

# Corporate Debt and Write Off Policy



## Why does RDC have a Corporate Debt and Write Off Policy?

The Council recognises that the minimisation of and effective management of debt is crucial in terms of maximising resources available and providing cost effective services.

A high percentage of Rochford District Council's (RDC) spend on local services comes from the council tax and business rates collected. Therefore, it is vital that the Council collects taxes, along with other debts and income, in order to support the local services offered. This is balanced with the impact that debt recovery may have on Debtors.

Every effort will be made to recover debt. Service Areas will work together, sharing information, to make informed decisions about debt recovery.

Councils must have a debt recovery policy that

- Promotes fairness to those citizens who can't pay and considers the consequences of those who won't pay.
- Adheres to law and legislation by acting fairly, by following a decision-making process and complying with statutory duties.

The Local Government Ombudsman (LGO) 'Can't Pay? Won't Pay? Using bankruptcy for council tax debts 2011 and the Ministry of Justice 'Taking Control of Goods: National Standards April 2014 publications detail the responsibility of the creditor towards the Debtor such as using the appropriate recovery action including enforcement agent use, giving consideration to the full circumstances of the debtor including any vulnerability, providing offers of support and signposting to support and to abide by both the Human Rights Act 1998 and the Equality Act 2010.

Personal data may be shared for the purposes of this policy and will adhere to the RDC Privacy Notice, published in 2018, which provides the basis for sharing of Debtors information in order to provide a service to the Debtor or to:

- perform a function or provide a service required by statute (Article 6(1)(e)GDPR)
- comply with a legal obligation (Article 6(1)(c)GDPR)
- allow disclosure in the interests of the Debtor or another person (Article 6(1)(d)GDPR)

The policy will be reviewed as required to ensure processes remain fair and in line with legislation and best practice.

The Corporate Write Off Policy is available at **Appendix Six**.

## What is RDC's definition of debt?

The following definitions are used throughout the policy.

**Debt:** Any amount of council income that has not been paid in full by the due date.

**Debtor:** The individual, individuals, organisation, or other body that owes a debt to the Council.

The debts covered by this policy, in order of priority, are:

- Council Tax (**Appendix One**)
- National Non Domestic Rates (Business Rates) (**Appendix Two**)
- Overpaid Housing Benefit (**Appendix Three**)
- Sundry Debtors including License Fees, Temporary Accommodation contributions etc. (**Appendix Four**)

Penalty Charge Notice recovery complies with the Traffic Management Act 2004 process. It has been included in this policy to provide a central source of all debt recovery activity. The Penalty Charge Notice process is covered in **Appendix Five**.

Service Areas may conduct their own income management processes in relation to pay in advance charges. Where these become debts the Service Area will abide by the principles covered in this policy and reflect the Sundry Debtor process.

The policy may be extended to include other forms of revenue collected by the Council.

### **How will RDC ensure a fair Debt Recovery Process?**

The Council will make reasonable efforts to discuss the matter with the individual or organisation with a liability to pay the Council during the course of all debt recovery activity and consider the impact of debt recovery and its appropriateness. More severe debt recovery activity such as court action or enforcement agent use will only be used if it is reasonable and has a reasonable prospect of recovery.

Services Areas will

- keep an accurate history of the origin of the debt and its recovery activity,
- evidence information used to make decisions with management approval for issues above their delegated authority
- retain all logged disputes and their investigation results
- evidence information about the Debtor's means and circumstances, including other debts, known at the time of each decision
- consider reasons for why the Debtor is/isn't considered vulnerable
- evidence their assessment of recovery
- evidence support offered/refused/accepted.

The Council will treat individuals in accordance with the Council's Inclusion and Equality policy and ensure the protection of that individual's rights under the Data Protection Act 2018 and the Human Rights Act 1998.

Appropriate support will be offered during the debt recovery process. Each case will be considered on an individual basis.

### **What are the Debtor's responsibilities?**

Any individual or organisation with a liability to pay the Council should comply with all legal obligations and:

- Pay promptly on or before due date or raise queries/lodge a dispute on or before due date
- Make use of reference numbers, case numbers etc. when making payments to ensure they are correctly credited
- Inform the council of any changes in circumstances that may affect payment including changes of address
- Provide accurate information relating to their circumstances
- Maintain agreed payment arrangements as non-payment may result in the withdrawal of the payment arrangement option

### **Disputed Invoices**

Issues and invoice discrepancies should be notified to the Council as quickly as possible to prevent delays in payment and unnecessary debt recovery action.

The Disputed Invoice process will put the invoice on hold whilst investigations into the concerns raised by the Invoice Recipient are completed.

## **What is the RDC Debt Recovery Process?**

### Pre Debt Recovery

All Bills and Invoices will be sent as soon as it is practicable and include:

- The details of the Bill or Invoice
- The payment timeframe
- Payment options appropriate for the sum due
- Contact details for queries in relation to the bill, invoice, payment or request for support

Bills and Invoices will be addressed to recognised legal entities such as corporations, partnerships, trusts, and individuals.

Bill and Invoices will encourage prompt contact with the service area should there be a service dispute or payment issue. This enables officers to discuss the options available and resolve issues as quickly as possible preventing unnecessary delays and further debt.

The Council reserves the right to refuse to offer or accept payment arrangements.

Where appropriate, the Council will inform people of benefits, discounts, relief, and exemptions that may apply.

Recovery action will commence if the Bill or Invoice recipient fails to co-operate by any of the following:

- Fails to pay by payment due date
- Fails to lodge a dispute with the council by payment due date
- Fails to notify the council that they are seeking advice by payment due date
- Fails to enter into or pay via an agreed arrangement

At this point, the invoice recipient becomes a Debtor and the sum owed becomes a debt.

### Phase One of Debt Recovery

Debtors will be sent the relevant Reminder letter with a final due date and include:

- The reason for the reminder
- The payment final due date
- Payment options appropriate to the debt
- Contact details for queries in relation to the bill, invoice, payment or request for support
- The options available to the council should the Debtor fail to pay
- Information of the support services available such as Citizens Advice Bureau

Reminders will be addressed to recognised legal entities such as corporations, partnerships, trusts, and individuals.

## Phase Two of Debt Recovery

<b>The following debts are managed by the Revenues and Benefits Recovery Team.</b>	
Council tax	Appendix One
National Non Domestic Rates (Business Rates)	Appendix Two
Overpaid Housing benefits	Appendix Three
<b>The following debts are managed jointly by the Payments Team and Legal Services Team.</b>	
Sundry Debtors	Appendix Four
<b>The following debts are managed by the Transportation Team</b>	
Penalty Charge Notices	Appendix Five

*For those who can't pay:*

All Debtors seeking help due to financial difficulties:

- Will be encouraged to use the services of the money advice services available from the Citizens Advice
- Will be given the opportunity to have their ability to pay assessed by the relevant collection unit
- May be invited to provide details of their means by listing their income and outgoings (evidence to confirm the accuracy of the means statement will be requested if necessary) and, if appropriate, to provide details of assets and any other debts owed to other organisations.

Options available to RDC for debt recovery include:

Can RDC and the Debtor agree a payment arrangement?	
Is the Debtor entitled to any relevant benefits, discounts, exemptions, and/or reductions to minimise the potential for debt accrual?	
Does the Debtor owe money to other Council collection units?	If so, the Debtor will be advised that all their Council debts may be taken into consideration when deciding on an arrangement.
Can RDC hold recovery action and offer to refer cases to the Citizens Advice Bureau?	This will suspend the recovery process and additional costs to allow reasonable time for the CAB to assist the Debtor and if necessary prepare a financial statement for them.
Can RDC reduce or remove the debt?	

The above list is not exhaustive.

*For those who won't pay:*

If it is found that the Debtor has the ability to pay, but refuses to pay, then legal proceedings may commence with consideration given to:

- The reasonable prospect of recovery
- The priority of the debts owed

- The level of repayments currently being made
- The efforts made by RDC to recover the debt
- The reason the Debtor may have for refusing to pay
- The impact of recovery action on the Debtor

Options available to RDC for debt recovery include:

Can RDC and the Debtor agree a payment arrangement?	
Is the Debtor entitled to any relevant benefits, discounts, exemptions, and/or reductions to minimise the potential for debt accrual?	
County Court Judgements	A full enquiry into the Debtors means and circumstances will be conducted before the decision to apply to court is taken.
Attachments to earnings or benefits for Debtors in employment or in receipt of benefits	A full enquiry into the Debtors means and circumstances will be conducted before the decision to apply to court is taken.
Passing the debt to Enforcement Agents	<p>Enforcement Agents appointed by RDC will be provided with the RDC code of conduct requiring them to refer to the Council, prior to taking action, if the Debtor meets any of the following criteria:</p> <ul style="list-style-type: none"> <li>• appears to be over 70 years old</li> <li>• is severely ill or disabled</li> <li>• has young children and severe deprivation is evident</li> <li>• disputes liability or claims to have applied for a rebate that has not yet been granted</li> <li>• is currently consulting his or her District Councillor or MP</li> </ul> <p>Enforcement Legislation 2014 states that RDC has a responsibility to minimise fees applied to Debtors such as Enforcement Agent Fees.</p>
Applications to the courts for charges on the property	<p>Charging Orders may be considered for those who chose not to pay. It will be applied to the property that the debt relates to and only if it is owned by the Debtor.</p> <p>A full enquiry into the Debtors means and circumstances will be conducted before the decision to apply to court is taken.</p>
Applications to the courts for bankruptcy	<p>Bankruptcy Applications will be considered for those who chose not to pay with debts over £750.</p> <p>A full enquiry into the Debtors means and circumstances will be conducted before the decision to apply to court is taken.</p>
<p>Applications to the courts for committal to prison</p> <p><b>Council Tax debts may carry a criminal liability.</b></p>	<p>Committal to Prison Applications will be considered for those who chose not to pay and after other debt recovery actions have been explored.</p> <p>A full enquiry into the Debtors means and circumstances will be conducted before the decision to apply to court is taken.</p> <p>Debt recovery will stop whilst the Debtor is imprisoned.</p>

The above list is not exhaustive.

### **Additional Costs to the Debtor**

Debt recovery has a cost to the council and RDC will seek to recover these costs, where appropriate.

Officer time spent on recovering the debt may be added to the original debt amount. This could include the service area time, the Debt Recovery officer time, Legal Services time, and Legal Fees, where applicable.

RDC can apply the following Late Payment Charges to commercial debts:

<ul style="list-style-type: none"><li>• Late Payments of Commercial Debts (Interest) Act 1998</li><li>• Late Payment of Commercial Debts Regulations 2002</li><li>• Late Payment of Commercial Debts Regulations 2013</li></ul>	
<b>Amount of Debt</b>	<b>Charge on top of debt</b>
£0.01 - £999.99	£40
£1,000 - £9,999.99	£70
£10,000 or more	£100
RDC can also apply reasonable recovery costs as per the European Directive 2011/7/EU on combating late payment in commercial transactions.	

### **Money Owed to the Council that is not an actively managed Debt**

Where the Council seeks to recover expenditure costs such as enforcement, 'Works in Default' or public health funerals, the general principles of this policy will be applied subject to the particular circumstances of each case.

Monies owed and grant repayment conditions may be registered as a Land Charge / Charging Order and are not routinely chased. RDC are notified of through conveyancing. RDC maintain a register.

Section 106 Contributions (Town and Country Planning Act 1990) may have requirements that must be met before income becomes due. They are monitored internally.

### **Discharge and deletion of debt**

All debts will be actively pursued where there is a reasonable prospect of recovery based on the Debtors means and circumstances.

RDC observes the statute of limitations on debt, where applicable.

The Corporate Write Off Policy is available at **Appendix Six**.

### **Evasion and Fraud**

RDC is committed to the prevention and detection of fraud, bribery, and/or corruption and will comply with internal and external fraud prevention policies and best practice.

Unlawful evasion or fraud to avoid payment will not be tolerated and where this is identified action seeking further penalties or sanctions will be taken alongside enforcement action.

The Council reserves the right to refuse to accept offers to repayment or enter into payment arrangements where evasion or fraud is suspected.

This policy supports the Anti-Fraud and Corruption Policy.

### **Monitoring and Compliance**

Each service area is responsible for their service area compliance with the RDC Corporate Debt Policy and Guidelines and supporting policies.

Service Areas are responsible for:

- producing internal procedures for services that could incur debt
- ensuring the client is fully aware of the costs they may incur
- publishing the consequences of failure to pay where clients are
  - Paying for a service they have requested
  - Expected to contribute to a service we offer.
- publishing clear Fees and Charges
- fraud prevention activities

Performance indicators will monitor the effectiveness of this policy and improve understanding of debts and Debtors. Performance information will assist in strengthening debt prevention activities.

Internal Audit will test compliance with this policy in future reviews.

### **Complaints**

RDC operates a Compliments and Complaints policy, available on the council website: <https://www.rochford.gov.uk/online-services/compliments-and-complaints>

Complaints can be

- emailed to [customer.comments@rochford.gov.uk](mailto:customer.comments@rochford.gov.uk)
- logged via telephone on 01702 318001
- posted to Rochford District Council, Council Offices, South Street, Rochford, Essex SS4 1BW.

### **Related Policies and Legislation**

The RDC Corporate Debt Policy complies with the following policies and legislation.

- RDC Customer Charter
- RDC Corporate Inclusion and Equality Policy
- RDC Financial Regulations
- RDC Anti-Fraud and Corruption Policy
- RDC Safeguarding Policy

General Data Protection Regulations May 2018: Personal data may be shared for the purposes of this policy and will adhere to the RDC Privacy Notice, published in 2018, which provides the basis for sharing of Debtors information in order to provide a service to the Debtor or to:

- perform a function or provide a service required by statute (Article 6(1)(e)GDPR)
- comply with a legal obligation (Article 6(1)(c)GDPR)
- allow disclosure in the interests of the Debtor or another person (Article 6(1)(d)GDPR),



## Appendix One: Council Tax

Councils have a duty to collect council tax from Adults living in a domestic property under the Local Government and Finance Act 1992 and Council Tax (Administration and Enforcement) Regulations 1992.

The principles highlighted throughout this Corporate Debt and Write Off Policy applies.

### Lead Service Area: Revenues and Benefits

<b>Stage One: Initial Notification</b>	Councils must send a Council Tax Demand at the start of each financial year or at commencement of liability Recipients are entitled to request payments by instalments
<b>Stage Two: Reminder</b>	Councils may send at least one reminder or a final notice for unpaid amounts
<b>Stage Three: Failure to Pay</b>	If debt remains past the reminder deadline then the full years council tax falls due and the right to pay by instalments is removed Councils can apply to the Magistrates Court for a liability order
<b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b>	If a liability order is granted and the debt remains unpaid then the council can choose from the following: <ul style="list-style-type: none"><li>• make an attachment of earnings if the Debtor is employed</li><li>• apply for deductions from the Debtors benefits or other income</li><li>• levy distress on the Debtors goods to sell and clear the debt</li><li>• apply to the magistrates court to have the Debtor committed to prison for those who have chosen not to pay</li><li>• Apply to the county court for a charge on the property the council tax relates to if owned by the Debtor and if more than £1,000 is owed. Council may apply for a forced sale.</li><li>• apply to the county court for the Debtor to be made bankrupt if more than £750 is owed</li></ul> Debts may be considered for Write Off where there is no prospect of recovery.

## Appendix Two: National Non-Domestic Rates

Councils have a duty to collect National Non Domestic Rates, known as Business Rates, from non-domestic properties including land, advertising rights, telecommunications masts, moorings etc. under the Local Government Finance Act 1988.

The principles highlighted throughout this Corporate Debt and Write Off Policy applies.

### Lead Service Area: Revenues and Benefits

<b>Stage One: Initial Notification</b>	<p>Councils must send a National Non Domestic Rates Demand at the start of each financial year or at commencement of liability</p> <p>Recipients are entitled to request payments by instalments</p>
<b>Stage Two: Reminder</b>	<p>Councils may send at least one reminder or a final notice for unpaid amounts</p>
<b>Stage Three: Failure to Pay</b>	<p>If debt remains past the reminder deadline then the full year's National Non Domestic Rates fall due and the right to pay by instalments is removed</p> <p>Councils can apply to the Magistrates Court for a liability order</p>
<b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b>	<p>If a liability order is granted and the debt remains unpaid then the council can choose from the following:</p> <ul style="list-style-type: none"> <li>• levy distress on the Debtors goods to sell and clear the debt</li> <li>• apply to the magistrates court to have the Debtor committed to prison for those who have chosen not to pay</li> <li>• Insolvency?</li> </ul> <p>Debts may be considered for Write Off where there is no prospect of recovery.</p>

### Appendix Three: Overpaid Housing Benefit

Councils have a the right to recover or use their discretion for overpaid housing benefits under Section 75 of The Social Security Administration Act 1992.

If a debt arises through fraudulent activity then it may result in Criminal proceedings by the Department for Work and Pensions.

Each case is considered in its own right as the calculation of housing benefits is dependent on many factors and therefore does not have a prescribed process.

Excluded from this policy are overpayments made as part of an official error to which the recipient did not contribute to and could not have reasonably known was an overpayment.

Overpayments may be recovered through instalment payments from the claimant's on going housing benefits based on the claimant's circumstances (whether they remain in the district or not), through off setting any owed housing benefit payments to claimant, through Enforcement Agents or via County Court to consider attachment of earnings, a deduction from other benefits, a charging order, a warrant of execution or a 3<sup>rd</sup> Party debt order.

On occasion, this type of debt may enter the Sundry Debtors Process. The principles highlighted throughout this Corporate Debt and Write Off Policy applies.

#### Lead Service Area: Revenues and Benefits

<p><b>Stage One: Initial Notification</b></p>	<p>Following the calculation of an overpayment of Housing Benefit, a decision is made by the Benefit Assessor on who is responsible to repay the overpayment. This will normally be the benefit claimant, but in some circumstances may be a landlord/agent or Housing Association.</p> <p>A decision notice is sent to the debtor, together with an invoice for repayment and they are given 1 calendar month to appeal against the decision to recover the overpayment from them. If an appeal is received and the decision is upheld, the matter may proceed to the Benefit Tribunal Service.</p>
<p><b>Stage Two: Reminder</b></p>	<p>If the invoice is recoverable from the claimant, and they continue to receive Housing Benefit, we will commence a weekly deduction from their ongoing entitlement to repay the debt.</p> <p>Alternatively, if the invoice has not been paid in full within 35 days and the debtor has not contacted us to appeal or make a payment arrangement, further recovery action is commenced. A reminder notice is issued giving 7 days to pay in full or contact us to make a payment arrangement.</p>
<p><b>Stage Three: Failure to Pay</b></p>	<p>A Notice Prior to Legal Action is sent giving a further 7 days to pay in full or contact us for an arrangement. This notice includes details of the recovery action that can be taken.</p>
<p><b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b></p>	<p>The following options are available to the Council if the debt remains unpaid:</p> <ul style="list-style-type: none"> <li>• Direct Earnings Attachment if the debtor is employed</li> <li>• Attachment of Benefit if the debtor receives benefits from the Department for Work and Pensions</li> <li>• Issue the debt to a Collection Agent</li> <li>• Collection via the County Court</li> </ul>

## Appendix Four: Sundry Debtor Processes A - E

There are five separate Sundry Debtor Processes; each debt has been aligned to its relevant recovery process below.

This policy may be extended to include other forms of revenue collected by the Council.

The principles highlighted throughout this Corporate Debt and Write Off Policy applies.

<p>Sundry Debtors Process A: (30 days)</p> <ul style="list-style-type: none"> <li>• Access Charge</li> <li>• Inspection Charge</li> <li>• Lease Charge</li> <li>• Public Health Cremation/Funeral and Related Works Cost Recovery</li> <li>• Rent and Deposit</li> <li>• Rent Arrears</li> <li>• Rent in Advance</li> <li>• Prevention / Incentive Payments</li> <li>• Service Charge</li> </ul>	
<p><b>Stage One: Initial Notification</b></p>	<p>Service Areas follow the internal Service Area Invoice Request process Payments send Invoices to the clients</p>
<p><b>Stage Two: Reminder</b></p>	<p>Payments send reminders to Debtors whose debts are outstanding past the due date Service Areas are notified of non-payment.</p>
<p><b>Stage Three: Failure to Pay</b></p>	<p>Service Areas review the Debtors information and with Legal Services, decide the appropriate recovery action.</p>
<p><b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b></p>	<p>Legal Services may pass the Debt to:</p> <ul style="list-style-type: none"> <li>• Enforcement Agents for             <ul style="list-style-type: none"> <li>○ Debtor Tracing and Contact</li> <li>○ Recovery of funds</li> </ul> </li> <li>• Court as part of an application for either a charging order or bankruptcy</li> <li>• Consider other relevant legal action available</li> <li>• Submit a claim to the estate</li> <li>• Consider Write Off where there is no prospect of recovery</li> </ul>

Sundry Debtors Process B: (7 days)	
<ul style="list-style-type: none"> <li>• Temporary Accommodation contribution</li> </ul>	
<b>Stage One: Initial Notification</b>	Service Areas follow the internal Service Area Invoice Request process Payments send Invoices to the clients
<b>Stage Two: Reminder</b>	Payments notify Service Areas of Debtors whose debts are outstanding past the due date Services Areas send reminders to Debtors
<b>Stage Three: Failure to Pay</b>	Service Areas review the Debtors information and decide the appropriate action. Services Areas may decide to: <ul style="list-style-type: none"> <li>• Propose Payment Arrangements</li> <li>• Propose the debt for Write Off where there is no prospect of recovery</li> <li>• Discharge their Duty</li> <li>• Continue to Stage Four</li> </ul>
<b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b>	Service Areas may pass the Debt to Legal Services to: <ul style="list-style-type: none"> <li>• pass to Enforcement Agents for <ul style="list-style-type: none"> <li>○ Debtor Tracing and Contact</li> <li>○ Recovery of funds</li> </ul> </li> <li>• Be made part of an application to court for either a charging order or bankruptcy</li> </ul>

Sundry Debtors Process C: (30 days)	
<ul style="list-style-type: none"> <li>• Emergency Works Cost Recovery</li> <li>• Enforcement</li> <li>• Fixed Penalty Notice</li> <li>• IMPORTANT Notice</li> <li>• Remedial Works Cost Recovery</li> <li>• Works in Default</li> </ul>	
<b>Stage One: Initial Notification</b>	Service Areas follow the internal Service Area Invoice Request process Payments send Invoices to the clients
<b>Stage Two: Reminder</b>	Payments send reminders to Debtors whose debts are outstanding past the due date. Service Areas are notified of non-payment.
<b>Stage Three: Prospect of Recovery Decision (In consultation with Management)</b>	Service Areas may decide to: <ul style="list-style-type: none"> <li>• Include the Debt as part of an application to court for either a charging order or bankruptcy</li> <li>• Register the Debt as a Land Charge with Land Registry with the relevant expiry date, if applicable.</li> <li>• Submit a claim to the estate</li> <li>• consider for Write Off where there is no prospect of recovery</li> </ul>

Sundry Debtors Process D: (30 days)	
<ul style="list-style-type: none"> <li>• Direct Action Cost Recovery</li> <li>• Grants</li> <li>• Section 106 Agreement</li> </ul>	
<b>Stage One: Initial Notification</b>	Service Areas follow the internal Service Area Invoice Request process Payments send Invoices to the clients
<b>Stage Two: Reminder</b>	Service Areas are notified of non-payment.
<b>Stage Three: Prospect of Recovery Decision (In consultation with Management)</b>	Service Areas may decide to: <ul style="list-style-type: none"> <li>• Include the Debt as part of an application to court for either a charging order or bankruptcy</li> <li>• Submit a claim to the estate</li> <li>• Revoke or discontinue service/permit</li> <li>• consider for Write Off where there is no prospect of recovery</li> </ul>

Sundry Debtors Process E: (30 days)	
<ul style="list-style-type: none"> <li>• Contract Related</li> </ul>	
<b>Stage One: Initial Notification</b>	Service Areas follow the internal Service Area Invoice Request process Payments send Invoices to the clients
<b>Stage Two: Reminder</b>	Payments send reminders to Debtors whose debts are outstanding past the due date Service Areas are notified of non-payment.
<b>Stage Three: Failure to Pay</b>	Service Areas call an emergency Contract Monitoring meeting to discuss the debt directly with the Contractors. Service Areas review outcome of the meeting and if applicable, discuss with Legal Services the appropriate recovery action.
<b>Stage Four: Prospect of Recovery Decision (In consultation with Management)</b>	Legal Services may pass the Debt to: <ul style="list-style-type: none"> <li>• Enforcement Agents for Recovery of funds</li> <li>• Court as part of an application for either a charging order or bankruptcy</li> </ul> Consider Write Off where there is no prospect of recovery

## Appendix Five: Penalty Charge Notices

Councils have a duty to collect debt in accordance with the legislation contained within the Traffic Management Act 2004.

The principles highlighted throughout this Corporate Debt and Write Off Policy applies.

**Lead Service Area:** Transportation

<b>Stage One: Initial Notification</b>	Notice to Owner (NTO) sent advising that the Penalty Charge Notice (PCN) has not been paid.
<b>Stage Two: If not paid within 28 days of NTO receipt</b>	Charge Certificate (CC) sent advising charge has increased by 50% and County Court action will ensue if not paid.
<b>Stage Three: If not paid within 14 days of CC receipt</b>	Local Authority applies to the Traffic Enforcement Centre (TEC) to register the Charge Certificate (£8 fee applied).
<b>Stage Four: If not paid within 21 days of TEC registration</b>	Local Authority applies to TEC for a Warrant of Execution which authorises an Enforcement Agent to seize and sell goods.

# Corporate Write Off Policy





This policy supports the Corporate Debt Policy.

Every effort will be made to recover the debt as per the Corporate Debt Policy before Write Off is considered. Service Area's will work together, sharing data, to make informed decisions about debt recovery and write off.

This policy supports the decision process for debts that may have become uneconomical to pursue or unrecoverable. Writing off debts that are unrecoverable focuses resources on recoverable debts.

It must be noted that a debt may be written off but can be reinstated if deemed recoverable at a future date and is appropriate to do so.

The policy will be reviewed as required to ensure processes remain fair and in line with legislation and best practice.

The policy may be extended to include other forms of revenue collected by the Council.

### **How will RDC ensure a fair Write Off Process?**

The council will make reasonable efforts to discuss the matter with the individual or organisation with a liability to pay the Council during the course of all debt recovery activity and consider the impact of debt recovery and its appropriateness. More severe debt recovery activity such as court action or enforcement agent use will only be used if it is reasonable and has a prospect of recovery.

Proposal for write off will be considered at every appropriate stage.

### **What is the RDC Write Off Process?**

#### Pre Request for Write Off

The Service Area will endeavour to contact the Debtor to discuss the matter before making any final decisions on recovery actions, of which, write off is an option. As a result of these discussions, or in the view of the Service Area, if the debt is uneconomical to pursue or unrecoverable then the Service Area will propose the debt for Write Off.

The Council will consider whether an individual debt is uneconomical to pursue however, each debt will be considered individually before a decision is made.

Unrecoverable debts may be where:

- The debt arose from a local authority error that the Debtor could not reasonably have been aware of
- The Debtor is deceased and the estate is insolvent or unable to cover the debt
- The Debtor is believed to be vulnerable or is suffering hardship
- The debt is currently unenforceable due to the Debtor serving a custodial sentence
- The Debtor is likely to suffer serious financial difficulty as a result of recovery action
- The Debtor has been untraceable for **6** months
- The Debtor is believed to be living overseas and hasn't made contact
- The debt is statute barred
- The Debtors disposable income is so low that the repayment period is likely to extend beyond **3** years

- The Debtor may have multiple debts with the council and recovery action is focussed on the other debt(s)
- No likelihood of settlement with written confirmation of Insolvency from the Official Receiver or Administrator
- All appropriate recovery action has been exhausted
- The debt is remitted by court

Write Off is a formal process and when authorised, ceases all debt recovery action for that specific debt. Debt Recovery actions may continue for other debts connected to the Debtor.

An authorised request for Write Off does not mean the debt cannot be reinstated in future, where appropriate. Recovery actions cannot continue for that specific debt without the debt being reinstated.

#### Request for Write Off

As per the Accounts and Audit Regulations 2003 (as amended by the 2006 and 2009 Regulations), debts should not be written off without the approval of the responsible finance officer, or such member of staff as nominated by him or her for this purpose in line with the current Financial Regulations and Financial Delegations.

Write Off proposals and subsequent decision papers will be retained for the current year plus two years as per the RDC Record Retention Policy.

#### **Reinstating Written Off Debt**

Service Areas must be aware of an individual's circumstances during all financial related dealings and this includes being aware of any current and written off debt(s) that the Debtor may have. If the Debtors circumstances are deemed to have improved financially or the debt is now considered economic to pursue and recoverable then the Corporate Debt Recovery process may be enacted.

#### **Evasion and Fraud**

If evasion or fraud is detected, any proposal for write off will be considered for cancellation. Any historic Written Off Debts related to the Debtor will be considered for recall and the Corporate Debt Recovery process will be enacted where appropriate.

This policy supports the Anti-Fraud and Corruption Policy.