



North East Lincolnshire Council - Corporate Debt Recovery Strategy

Background.

As part of Transactional Services the Debt Recovery Section deals with recovery of outstanding debts relating to Council Tax, NDR (Business Rates), Housing Benefit Overpayments and Sundry Debts.

As part of the Roles and Responsibilities of the Section 151 Officer debts are administered in line with Corporate Policy, Legislation and Financial Regulations.

General Principles.

The following sets out the general principles to be applied in relation to debt management across all services provided by the Council:

- That the citizens and Businesses of North East Lincolnshire have a responsibility to pay for the services they receive and the charges for which they are liable.
- The majority of the debts owed to the council are priority debts and as such the council expect the debtors to give priority to the repayment of these debts over most other debts they may have.
- The cost of collection of sums due will be minimised by encouraging customers to use cost effective payment methods such as direct debit whenever possible. Payments through the internet and through debit cards will also be promoted in preference to other methods due to efficiency, choice and convenience.
- Although promoting electronic payment methods and Direct Debit the council recognises that some customers will find it difficult to access these payments methods. Therefore it will continually review payment methods offered to ensure that customers are not restricted from meeting their liabilities due to restrictions on the method of payment available.

- The council recognises the need to ensure that it's services are electronically available and will continue to develop services to allow for payments of accounts to be made through the internet and other associated technology, allowing customers to make payments outside of normal working hours.
- That payment in advance for services will be utilised wherever possible to ensure the council maximises cash flow whilst minimising the number of invoices issued. This will reduce costs and also the opportunity for debts to arise.
- At the recovery stage the Council will review the total indebtedness of the customer to the council and will attempt to arrange payment on a multiple debt basis wherever possible. Fees and Charges are set down in the Corporate Fees and Charges schedule, in line with legislation and regulations and when required in agreement with Magistrates Courts.
- The Council will encourage effective sharing of information within the Council and will explore the most efficient and effective way of achieving this whilst at all times taking full account of the Human Rights and Data Protection Legislation.
- Where appropriate the Council will notify the customer of the availability of relevant benefits, exemptions, discounts or other relief's which may reduce the level of the debt or increase the income of the customer.
- The Council will pursue all monies owed; this will include the use of external debt collection agencies and bailiffs where the in-house processes have failed to elicit payment.
- It is recognised that there will be some circumstances where it will not be possible to collect the debt. In these cases the Council will ensure that there is clear guidance at corporate level which is documented, detailing the actions to be taken prior to an account being considered for write-off.
- Disputes in relation to the invoice, bill or debt recovery processes will be resolved at the earliest possible opportunity; with debtors being kept fully informed of the ways in which they can contact the Council to discuss any dispute they may have.
- Where part of the debt is disputed the Council will still continue to collect the undisputed amount at the earliest possible stage whilst also dealing effectively with the disputed debt.
- When consultation between the customer and the responsible department fails to rectify any grievance or dispute and the customer wishes to make a complaint regarding the way in which the Council has attempted to collect a debt, they will be fully informed of the Council's Feedback/Complaints procedure and will be given every assistance to register that complaint.

Principles common to all debts

Every bill or invoice will be correctly addressed to the person liable to pay it. The name on the invoice or bill will be that of a person or body possessing “legal personality”.

Bills and invoices will, as a general rule, be issued on the day of production.

All documentation relating to the bill or invoice will be kept, either in paper or a scanned image format, for 6 years after the bill or invoice is raised.

In each case the Council will use the most appropriate and effective method of recovery in order to maximise income.

All bills, invoices, reminders and final notices will be issued using 2nd class post unless regulations or legal requirements specify otherwise.

Only officers within the Debt Recovery Section, after agreement with the Debt Recovery Manager, will be able to intervene in the recovery cycle to deal with hardship or dispute situations. This includes the ability to make deferred payment arrangements or suspend recovery action due to the debtor’s lack of means.

All notices issued by the Council will comply with the corporate style and will be easily identifiable as being from the Council.

Where performance indicators exist, either locally or nationally, the Council will strive for top quartile performance and will publish actual performance against these targets on an annual basis. Progress reports will be produced at regular intervals during the year in the form of a performance reporting system that is currently in use.

As prompt recovery action is key to managing debt and maximising income the Council will:

- Set clear targets for the recovery of debt.
- Regularly monitor the level and age of debt.
- Have clear documented recovery procedures and processes.
- Set and regularly review priorities for specific areas of debt and the recovery methods used to ensure maximum collection.
- Regularly review irrecoverable debt and submit write-offs for consideration by the appropriate Officer or Cabinet.

All debts that are written off will be written off against the income code against which they were raised.

The Debt Recovery Manager will use a third party agency where appropriate. Where a third party agency is used to assist with the recovery of the debt the information flow between the agency and the council should be in an electronic format.

Where legislation permits the Council will seek to levy and recover from the debtor all the costs or fees raised as a result of the recovery action taken. Only in exceptional cases, where it would not be in the public interest to pursue the costs or fees, can authorised officer(s) within the Debt Recovery Section agree they will be waived; the decision to waive costs will be in line with guidelines approved by the Debt Recovery Manager.

Principles of Enforcement (all debts)

The Council will ensure that any enforcement action is:

Proportional - a balance will be struck between the potential loss of income to the Council and the costs of the enforcement action.

Consistent – that a similar approach to enforcement will be taken in similar circumstances. The aim is to achieve consistency in the:

- Advice given
- Powers used
- Recovery action taken

Whilst taking account of:

- The debtors payment history
- The debtors ability to pay
- The social circumstances or vulnerability of the debtor.

Transparent – that reasons and clear explanations will be given for any enforcement action taken.

- If action is required the reasons for the action should be clearly explained, in writing if required.
- Timescales for actions must be clearly stated.
- A written explanation must be given of any rights of appeal the debtor may have against the enforcement action either before or at the time the action is taken.

Communications should be in plain English unless the detailed wording is specified in regulations or legislation.

Write-offs (all debts)

That every effort will be made to minimise the cost of write-offs to the Council by utilising all available recovery action and all debts will be subject to the full collection, recovery and legal procedures outlined in this strategy.

Debts may be referred for write-off consideration in the following circumstances:

- Debts remitted by the magistrates court
- The Council is unable to trace the debtor.
- The debt is a small balance and it is not cost effective to pursue further.
- The debtor had died and there are no or insufficient funds in the estate to settle the debt.
- The debtor is subject to insolvency proceedings and there is little likelihood of a dividend payment for unsecured creditors.
- The debt is not cost effective to pursue due to the likelihood of payment in relation to the cost of proceedings.
- The Council has evidence to confirm the debtor is suffering severe mental or physical illness which makes the enforcement action inappropriate.
- The Debt is Statute Barred

The limitations for authorisation of write-off of debt are those specified in the Council's Financial Regulations.

Debts will be referred to the appropriate officer of the Council or Cabinet at an agreed frequency and in an agreed format as set in the corporate write off policy which requires the signature of Executive Director Business Services or Deputy Director Finance.

Strategy specific to Sundry Debtors.

The responsibility for invoicing for sundry debt accounts is held by the individual departments, and business units as service providers. All invoices to be raised within 2 days of providing the service the exception being where a department is waiting for the information from another source i.e. Social Service assessments, all invoices raised will be shown on the Ash Debtors system.

The budgets of the originating unit will be credited with the value of the invoice at the time the invoice is raised. Where the debt remains outstanding 6 months after the date the invoice is raised the relevant budget will be debited with the value of the amount then outstanding. Any further monies recovered will only be credited at the time of receipt of the payment.

In line with the general principles of this strategy service providers must show that they are actively moving to obtain payment in advance or at the time of the service delivery wherever possible. Sundry debtor accounts should only be raised where payment in advance is inappropriate.

Services will set a minimum value for invoices that will be reviewed on an annual basis.

Ownership of all sundry debts rest with the originating departments and it is only the originating departments that may:

- Issue an instruction (in writing) to cancel an invoice
- Correspond with or discuss with the debtor issues relating to the validity of the debt which must be in line with the Council's charging and income policy.

- Deal with a complaint relating to the provision of the service or the raising of the invoice.

Except for invoices payable by instalments or as otherwise contractually agreed, the settlement terms for all invoices will be 14 days.

Recovery action will commence no later than 10 days after the settlement date has fallen due. All recovery action is the responsibility of Transactional Services and the Debt Recovery Section therefore any arrangement made will be in agreement with the Debt Recovery Section.

All statutory methods of enforcement will be available for use including:

Obtaining a County Court Judgement to enable the following actions to be taken by the Council's Court Enforcement Managers/Debt Recovery Manager.

- Attachments of Earnings.
- Warrants of execution
- Insolvency
- Possession proceedings
- Third party Debt Orders
- Charging Order

The methods will be used in accordance with the principles of enforcement.

Further enforcement action will be taken where appropriate by converting the debt to a High Court Judgement, the decision to convert a debt will be taken by the Court Enforcement Managers/Debt Recovery Manager after discussion with the relevant department. The costs of any enforcement action to recover sundry debts will be charged against the budget of the service raising the invoice and any costs recovered from the debtor will be credited against these budgets.

Officers will, where cost effective to do so, use external collection agents and telephone contact with the debtor as means of recovering sundry debts.

Where legally able to do so originating units should suspend provision of future services to the debtor until outstanding debts are settled.

The Debt recovery Section will provide reports to originating units on a regular agreed basis as to the amount of debt raised in the relevant period and the age and value of outstanding accounts.

On a regular agreed basis the originating units will receive reports detailing accounts where decisions regarding on-going recovery must be made. The reports will detail, but not be limited to, the following:

- Accounts ready for county court action
- Accounts where recovery has been suspended by the originating unit
- Disputed accounts

Originating departments must review the reports and communicate their decisions regarding ongoing recovery action to the Debt Recovery Section within 7 days of the date the report, any dispute should be resolved within a time limit of 30 days.

Overpayments of Wages/Salary will be recovered direct from wages/salary on the next available pay date, or on final salary. Any employee wishing to discuss the repayment should contact the payroll section direct. The only exception to this is when an employee has left North East Lincolnshire Council at which time the debt will be raised as an invoice in the ASH Debtors system. Ownership of the Debt will remain with the originating department; however, should the invoice remain unpaid the normal recovery process will be implemented. All recovery action is the responsibility of Transactional Services and the Debt Recovery Section therefore any arrangement made will be in agreement with the Debt recovery Section.

Strategy specific to Council Tax and Business Rate accounts.

Council Tax and Non Domestic rate bills will be issued as soon as practical after the Council has set its Council Tax for the new financial year and in any event in time to ensure the statutory 14 days notice is given between the issue of the bill and the payment date of 1 April.

Ad hoc bills issued during the year will be issued as soon as practicable after the amount of liability has been calculated and payments will be due to commence on the earliest date permitted by the legislation.

Reminders and Final notices will, as far as is practical, be issued 14 days after the due date for payment in accordance with the recovery timetable set up at the start of each financial year.

Summonses will be issued as soon as practical after the default to which they relate.

Liability order courts will be held each month and a yearly timetable for the courts will be agreed with the Magistrates Clerk in November each year.

All appropriate methods of enforcement of liability orders will be used. These include:

- Attachment of Earnings – Council Tax only
- Bailiff action to levy distress
- Deductions from benefits – Council Tax only
- Attachment of Members' Allowances – Council Tax only
- Insolvency
- Charging Orders – Council Tax only
- Application for committal to prison – individuals only
- Prosecution of employers for failing to implement Attachment of Earnings Orders. – Council Tax only.

When recovery action has commenced payment arrangements will only be entered into when the debt is secured by a liability order or the debtor agrees to make

payment by direct debit. Arrangements will only be agreed by authorised staff and will generally adhere to the following guidelines:

- The debt will be cleared by the end of the financial year.
- The debtor demonstrates a clear intention to maintain the arrangement
- The arrangement is reasonable in comparison with payments that could be secured by taking alternative action.

In exceptional circumstances special payment arrangements may be made by authorised staff prior to a liability order being obtained and without the debtor agreeing to pay by direct debit.

Strategy specific to Recovery of Housing Benefit Overpayments

Invoices will only be issued when a recoverable housing benefit overpayment cannot be recovered by any other prescribed action.

Where there is a recoverable housing benefit overpayment recovery actions will commence using the following recovery methods in the order of preference as shown in the list:

1. From arrears of housing benefit
2. From ongoing housing benefit entitlement, including direct payments to landlords even if the claimant has moved address and/or landlord. Recovery rates will be based on the DWP guidelines in force at the time of recovery and the maximum recovery rate allowed will be applied in the first instance. Authorised officers will, however, be able to consider applications to reduce the rate of recovery where applying the maximum rate is causing demonstrable hardship to the debtor.
3. Council Tax benefit overpayments will, apart from very exceptional circumstances, be debited to the relevant Council Tax account.
4. If there is no continuing Housing Benefit entitlement or underlying entitlement an invoice will be raised on the First debtors system.
5. Where an invoice is raised the Council will seek to recover the amount outstanding in a single payment. Where this is not possible due to the debtors financial circumstances the Council may agree to a payment plan by instalments.
6. By deductions from other prescribed benefits as defined in the Housing Benefit Regulations.

Where an invoice has been raised and payment is not received after the issue of reminders the Council will issue a claim against the debtor in the County Court with a view to obtaining immediate payment or failing that to obtain a judgement against the debtor.

The Council will, in appropriate circumstances reduce payments to landlords for current tenants in order to recover arrears for former tenants. It will take this action where the original tenant has no continuing entitlement and there was a misrepresentation or failure to disclose a material fact.