduct (**Appendix B** for an Example Code of Conduct which should be tailored to meet departmental requirements). Agents will be members of an approved professional association, for example M.N.A.E.A.
- 2.11 In the case of recurring service delivery such as trade waste collection, room or pitch hire, it is expected that the facility is withdrawn on payment default unless there are compelling reasons otherwise. Compliance checks will be carried out Client Services to ensure that facilities are withdrawn.
- 2.12 Equality and related considerations will be taken into account in accordance with the Councils Equalities Policy. Specifically, staff seeking to recover debts will:

- Ensure that, when needed, information is accessible through translations, large print versions or sign language, appropriate to the needs of the debtor.
- Arrange for home visits where individuals are unable to access the Council's services.

- 2.13 Where the potential for a statutory benefit or discount exists every effort must be made to make the debtor aware of such opportunities together with assistance and encouragement to apply for these. Where an award, under the jurisdiction of the Council, may be granted without further evidence it will be processed without delay to reduce indebtedness to the Authority.
- 2.14 This Policy is supported by and is supportive of any policies or external agencies that work to promote social inclusion.
- 2.15 All notices issued by the Council will comply with the corporate style guidance and be readily identifiable as being from the Council. It must provide clear information on how, where and when to pay and will state clearly what the next step will be if payment is not made on time.
- 2.16 The Council will work alongside welfare and advice agencies in dealing with debts due to the Council (either singly or where there are multiple debts that may include other organisations) and actively signpost, with the debtor's approval, such cases as are considered appropriate to those organisations.

Multiple Debts

- 2.17 In the case of multiple debts due to the Council, with the exception of Housing Rents, the staff within the Debt Recovery Team, or equivalent will coordinate recovery activity, as far as possible, and balance repayment profiles across all debts according to the following general priority.
1. Housing rent current
 2. Council Tax current
 3. Other recurring liabilities
 4. All other current debts - unless any are subject to Court orders and repayment schedules in which case they rank equally at 3 above
 5. Aged debts subject to court orders and repayment schedules
 6. Other aged debts

- 2.18 The Council recognises that prompt recovery action is key to managing debt and maximising income and will work with departments internally and agencies externally to achieve this ensuring performance is monitored at all stages as set out from **Section 2.24**.
- 2.19 Where an external agency provides assistance with the delivery of a service it shall be supported by a Service Level Agreement that will include escalation processes in the event of no, or poor, service delivery. The flow of information between the Council and the agency shall in all cases and at all times be in a secure electronic format as prescribed in the Council's ICT Security Policy and be in accordance with the Data Protection Act.
- 2.20 Where legislation permits, the Council will seek to charge and recover from the debtor any and all costs/fees/interest legitimately due from or chargeable to that person incurred by either the Council or its agents. In exceptional cases, where it would not be in the public interest to pursue residual costs/fees only following settlement of the debt it may write-off the costs (See **Section 2.24**).
- 2.21 Where bills and reminders are returned as 'Gone Away' or other notification is received that the debtor has absconded, trace facilities such as LOCTA/Equifax or Experian or similar search engines are available in each department. Where a forwarding address is not available through that means, consideration will be given to the use of a Tracing Agent on a "no success no fee basis." The use of this resource will not generally be used for debts below £150.
- 2.22 The Council will always follow regulatory advice, case-law and best practice when dealing with non-payment. In most cases, activity is prescribed by regulation and precedent but where there is discretion as to the de minimis value below which cases are excluded from recovery and enforcement action, this is a matter for individual departments, although they should liaise with the Finance and the Debt Recovery Teams.

Council Tax and Housing Rent Arrears

- 2.23 Council Tax and Housing Rent arrears follow departmental processes as regards enforcement, i.e. committal and eviction respectively. In the case of other debts, action is through the County Court, following a visit by a collection agent, where the costs can be considered high compared to results. Therefore, no such action will generally be taken where a debt is below £200.

Write-offs

- 2.24 The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice as it maintains the accuracy of the collection databases and its financial accounts. The same principles apply where accounts are in credit.
- 2.25 Every effort will be taken to minimise the cost of write-offs by taking all necessary action to recover what is due within a timely manner. All debts will be subject to the full recovery, collection and legal procedures as outlined in this policy except where the value is considered insufficient to warrant further expenditure.
- 2.26 Where all forms of recovery on outstanding debt have been exhausted and/or it is considered that the debt is no longer economic to pursue, it should be written off. Depending on the current limit set out in the Council's financial procedural rules, this is subject to approval of the Director of Finance and Corporate Services or the Finance and Management Committee.
- 2.27 All write offs should be processed within the time limit to allow any VAT to be reclaimed on the bad debt, in accordance with the rules and procedures laid down by HMRC.
- 2.28 All accounts that are considered and subsequently approved as being irrecoverable will be written off against the bad debts provision.
- 2.29 Debt write-off does not preclude arrangements for pursuing and accepting payment at a later date. *Departments must therefore retain sufficient information to be able to resurrect the debt at a later date and provide it in support of future recovery action should it prove necessary.*
- 2.30 Credit notes in the case of invoices raised are written back to the relevant departmental cost centre. Therefore, a more proactive use of credit notes where disputes are not resolved and where backing paperwork for County Court action will not stand up to court scrutiny should reduce the amounts to be written off to the corporate debt provision.
- 2.31 Where the Council is aware or notified of a customer being made bankrupt or falling into receivership or liquidation, etc. then Finance should be made aware immediately. Subsequently, Finance should liaise with the Revenues and Benefits Manager/Client Services Team to determine whether a receiver or liquidator has been appointed. The Debt Recovery and Management Team will submit the proof of debt.

- 2.32 As the Council is unlikely to receive a dividend in any insolvency proceedings, such debts should be written off as soon as a proof of debt has been lodged rather than carry uncollectable debts in the financial accounts.
- 2.33 Where either national or local performance indicators exist the Council will strive to be the best in class and publish actual performance against these targets quarterly, including reporting to the appropriate Committee. Progress reports will be monitored monthly.

Performance Management and Reporting

- 2.34 Departments are expected to maintain and to monitor progress in respect of the invoices and bills for income which falls into the budgets for which they are responsible. They will also ensure that a proper balance is taken between the need to collect current debt in order to maintain in-year collection rates but to also recover prior year debts; this is to reduce on-going budgetary pressures on the bad debt provision.
- 2.35 Therefore, the Council will:
- Set clear targets for the recovery of current and prior year debt
 - Regularly monitor the level and age of debt
 - Set, where appropriate, targets for teams and individuals
 - Have clear written and published recovery procedures
 - Have in place regular and formal reviews with partners and agents
 - Set priorities for specific areas of debt and assess recovery methods to ensure maximum efficiency and recovery levels
 - Utilise bespoke activity for 'difficult' cases
 - Regularly report progress to the appropriate Committee
 - Regularly review irrecoverable debts for write-off in accordance with the Constitution

- 2.36 The performance information should be produced by Departmental Managers on a monthly basis. Information should be reported quarterly to the Finance and Management Committee and the Housing Committee (for Housing Rents) alongside some narrative to explain the figures, trends, actions required, etc.
- 2.37 The main benchmark is the Council's own past performance and trends, etc. and these are the indicators on which improvement should be based. However, wherever possible, comparisons are made with other local authorities and local government generally, through published information or benchmarking clubs, etc.
- 2.38 Where either national or local performance indicators exist the Council will strive to be the best in class and publish actual performance against these targets quarterly, including reporting to the appropriate Committee.

3. POLICY GUIDELINES

General

- 3.1 The Council will adopt the following three principles, considered to be best practice in enforcement activity, namely that at all times our actions will be:
- proportionate
 - consistent, and
 - transparent
- 3.2 The Council will be firm and fair and treat our Customers with respect.
- 3.3 The Council will look to strike a balance between the potential loss of income to the Council and the costs of compliance. We will not unduly penalise late payers. Such costs as are charged will be the actual cost of the activity concerned.
- 3.4 It is our intention to take a similar approach in cases with similar circumstances to achieve similar ends. We will aim to achieve consistency in the:
- advice we give
 - use of our powers
 - recovery procedures used
- 3.5 The Council recognises that consistency does not mean uniformity and that our staff must take account of all relevant factors, when dealing with individual cases, such as the:
- family and social circumstances of the debtor
 - payment history
 - income and ability to pay
 - health and age
- 3.6 Transparency will help form public perception and confidence by helping individuals and the wider community to understand what their responsibilities are, and what they, in return, should expect from the Council. We will strive to avoid conflicting or confusing advice.
- 3.7 The reasons for any action taken will be explained clearly, without jargon in accordance with *Plain English* standards and will include the appropriate timescales. Such information may be given in writing or verbally and will be published on the Council's website and issued with recovery and enforcement notices.

- 3.8 Braille or translation services will be used where necessary.
- 3.9 Where a discretionary power is exercised an explanation as to the reason for the decision will be given, as will the rights of appeal that are available in other circumstances either to the Council, an external agency or tribunal; these should also be explained without delay.

Recovery Action

- 3.10 Where appropriate, recovery timetables will be published in advance of any recovery activity. In the case of Council Tax and Business Rates this will include dates agreed with the Court for applications for liability orders and will also set out the date of each recovery run. No recovery action set out in this timetable may be cancelled without the prior approval of the Client Services Manager or the Director of Finance and Corporate Services. Additional activity may be added if necessary.
- 3.11 Where recovery action has commenced, payment arrangements will generally only be entered into where the debt is secured by a liability or court order and/or the debtor agrees to make payment by way of direct debit. Arrangements will only be agreed by staff authorised to defer enforcement of the order. These staff are the Principal Officers of the Council who bring enforcement action, in conjunction with the Debt Recovery Team and Client Services Manager.

The overriding guidelines are that the:

- debt will be cleared within a reasonable time adjudged to be appropriate;
 - arrangement is reasonable in comparison with the amounts that could be secured by taking alternative action;
 - debtor demonstrates a clear intention to honour the arrangement, and
 - arrangement is based on the debtor's ability to pay.
- 3.12 In cases where exceptional circumstances exist and it would not be in the interests of the Council in general to pursue enforcement action alternative arrangements may be made.
- 3.13 Where an order is passed to a third party for enforcement, progress shall be monitored in accordance with the Service Level Agreement at least monthly.
- 3.14 Payments made to enforcements agents shall be held in a clearly identified Client Account and be remitted to the Council every 2 weeks by BACS and be subject to Audit by the Council. Audits of such accounts shall be carried out regularly.

- 3.15 Enforcement agents and Council staff shall comply with any current advice available from the Lord Chancellor's Department and the Council's Code of Conduct.

Appendix A

Examples of Legal Entities

Warning letters and notices should be sent to the proper person for the legal entity, and where there is a different Nominated Officer it should also be copied to them.

The Proper Person	Detail required
A sole proprietor	The Sole Proprietor's full name, e.g. <i>Mr. Robert Brown</i>
A partnership or Limited Liability Partnership (LLP)	Each of the partners in the partnership, e.g. <i>Mr. John Smith and Mr. Fred Brown trading as Chambers Plumbing</i>
A Limited Company or PLC	The exact name of the company, e.g. <i>Big Tiles Limited</i>
An unincorporated body	A Trustee or authorised person, e.g. <i>Mrs. Joan Smith Treasurer to the Swadlincote Lawn Tennis Club</i>

Appendix B

Enforcement Agents: Code of Practice

Enforcement visits will be conducted at different times during the day to ensure the maximum possibility of contacting the debtor.

The Council understands that the primary concern of its Clients is the manner in which the third party, working on their behalf, represents them. With this in mind, the Council has developed a comprehensive Code of Practice which each Enforcement Agent who has been fully trained to adhere to providing our Clients with an assurance that their instructions will be carried out in a uniform and professional manner.

As well as adhering to your specific requirements, our Enforcement Agents will adhere to the following guidelines we have implemented at all times.

1. Enforcement Agents are fully certificated. Copies of Certificates issued by the relevant County Courts are available for perusal by the Council if required.
2. Enforcement Agents observe a business dress code and behave professionally and courteously.
3. Debtors are treated in a firm but fair manner at all times.
4. Enforcement Agents are circumspect and discreet when attempting to contact the debtor, and do not disclose the nature of their business or investigations to any third party unless otherwise instructed by the debtor.
5. On visiting a debtor, the Enforcement Agent introduces himself/herself as a Certificated Enforcement Agent from XXXX acting on behalf of the Council and produces his/her company photographic identification and authorisation to act (supplied by the Council) to the debtor and to any other person who may have reason to view it.
6. Enforcement Agents explain clearly the reason for their visit and, if necessary, the powers of an Enforcement Agent. Copies of the regulations and charges that may apply are left at the debtor's premises.

7. The Enforcement Agent undertakes visits to enforce Warrants/Liability Orders between the hours of 06.00 am to 9.00 pm Monday to Sunday. Each visit is conducted at different times of the day to ensure the maximum possibility of contacting the debtor. At least two visits occur outside normal working hours.
8. The Enforcement Agent will confirm that they will be recording the visit via the Agent's video badge and stop if permission is not granted by the Debtor.
9. Recovery action is not undertaken on Bank Holidays, on Good Friday or on Christmas Day unless specifically requested by the Council, and only where legislation permits.
10. Enforcement Agents are respectful of the religion and culture of others at all times. They are aware of the dates of religious festivals and carefully consider the appropriateness of undertaking any recovery action on any day of religious or cultural observance or during any major religious or cultural festival.
11. If exceptional circumstances necessitate visits outside of the days and hours as detailed in 7 above, the Council is contacted prior to any recovery action.
12. All documentation left with the debtor or at their premises is on pre-printed stationery. Any documents left at the premises in the absence of the debtor are sealed in a plain envelope.
13. All documentation is written in clear and unambiguous English and includes all appropriate reference numbers, telephone numbers, addresses and the name of the Enforcement Agents who visited the debtor's property. If required, the Agent can provide documentation in large print, Braille and other languages.
14. Copies of standard documentation used in the recovery process are forwarded to the Council for approval prior to commencement of any future contract.

15. Enforcement Agents do not enter the debtor's property if it appears that the only persons present are young people under the age of eighteen. If appropriate, the Enforcement Agent may ask when the debtor will be at home.
16. If Enforcement Agents encounter a situation where the only persons present appear to be children under the age of twelve, they must withdraw from the property without making any enquiries.
17. If communication difficulties arise as a result of a debtor not being fluent in English, we attempt to resolve the problem in the first instance by referring to our language matrix. This matrix contains a listing of staff able to speak other languages and is utilised in an attempt to supply an immediate interpretation facility.
18. Where the Enforcement Agent identifies an individual who falls into the Council's vulnerable category then the appropriate procedures will be followed. A prompt written response is provided if an Agent is requested to produce additional information.
19. In the unlikely event of any breach of the peace, or incident that may lead to a complaint, the Enforcement Agent must immediately withdraw from the situation, inform the Council and seek advice before proceeding with the recovery process.