

Thurrock Council
Corporate Fair Debt Policy
April 2014

Contents

Vision and objectives	3
1. Introduction	3
2. Policy aims.....	3
3. Fair debt collection.....	4
4. The legal and policy framework for recovery.....	4
5. Debts covered by this policy	4
6. Sundry debts.....	4
7. Council tax	7
8. Non-domestic rates.....	9
9. Overpaid housing benefit	10
10. Parking enforcement.....	13
11. Housing rent.....	14
12. Referral of department debts to the Corporate Debt section.....	17
Appendix 1 – advice on priority debts from the Citizens Advice Bureau	19
Appendix 2 – vulnerable persons policy.....	20
Appendix 3 – write-off policy	22
Appendix 4 – write-on policy	23

Vision and objectives

Thurrock: a place of opportunity, enterprise and excellence, where individuals, communities and businesses flourish.

- Create a great place for learning and opportunity
- Encourage and promote job creation and economic prosperity
- Build pride, responsibility and respect to create safer communities
- Improve health and well-being
- Protect and promote our clean and green environment

1. Introduction

The council has a duty to ensure that all revenue owed to the council is collected efficiently and effectively for the benefit of all Council residents.

The importance of debt collection and recovery is reflected in the level of scrutiny of the council's performance which is monitored in a number of ways including external assessment, internal audit reviews and monitoring against local and national performance indicators.

In striving to continually improve collection and recovery performance, the council recognises that some people do not pay their debts for a variety of reasons. This may include poverty or other financial hardship, which the Council will endeavour to balance against its duty to collect. Conversely, the policy aims to take a robust approach to those who can pay but won't pay.

The Council also believes that its debt collection and recovery policy should be fair to everyone notwithstanding their age, race, gender, disability, sexuality or religious belief.

The need for people in debt to communicate their status is important. Where a person makes contact, their circumstances will be considered with a view to agreeing a reasonable payment arrangement, minimising recovery action and helping to alleviate hardship. Where people fail to make contact or maintain arrangements, recovery action will continue.

This policy details the Council's corporate approach to debt recovery. Best practice will be applied to all debt collection and recovery activities within appropriate legal powers.

2. Policy aims

The key aims of this policy are:

- to use cost effective and fair collection and recovery practices in the pursuance of all debts owed to the council, ensuring that those with the means to pay do pay
- to ensure a professional, consistent and timely approach to recovery action across all of the council's functions
- to consider fully the nonpayer's circumstances and ability to pay and so distinguish between the nonpayer who won't pay and the nonpayer who genuinely can't pay
- to improve the levels of income collected by the council and reduce levels of arrears
- to ensure that debts are managed in accordance with legislative provisions and best practice

- to treat individuals consistently and fairly regardless of age, sex, race, gender, disability and sexual orientation and to ensure that individual's rights under the Data Protection Act and Human Rights legislation are protected

3. Fair debt collection

This policy aims to adopt fair debt collection and recovery practices including:

- providing appropriate and easy payment methods
- ensuring that bills are accurate, timely and clear
- encouraging people who fall into arrears to contact us and agree to payment arrangements appropriate to their circumstances
- identifying deliberate non-payers or those who delay payment, taking timely and effective enforcement action
- helping to reduce the effect of debt on people on low incomes by informing people of the general availability of income-related benefits such as Job Seekers' Allowance, Income Support, Working Families Tax Credit, Pension Credit and disability related allowances etc., and by trying to ensure that maximum benefit take-up occurs
- advising people where they can get independent advice with financial problems – for example, Citizens Advice Bureau or Credit Union (appendix 1)
- at all times throughout the Council's debt collection process, giving due regard to the council's Vulnerable Person's Policy (appendix 2)

4. The legal and policy framework for recovery

The council has a legal duty to ensure cost effective billing, collection and recovery of all sums due to it.

This policy is in addition to existing legislation and is designed to enhance the procedures already in place to collect debt.

5. Debts covered by this policy

Debts covered include:

- Sundry debts
- Council tax
- National Non-Domestic Rates or business rates
- Housing Benefit overpayments
- Parking Penalty Charge Notices (PCN)
- Housing rents

Each of the above has their own section within this Corporate Fair Debt Policy.

6. Sundry debts

Council policy

The Head of Corporate Finance on behalf of the council has a duty to recover all outstanding amounts.

It is essential to maintain council services offered by recovering any costs for those services provided. It is imperative that invoices are paid to ensure the continuance of services.

Policies specific to sundry debts

Sundry invoices requiring collection are raised by the Sundry Debtors team. A full individual's name or company name and address, including postcode is required.

Invoices should be charged to the correct cost centre and VAT code. A detailed description of the service should be provided. Authorised other evidence and details of the relevant legislation applicable must be retained by the originating Department in order to provide an audit trail confirming the debt raised is valid and to enable the original documents to be used if applicable for court proceedings.

The responsibility for the billing, collection and recovery of Sundry Invoices is held by the Head of Corporate Finance.

A sundry invoice debt can be cancelled at any stage of recovery action providing the proper procedures are followed.

Service providers must endeavour to obtain payment in advance or at the time of service delivery wherever possible.

At all times the council will act legally and promptly in all cases where payment is overdue.

Invoices will be issued promptly with sufficient information to explain the charge.

In the event of non - payment a reminder will be issued.

If payment is not made, a second reminder will be issued.

If payment is still not made, a Letter Before Action (LBA) will be issued.

Debts at LBA stage may be reviewed by a member of the Sundry Debtor's team, who will decide on the progression of the debt based upon the debt type, previous recovery history and legally appropriate recovery methods.

If the debt is deemed as non-recoverable, the Recovery Manager will employ the write - off procedure (see Appendix 3).

If the debt has been deemed to be recoverable, the Sundry Debtor's team will review the debt and the next steps to be taken in accordance with the Council's Vulnerable Person's Policy. This may include the use of Experian to carry out financial/ historical searches and the Insolvency Services website to check that the non - payer is not bankrupt. The use of Experian for searches will be monitored by the Recovery Manager. A Land Registry search to verify property ownership may also be carried out at this stage.

After the methods discussed above have been exhausted, where legally permissible, the provision of future services to the non - payer may be suspended until outstanding debts are settled (discussions with the appropriate service managers would be required).

If a LBA has been issued, and if after the specified time payment has not been made, a County Court Claim will be issued. This will result in a County Court Judgment (CCJ) being lodged. This

may affect an individual's credit rating and make any type of future credit agreement difficult. It should be noted that once a County Court Claim has been issued, Court costs and interest will be added to the debt.

Once a CCJ has been obtained, the Council will act to enforce it, which may include an attachment of earnings order, enforcement action to seize goods to the value of the debt, an order to attend Court for questioning, bankruptcy proceedings (for debts above £750), High Court Sheriff collection, Garnishee Order, outside debt collection agents visiting the property, DWP deductions (direct payments from DWP benefit only in respect of overpaid housing benefit debts) or Direct Earnings Attachment (DEA- only in respect of overpaid housing benefit debts)

A charging order may be obtained on the non-payer's property, which will remain in place until the property is sold, although this may be enforced sooner by proceeding with an order for sale.

To prevent any of the recovery action shown above, it is important that contact is made between the non-payer and the Council to seek reasons for non payment. If appropriate and agreeable with the Sundry Debtor's Team, instalment agreements can be arranged depending on individual circumstances.

Ownership of all Sundry Debts rests with the originating departments. It is their responsibility to:

- issue an instruction to cancel an invoice, using a Sundry Debts amendment form
- correspond with or discuss with the non-payer issues relating to the validity of the debt and determine what, if any, services should be provided to non-payers who are in arrears – the Sundry Debtors team will provide reports to the originating departments on a regular basis as to the value of their outstanding accounts with a monthly report showing the status of debts raised by each department
- Request that any debt be written off

It is the responsibility of the service department to determine how to supply services to a non-payer who is already in arrears. Prior to a council service being withdrawn completely from a non-payer, however, the service department must identify if the service can be legally stopped and then contact the nonpayer to explain the action about to be taken and the reasons behind it.

Where a non-payer has legally passed on his/her responsibility of their finances to their representative, the representative will be held liable for all charges incurred by the customer. In the event of non-payment the council will pursue recovery of monies owed against the appointed representative. This may result in court action to recover any outstanding sums.

Cancellation of sundry debt invoice

Only staff working in the Sundry Debtors team will have access to cancel sundry debt invoices raised on the Sundry Debtors system.

If service managers wish to cancel a Sundry Debtor invoice then they must complete the Sundry Debtors cancellation form, which must be signed by an authorised officer. It should then be sent to the Sundry Debtors team.

For an officer to be authorised to sign the cancellation form, they must have approval from their service manager or a director. This must be recorded and held in the Sundry Debtors section. It will be the responsibility of the Recovery Manager to update this annually.

Write offs

The Sundry Debtors team will provide the following details to the Head of Corporate Finance to enable that officer to decide on whether or not to write off a debt:

- non-payer reference
- total sum
- reason for debt
- action taken to date to recover the sundry debt

Debt which is identified for write off will be actioned in accordance with Thurrock Council's Corporate Write Off Policy (See Appendix 3).

The Council recognises that there will be instances where there will be credit balances on accounts and as such reference is made to the Write On Policy (Appendix 4). This will apply to all of the debt types as set out within this document.

7. Council tax

Council policy

In accordance with the provisions of the Local Government Finance Act 1992, the council is responsible for levying and collecting Council Tax that is payable on all occupied and unoccupied domestic properties, which are not exempt and are situated within Thurrock.

The Debt Recovery Manager, on behalf of the council has a duty to recover all outstanding amounts of Council Tax and at all times staff within the Revenues department will operate according to the council's strategy.

Policies specific to council tax

It is important that anyone who does not pay their Council Tax by the due date is pursued for payment quickly.

The collection and enforcement of Council Tax are governed by the "Council Tax (Administration and Enforcement) Regulations 1992".

When an instalment or part of an instalment is missed a first reminder letter will be sent.

If the charge-payer fails to make payment or contact the council following a first reminder letter a final notice will be sent and the resident will lose the right to pay by instalments. The full sum, payable for the year, will become due within seven days.

Where any overpaid Council Tax rebate has been made the amount will be debited back to the charge payer's account.

If no contact has been made following the final notice, the council will issue a summons for the charge payer to appear before the Magistrates Court for non-payment of the outstanding balance of the Council Tax.

Explanatory notes will be issued with the summons notice explaining the implication of Council Tax enforcement.

If the charge-payer contacts the council and agrees an arrangement to pay following a summons the resident's employer details will be requested and recorded.

Where employer details are supplied an attachment to earnings may be considered as an alternative method to recover the outstanding debt. This course of action would not supersede the use of Enforcement Agents to make contact/call/remove goods, however.

Should the account not be settled by the court hearing date, the council will make an application for a Liability Order, plus costs.

The council has set up surgeries that are held within the council's buildings, prior to the court hearing and during the collection process from the issuing of a Reminder. This encourages charge payers to come and speak with the council, in an open environment to resolve any issues they have before the court hearing.

Staff attending court will be fully prepared to assist the charge payers who may choose to attend court for the Liability Order hearing and ensure they have a written breakdown of summons and Liability Order costs available.

A Council Tax Notice of Liability Order and information request with details of the possibility of Enforcement Agent action will be issued to the taxpayer within 3 working days of the court hearing.

Should the debt fail to be recovered by Enforcement Agents, appropriate action to prosecute will be taken.

Where information about relevant benefits is provided an attachment to benefit may be arranged to recover the outstanding debt. This course of action would not supersede the use of Enforcement Agents to call/remove goods.

The council may consider, where appropriate: Charging Orders, Petitions for Bankruptcy, or take steps to instigate petition for a means enquiry hearing. In addition, the council may consider Committal to Prison action against habitual late payers for those that intentionally refuse to make payment and/or fail to contact the council.

Enforcement agents/external agency recovery

When the services of Enforcement Agents/External Agency Recovery have been determined a service level agreement will exist along with formal written procedures specifying the standard of service to be provided and will cover the following matters:

- The initial Enforcement Agent visit will make attempts to establish contact with the debtor via various methods, such as telephone calls, text messages, letters and emails. A letter will be sent to the debtor to advise them an Enforcement Agent has been appointed at the relevant costs the debtor may incur during the collection cycle.
- The Enforcement Agent will adhere to the Tribunals, Courts & Enforcement Act 2007, which clearly outlines the processes at Compliance, Enforcement and Removal stages.
- There will be specific procedures agreed with council officers for the removal of goods.
- The council is able to access the external Enforcement Agents system via a complete link in order to make appropriate enquires.

Committals

The council will send a pre-committal warning letter prior to commencement of proceedings, allowing the charge payer the opportunity to make payment. Any committal summonses will be served using methods agreed by the council.

Where the resident fails to respond a means enquiry summons will be issued.

The council will charge costs up to the statutory maximum at the time of issuing a means enquiry to cover reasonable costs against the charge payer.

Write-offs

Any Council Tax debt which is identified for write off will be actioned in accordance with the council's Corporate Write Off Policy (Appendix 3).

8. Non-domestic rates

Council policy

The council is responsible for the levying and collection of Non-domestic Rates that appear on the rating list for all occupied and unoccupied hereditaments which are not exempt.

To ensure arrears are kept to a minimum, it is essential that the council operates an effective and efficient approach to the collection of business rates using the methods determined by legislation and regulation.

The Debt Recovery Manager on behalf of the council has a duty to recover all outstanding amounts of Non-domestic Rates and at all times staff within the Debt Recovery team will operate in compliance with the council's Fair Debt policy.

Policies specific to Non-domestic Rates billing, collection and recovery of Non-domestic Rates is managed by the council's Revenues section.

It is important that anyone who does not pay their Non-domestic Rates by the due date is pursued for payment quickly.

When a payment is missed a reminder letter will be sent.

If the charge payer fails to make payment following the reminder letter the charge payer will lose the right to pay by instalments and the full sum, payable for the year, will become immediately due.

If a charge payer contacts the council and agrees special arrangements to pay, the agreement will be confirmed in writing. When no contact has been made following the reminder notice, the council will issue a summons.

Explanatory notes will be issued with the summons notice explaining the implication of Non-domestic Rate Enforcement.

Should the case reach court the council will make an application for a Liability Order at the hearing.

Staff attending court will be fully prepared to assist those attending court for the Liability Order hearing and ensure they have a written breakdown of summons and Liability Order costs available.

If no arrangement is made to clear the Liability Order debt, the case will be passed to Enforcement Agents for recovery action.

The initial Enforcement Agent will make attempts to establish contact with the debtor via various methods such as: - telephone calls, text messages, letters and emails. A letter will be sent to the debtor to advise them an Enforcement Agent has been appointed at the relevant costs the debtor may incur during the collection cycle.

The Enforcement Agent will adhere to the Tribunals, Courts & Enforcement Act 2007, which clearly outlines the processes at Compliance, Enforcement and Removal stages.

Where it is considered the assets at premises maybe in jeopardy, the Enforcement Agent will take action through the courts as prescribed to remove or shorten the process of serving the above notices.

Should the debt fail to be recovered by Enforcement Agents appropriate action will be taken. A petition for bankruptcy/liquidation/winding up may be sought. In the case of individual liability a means enquiry could be undertaken. Enforcement Agent/External Agency Recovery When the services of Enforcement Agents/external agency recovery have been determined a service level agreement will exist along with formal written procedures specifying the standard of service to be provided and will cover the following matters:

- the initial Enforcement Agent visit will be expected to be made at the earliest opportunity of receipt of the case
- the Enforcement Agent will adhere to the Tribunals, Courts & Enforcement Act 2007, which clearly outlines the processes at Compliance, Enforcement and Removal stages
- specific procedures for the removal of goods
- the council is able to access the external Enforcement Agents system via a link in order to make enquires

Write offs

Charge payers debt which is identified for write off will be actioned in accordance with Thurrock Council's Corporate Write off Policy (Appendix 3).

9. Overpaid housing benefit

Council policy

The majority of Housing Benefit overpayments are recoverable. A recoverable Housing Benefit overpayment must always be recovered from the claimant, the person to whom it was paid, or their representative.

This does not apply in the case of excess Local Council Tax Support, as this is recovered directly from the claimants Council Tax account through the Council Tax system and would be administered through the Council Tax Section in accordance with legislation. Some debts are irrecoverable, for example, those caused by official error where the claimant could not reasonably have known that they had been overpaid or where they had not contributed to the error.

Officers assessing claims will decide if the overpayment is recoverable at the time of processing the overpayment. Any overpayment considered irrecoverable will be referred to a senior officer for a final decision.

It is at the discretion of the council whether to recover an overpayment. Where known, the personal circumstances of the claimant should be taken into account when deciding whether to recover the overpaid amount.

The Benefits Manager on behalf of the council has a duty to recover all outstanding amounts of overpaid Housing Benefit and Council Tax, and at all times staff within the Revenues department will operate according to the council's policy.

Policies specific to overpaid Housing and Local Council Tax Support Who to recover from any recoverable overpayment will be recovered from the claimant or the person to whom payment was made – this could be a landlord or the claimant's appointee.

When deciding who should repay the debt all factors must be taken into account such as the likelihood of the person receiving the payments knowing they were being overpaid. Where payments are made to a landlord, the council will make a judgement based on evidence available on whom to recover from.

Where the overpayment has been made due to misrepresentation or failure to disclose a relevant fact by the customer, someone acting on their behalf, their landlord or an agent, then recovery will be sought from the person to whom the payment was made.

The recovery of fraud overpayments are prioritised by interviewing claimants immediately after they have been issued with a Formal Caution or Administration Penalty and making arrangements with them to clear the debt. The council's Benefit Fraud manager may make use of the Proceeds of Crime Act to secure any assets that are deemed to have been accumulated through criminal activity.

Recovery methods

The council can recover overpayments by any lawful means. One or more of the following methods of recovery may be employed, dependent upon the individual circumstances of each case.

Recovery of Rent Rebate/Rent Allowance from future benefit

Action	Timescale	Follow up
Notification	Within 2 working days	
Customer requests to renegotiate recovery rates	10 working days	Letter to customer confirming new recovery rate within 2 working days

Recovery from on-going benefit – rent allowance or rent rebate

Where a claimant continues to receive Housing Benefit the Council will make deductions from ongoing payments of Housing Benefit having regard to their financial circumstances. Where appropriate the Council will recover debts at the weekly amounts recommended by the Department of Works and Pensions (DWP).

As well as the above-mentioned rates of recovery, the Council will also increase deductions, where appropriate, by half (50%) of any of:

- the earnings disregard, if applicable

- regular charitable income or voluntary payments, if applicable
- War Disablement or War Widows Pension, if applicable

In all above-mentioned cases, the recovery amounts are subject to an overall maximum deduction, which does not reduce the benefit payable to less than £0.50 pence.

In addition, the council can ask another council to recover overpaid benefit on its behalf.

A Guide to Housing Benefit and Local Council Tax Support Overpayments is issued with every Overpayment letter providing information to claimants about overpayments and appeal rights.

Deduction from certain DWP benefits

The council may ask the DWP Debt Management Office to recover a Housing Benefit (HB) overpayment by deduction from certain DWP benefits, as prescribed by Regulation. These are as follows:

- Income Support
- Attendance Allowance
- Jobseeker's Allowance
- Disability Living Allowance
- Incapacity Benefit
- Industrial Death Benefit
- Industrial Injuries Disablement Benefit
- Carer's Allowance
- Maternity Allowance
- State Pension credit
- State Retirement Pension
- Severe Disablement Allowance
- War Pension
- War Disablement Pension
- Bereavement Benefit
- Widowed Mother's Allowance
- Widow's Benefit
- Widow(er)s Pension
- Employment Support Allowance

Where necessary entitlement to benefits will be identified through the Customer Information System (CIS) connected to the Department for Works and Pensions Database.

County court action

Where standard recovery action has failed to recover the debt, it may be recovered in the County Court by the council's Debt Recovery Team.

Tracing non-payers

All available resources will be used to trace non-payers including data matching options, Experian searches, and utilisation of the DWP Customer Information System. External Tracing Agents may also be deployed when all other avenues have been explored and it is cost effective to do so.

Payment methods

The following payments methods will be accepted:

- cheque
- credit / debit card
- recovery from ongoing Housing Benefit
- recovery from other welfare benefits

Write-off

Write-Off action will be taken in accordance with the principles set out in the council's Corporate Write off Policy (Appendix 3). The Housing Benefit Overpayment officer will retain details of all outstanding overpayments where benefit is no longer in payment, in the event of future benefit being awarded, enabling recovery in the future.

10. Parking enforcement

Council policy

To ensure compliance with the restrictions within the council car parks and the borough highways, the council is authorised to issue Penalty Charge Notices to vehicles parked in contravention of the restrictions as stated in the Traffic Management Act 2004.

Policies specific to parking enforcement Penalty Charge Notices (PCNs) will be issued to contravening vehicles whenever an Enforcement Officer deems it necessary.

The recovery of the fines is the responsibility of the office team and for reasons of segregation of duties and safety, the Enforcement Officers are not allowed to take payment for the PCNs they issue.

Except where a separate instalment arrangement has been agreed by the parking office, all payments will be in accordance with the Traffic Management Act 2004.

Throughout the life of the PCN the office team should make every attempt to recovery the amount due at every stage in the proceedings.

The council has the discretion to cancel a Notice for various reasons and therefore not proceed with the fine. The powers of discretion in these cases can only be exercised by a senior parking manager.

At all times the council will act legally and promptly in all cases where payment is overdue.

Before a notice is passed to an Enforcement Agent for collection all statutory methods of enforcement must have been taken. Notice to owner, charge certificate, and statutory declaration.

Where every effort has been made to recover up to the statutory declaration stage the office team, in conjunction with the parking manager can consider cases to be put forward for a warrant of execution.

Once the court are happy that all the statutory steps have been taken and the warrant has been granted to the council further recovery action can be considered.

Should the office team not be able to collect the amount due then the warrant can be passed to one of the council's Enforcement Agents for collection.

The Enforcement Agent will adhere to the Tribunals, Courts & Enforcement Act 2007, which clearly outlines the processes at Compliance, Enforcement and Removal stages.

Any debts for Foreign Registered vehicles will be pursued.

Where instalment arrangements are sought by the charge payer an investigation into their ability to pay must be carried out and initially the amount should not be paid over a period longer than 3 months. Where the office team, due to the amount or circumstances, the balance should be paid over a longer period then a case conference should be held with the line manager to decide a way forward.

Write-off

If the office team and Enforcement Agents have not been able to recover the money, the office team may consider the case to be listed as unable to recover and put onto a write off list to be considered and signed by the Head of Corporate Finance. As well as the name, address and amount the list should also show the types of recovery action that have been taken. Write off action will be carried out in accordance with the Corporate Write off policy (appendix 3).

To ensure segregation of duties the officer compiling the write off report cannot remove the records from the system and once the cases have been removed from the system the write off sheet must be passed to the service manager for checking.

Debts that are written off are issued to Debt Collection Agents to enforce and places on surveillance in order to ensure debtors that have deliberately absconded in an attempt to avoid paying their debts are pursued.

11. Housing rent

Council policy

The aim of the department is to maximise income collection and minimise arrears owed by current and former tenants. We ensure that tenants have the information and support they need to maximise their income and prevent or minimise debt.

Tenants are informed of their payment responsibilities before they commence their tenancy, when they sign-up and at their welfare visit which takes place four weeks after the sign up dates/commencement of tenancy.

The Housing department aims to make paying rent and other charges easy. They offer a range of payment methods which are widely publicised.

Full advice is given to tenants on their rent obligations and entitlement to Housing Benefit at the time of sign up.

Tenants are informed of the full rent due and details of any service charges due and details of what the services covered by the charge are. Tenants are advised in writing of any changes to the rent due within 28 days of a change and are provided with a quarterly statement.

Policies specific to housing rents

At sign-up / commencement of tenancy new tenants are advised of their responsibilities regarding the tenancy placing great emphasis on the requirement to pay their rent promptly

A debt counselling service has been set up between Thurrock Council incorporating other organisations and the CAB for our residents to access if they require assistance. Tenants can be referred to the CAB or other organisations by a Rents and Welfare officer or they can approach CAB directly themselves.

Arrangements must be put in place to oversee and action arrears when a team member/staff post is vacant, annual leave or absent through sickness.

Our objective is to achieve and maintain upper quartile performance in the level of rent collection and rent arrears by:

- ensuring a corporate approach to the recovery of debt
- taking account of social inclusion
- referring to a debt counselling service
- adopting examples of good practice and ensuring an approach of continuous improvement
- ensuring staff are fully trained, supported and developed

Customer focus in the delivery of the service

The Rents and Welfare Manager is responsible for the collection of rent income and recovery of rent arrears. It is important that anyone who does not pay their rent by the due date is pursued for payment quickly.

At the first missed fortnightly payment an immediate letter is sent to the tenant depending on vulnerability. Alternatively, if there are concerns about the account, a letter should be sent to the tenant.

All accounts are monitored and the arrears process is followed. If there is no response by the next payment date a second letter is sent out and the situation monitored.

If there is no response to the second letter a home visit must be arranged by the Rents and Welfare officer. If on arrival for this appointment the Rent Officer finds the tenant is not in, a business card should be left asking the tenant to contact the office. A visit will also be carried out at the pre Notice of Seeking Possession (NSP) stage.

Service of Notice of Seeking Possession

A Notice of Seeking Possession is the first step in taking legal action against the tenant. The purpose of this action is to recover possession of the council's premises from the tenant and may result in the tenant's eviction from their home. Service of the Notice (NSP) is governed by Law and must be carried out correctly for successful legal action to follow.

As a general rule, the arrears should not be permitted to get any higher than the equivalent of six weeks rent before a NSP is served. However, the Rents and Welfare officer has the discretion to serve a NSP earlier than this or to delay it providing an explanation for the action is recorded. The Notice should be served, together with a covering letter.

The Rent Welfare Officer will only refer a case to court if:

- an arrears report was completed
- the NSP is still valid

Court hearing

Rent and Welfare officer attends and presents the cases to the court and will ask the District Judge for one of the following orders:

- money judgement for the sum outstanding
- possession order-(suspended or outright)
- case adjourned
- case dismissed
- case withdrawn

If the tenant defaults on repayments or the court order, the Rents and Welfare Officer will apply to the court for an eviction order to repossess the property.

Officers are advised to seek eviction as a last resort.

Pre-eviction action

Prior to seeking an eviction and post court summons of a case, the Rent Welfare Officer should inform the Homeless Families and Social Services departments regarding the affected persons.

The eviction should be cancelled if the tenant clears the debt in full before the Enforcement Agent enforces the warrant for eviction.

Where the tenant makes a large payment and offers to pay off the balance in instalments, the tenant should be advised to apply to the court for a stay hearing.

Tenants have the right to apply to the court for the eviction warrant to be suspended before the eviction date. Based on evidence presented to the court by both parties, the judge may dismiss the appeal or suspend the eviction on terms of payment of the rent plus arrears.

Recovery of former tenant accounts

Should a tenant leave a property without settling the rent account, the arrears accrued are known as former tenant arrears and an account is created, known as a former tenant account (FTA), to manage and recover monies owed to the council. The Allocations and Homelessness Sections of the Housing department will check FTA records to ensure that clients requesting social housing with previous arrears arrange to repay any debt owed.

A decision should be made on the most effective and appropriate method of recovery. This is based on the client information available. An initial telephone call is made, or a letter sent detailing the status of the account, including periods of tenancy, address and value of arrears. A request for payment in full is made at this time.

Should a non-payer advise that payment in full is not affordable, a brief financial assessment must be carried out by the Officer and a potential payment plan is offered to repay the total debt by

instalments. Letters of confirmation are sent to confirm all agreements to pay (either in full or by instalments).

Each case should be delegated to the Rent Welfare Assistant, designated to deal with such accounts. Accounts are monitored for payment on a regular basis.

In line with procedures, unsuccessful cases will be returned to the council from the Debt Collection Agency within three months. The Housing Manager will decide whether a case returned will be referred to the Corporate Debt Section for further recovery or to put the debt forward for write off in line with the Corporate Write Off Policy.

Write-off

Rent which is identified for write off will be actioned in accordance with the council's Corporate Write-Off Policy (Appendix 3).

12. Referral of department debts to the Corporate Debt section

Department responsibility

It is the individual departmental responsibility to collect monies owed to the council by ensuring initial recovery methods are carried out within its own powers in accordance with legislation.

It is also the individual departmental responsibility to offer initial welfare advice and record an assessment of an individual nonpayer's circumstances.

Sundry debt

All sundry debt invoices will be referred to the Sundry Debtors team for collection and recovery.

Council tax

Unpaid Council Tax liabilities will be pursued by the Debt Management team.

Non-domestic rates

Unpaid Non-domestic Rate liabilities will be pursued by the Debt Management team.

Overpaid housing benefit

Unpaid Housing Benefit overpayments will be referred to the Sundry Debtors team.

Recovery action to be taken by the sundry debtors team

The type of recovery methods used by the Sundry Debtors Team to recover monies owed to the council are itemised below.

- Order to Obtain Information from Nonpayer
- County Court Proceedings
- Bankruptcy – Winding Up Orders

- Attachment of Earnings Order
- Charging Order on Property
- Third party order/ garnishee
- High Court Enforcement/Sheriff
- Deductions from DWP Benefit (only for overpaid housing benefit invoices)
- Direct Earnings Attachment (only for overpaid housing benefit invoices)

Summary

Through the Corporate Fair Debt Policy, the above enforcement remedies will be used as required. Such action may not always be necessary and therefore each case has to be considered on its own merit by the Debt recovery team in line with the council's Vulnerable Persons Policy (appendix 2). The Debt recovery team will aim to provide a one-stop contact point for the non-payer, the council departments and outside agencies involved in debt and welfare advice.

Appendix 1 – advice on priority debts from the Citizens Advice Bureau

The following advice is supplied to the public by the Citizens Advice Bureau for information. It does not override this corporate debt collection and recovery policy.

Priority debts

Priority debts are debts owed to creditors who can take the strongest legal actions against you if you do not pay. It is not the size of the debt that makes it a priority, but what the creditors can do to recover their money.

Priority debts are:

- mortgage arrears
- rent arrears
- Income Tax and VAT
- fines
- maintenance and child support
- council tax and rates
- fuel debts
- hire purchase for goods that are essential – for example, a car needed for work

If you have any of these debts, you must deal with them before you offer to repay any of your non-priority debts.

Non-priority debts

Examples of non-priority debts are:

- credit card and store card arrears
- catalogue arrears
- bank overdrafts and loans
- hire purchase for goods that aren't essential – for example, a television
- money borrowed from family and friends

You cannot be imprisoned for not paying non-priority debts. You are unlikely to lose your home or your essential goods. If you make no offers to pay, however, without explaining why, the creditors will take you to court. If you still fail to pay when the court has ordered it, the creditors can take further action – for example, they can get another court order allowing them to use Enforcement Agent services.

Appendix 2 – vulnerable persons policy

Background

The council recognises that in certain circumstances the usual enforcement procedures (such as Enforcement Agent action or committal proceedings) may not be appropriate for some people who find themselves in debt to the council. This could be because the person might be viewed as vulnerable owing to their individual circumstances. The Vulnerable Persons Policy provides guidance for staff and the council's collection agents on how to manage the situation and support a vulnerable person who owes a debt to the council.

It will support and assist officers and collection agents to be able to promptly identify vulnerable individuals in order that each person can be treated with dignity and that their individual situation can be dealt with in a sensitive and responsible way.

People who are considered vulnerable will find themselves in a range of situations and it is important to remember that in many cases people will have tried very hard to manage and will not have deliberately created the situation they find themselves in. By the time the individual comes to the attention of the debt recovery service it is important to consider that in many cases they may be very concerned and worried about owing money to the council.

People who are vulnerable

People are considered to be vulnerable for many different reasons. Some of these reasons may be:

- experiencing mental ill health
- having a physical disability
- being learning disabled
- being a disabled parent
- being a parent of a disabled child
- having communication difficulties
- experiencing significant long term or life limiting ill health
- being hearing or visually impaired (deaf or blind)
- suffering from domestic violence
- a combination of any of the above

Other areas that also make people potentially vulnerable can be:

- someone who is recently bereaved
- where literacy skills are an issue or where English is not the persons first language
- someone following a drug or alcohol rehabilitation programme
- someone recovering from a serious accident or illness
- a person who has recently been released from prison
- those who are asylum seekers or refugees

The above lists are not exhaustive and each situation should be viewed individually to determine if there is actually any vulnerability.

Identification

Based on the above descriptions, the member of staff or collection agent can make a decision about whether a nonpayer may be considered vulnerable. The initial request to consider a person as vulnerable may come from a third party e.g. the Citizens Advice Bureau, Social Services, Housing. The examples above are only a guide and each case has to be considered based on the person's individual circumstances.

Any non-payer who is considered potentially vulnerable will be flagged up immediately to the designated senior officer. The account should be marked with the appropriate code on the respective computer systems. Recovery proceedings will be amended/adjusted accordingly.

A senior officer may undertake a review of any referral. The nonpayer may be visited at home, interviewed by telephone or invited to attend a face to face discussion in the office. It will be important to make sure that each person's circumstances are taken into account and consideration should be given to any support the person may require if they are interviewed, such as a family member, an advocate or a support worker. With the nonpayer's consent, further information and/or opinion may be sought from medical practitioners, Social Services and relevant professional bodies. It is imperative that this stage is completed as quickly as possible so as to limit any uncertainty or anxiety on the part of the person concerned.

Evaluation

Having weighed carefully all the evidence, the senior officer will conclude whether the nonpayer would be adversely affected if recovery proceedings were to continue. If so, the case will be identified as a Vulnerable Person's account. All future enforcement notices and actions may be stopped. The designated senior officer will ensure that all Vulnerable Persons are accorded the personal and sensitive attention required, within the provisions of the law. Any person considered not to be a Vulnerable Person may appeal to the relevant departmental senior council officer whose decision will be final.

In undertaking the investigation, the designated senior officer would seek to ensure that:

- the liability is correctly calculated and all reductions have been applied – for example, status, discounts, Local Council Tax Support
- a comprehensive statement of means is completed where legally appropriate for the debt – where applicable, a clearly affordable repayment plan is agreed, together with a suitable payment method, and care must be exercised to avoid the accumulation of arrears which would have to be repaid at a later date
- the person has a named contact and direct line for any future enquiry
- any authorisation for a third party to act on behalf of the vulnerable person is obtained and properly recorded
- where appropriate, a recommendation may be made for the debt to be written off in part or whole – any request should be supported with as much information as possible of the person's circumstances, both personal and financial

Appendix 3 – write-off policy

The council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. The council will seek to minimise the cost of write-offs by taking all necessary action to recover what is due. All debts will be subject to the full recovery, collection and legal procedures as outlined in the council's Corporate Fair Debt Policy.

Paragraph 6.34 of the council's Finance Procedure Rules (Constitution, chapter 9, part 3) states that managers shall ensure that every effort is made to recover debts due to the Council. They also have authority to write off a debt where they consider that the sums are not reasonably recoverable, subject to the following:

- up to £2,000 in any one case – after notifying the Head of Corporate Finance
- between £2,000 and £25,000 in any one case – after consultation with the Head of Corporate Finance and the Monitoring Officer
- over £25,000 in any one case – after consultation with the Head of Corporate Finance and the Monitoring Officer, and subject to the appropriate Cabinet approval

Debts may be referred to the appropriate service manager or director for all sums for write-off if:

- the council has evidence to confirm the claimant is suffering a severe physical or mental illness, which renders enforcement action inappropriate
- the council is unable to trace the nonpayer
- the debt is not cost-effective to pursue due to small balance
- the debt is not cost-effective to pursue due to the likelihood of payment balanced against the cost of proceedings
- the claimant has died and there are no or insufficient funds in the estate to settle the debt
- the claimant is subject to formal insolvency proceedings and there is little likelihood of a dividend

Before a debt is written off from any system, the member of staff identified as being responsible for write offs will have received all relevant paperwork and used it to check a sample of the debts to ensure:

- accuracy by looking them up on the appropriate system
- the council's Corporate Fair Debt Policy has been adhered to

Appendix 4 – write-on policy

The council recognises that in cases of a credit remaining on an account for an unacceptable period of time i.e. over thirteen months, the credit should be considered for cancellation. This process is known as a "write-on".

Extensive research will be undertaken prior to this consideration to enable an attempt to be made to inform the payee of the credit. Letters to the last known address will be written and searches carried out to establish new addresses. If such attempts are not successful, the credit will be written on following the same policy rules and processes as detailed in the write off policy.