



Finance, Revenues and Benefit Services

Debt Recovery Policy for Local Taxation

1.0 Background and Introduction and Interpretation

- 1.1 Community Service Committee received a report on 24th March 1998 on the matter of Debt Recovery for Local Taxation and Benefit Overpayments.
- 1.2 The report recommended a debt recovery policy and procedure which was adopted and has operated successfully since that date.
- 1.3 The review of the Delegations which was approved by Council on 15th January 2008 Committee, set the rules by which Officers write off irrecoverable debt.
- 1.4 In the intervening period the Local Government Ombudsman has made decisions regarding the recovery of council tax and the use of recovery methods. The decisions of the Local Government Ombudsman are not binding on an authority but should be taken in to consideration. Their findings included a need to have a thorough debt recovery policy and recovery procedures which represents the actual procedures a council will follow to recover local taxes.
- 1.5 This policy sets out the objective, including the Principles for Recovery Action, which will govern the way in which we work, the legislative framework, and the Recovery and Write Off procedures.
- 1.6 The process for recovering Council Tax and Non Domestic Rates Business Rates payments has not changed.
- 1.7 For the purpose of this policy, vulnerable groups are those whose welfare may be particularly adversely affected by the continuing of recovery action and collection of debt.
- 1.8 For the purpose of this policy, a letter or notice, where appropriate and applicable, can be issued by post or by electronic means.

2.0 Equality and Diversity

- 2.1 Lichfield District Council is committed to developing and delivering services in a way that ensures it treats people fairly and promotes equality of opportunity and social cohesion within the wider community.

We recognise that groups of people within the community could be disadvantaged, because of their age, gender, disability, race and ethnicity, sexual orientation, religion or belief and social class. Individuals could potentially be disadvantaged or discriminated against by the way our services are structured and delivered, by the decisions which we take in our various regulatory functions or by our actions as an employer. As a result people may be denied access to the services or consideration to which they are entitled.

This policy has been subject to an Equality Impact Assessment to ensure that there is no discrimination in the way that it has been designed, developed or how it will be delivered and that, wherever possible, equality is promoted.

3.0 Policy Objectives

- 3.1 We are required by law to collect Council Tax, and Non Domestic Rates. Our duty is to maximise the collection of these debts, but we aim to have a regard to vulnerable groups and those who cannot pay. Our policy must be fair. To be effective, the Policy must also be clear, as it is important that debtors know where they stand, so that we are fair but firm.
- 3.2 An integral part of debt recovery is the effective management of irrecoverable debts. A write off procedure must ensure that all reasonable steps are taken to recovery Council Tax or Non Domestic Rate debts before considering write off. An effective procedure ensures bad debt is identified quickly and allows resources to be concentrated where most productive.
- 3.3 We must ensure that debts are managed in accordance with the Financial Regulations of the authority.

The policy objective therefore is:

to maximise income collected, and to avoid causing unnecessary financial hardship, whilst observing the legal process and requirements.

4.0 Principles for Recovery Action

4.1 The Policy is based on the following principles and procedures:

- Bills are produced and dispatched in accordance with legal requirements
- All debtors are initially required to pay in accordance with the law by statutory instalments
- There are clear, written procedure guidelines for all staff involved in recovery action
- Clear information about recovery procedures is given to debtors and advice agencies
- Information will be made available, upon a reasonable request, in different formats to meet individual needs of a person.

4.2 Our Procedures aim to in each case

- advise customers of their liability as soon as possible
- help customers receive all the discounts, reliefs and exemptions they are entitled to.
- collect the amounts due fairly and efficiently and promote efficient collection methods
- be timely to minimise arrears and maximise collection.
- be sufficiently effective to ensure that where people have the means, they pay their debts and are not able to avoid their obligations
- must acknowledge the debtor's obligations to their dependants
- effectively distinguish between those who cannot pay and those who will not pay their debts.
- allow for full appraisal of a debtor's circumstances, providing sensible arrangements for the repayment of debts.
- protect debtors and their families from harassment and undue demonstrable financial hardship
- attempt to sort out debt problems before they escalate out of the debtor's control
- maximise the prospects for the rehabilitation of the debtor.
- accept that for some cases no repayment scheme is affordable
- recognise and protect the debtor's rights at every recovery stage
- provide money advice referral where the need is identified
- to treat all individuals consistently and fairly

4.3 The Council's approach is to ensure that each debtor is treated as an individual, those who can't pay are treated with sensitivity; those who won't pay are treated with reasoned determination.

4.4 It must be stressed that any debt policy or debt and money advice must enhance recovery results. The emphasis must be a fair, sympathetic, clear and firm approach to debt collection.

4.5 The Council will always encourage people experiencing problems in paying their council tax to contact us as early as possible. We will try to reach a suitable arrangement that is agreeable to all parties, and suit individual circumstances. To ensure we treat our tax-payers in a fair and equitable manner, we may from time to time, choose to use our discretion to vary the steps outlined in this

document and our procedures. However, we will always look to secure the councils, position by obtaining a liability order.

5.0 Methods of Payment

5.1 The Council will provide a choice of convenient methods of payment which will be detailed on each bill. Whichever method of payment an individual chooses, they must ensure payment reaches the Council by the due date. We will always encourage payment by Direct Debit as this is the most cost effective way to collect Council Tax and Non Domestic Rates.

6.0 Legislative Framework

Council Tax and Non Domestic Rates are governed by statute as follows:

6.1 Council Tax: Local Government Finance Act 1992 and The Council Tax (Administration and Enforcement) Regulations 1992 as amended.

6.2 National Non Domestic Rates : Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended), made by the Secretary of State, under powers conferred under schedule 9 of the Local Government Finance Act 1988.

7.0 Council Tax and Non Domestic Rates

7.1 All Council Tax and Non Domestic Rates payers have an automatic right under the legislation to pay by instalments when they receive their annual bills. The statutory instalment scheme is based over 10 months.

7.2 All bills will be issued giving at least 14 days notice of the first instalment date unless by prior agreement with the customer.

7.3 Instalments are due on or before the 1st (previously 8th) of each month. An alternative date of the 18th of the month is only offered to payers by Direct Debit for Council Tax. Instalments commence in April each financial year and end in January.

7.4 Charge payers can request in writing to pay their annual charge over 12 months.

7.5 Payments should be made as shown on the front of the Council Tax or Non Domestic Rates bill. If the customer wishes to make fewer payments than those given, payment must be in advance of the instalments due. Payment can be made in full on or before the date of the first instalment shown on the bill.

7.6 Each year a Recovery Timetable will be agreed by the Recovery Manager and the Revenues and Benefits Manager. This will be amended when it is deemed necessary in order to manage workloads, resources and collection requirements more effectively.

8.0 Recovery Process

8.1 The recovery process will involve the following notices being issued:

- A reminder notice - issued when an instalment is overdue. This notice will give 7 days to bring an account up to date.
- A Final notice - issued when an account is in arrears and there is no right to pay by instalments or there is a third failure to pay an instalment on the due date within a financial year.

- A Summons - issued to summons a person to the Magistrates' Court when there has been no satisfactory response to a reminder or final notice. Costs will be incurred upon the issue of this notice.
- Liability Order - issued by the Magistrates' Court upon being satisfied that the Council Tax or Non Domestic Rates is outstanding. Costs will be incurred upon the issue of this order.

9.0 Post Liability Order Action

9.1 Once a liability order is granted, the Council may, without further recourse to the Magistrates' Court, take further steps to recovery unpaid Council Tax or Non Domestic Rate. The remedies available and in no particular order are:

- An attachment of Earnings Order*
- An attachment of Benefits Order*
- An attachment of Allowances*
- A Charging Order
- Taking Control of Goods (previously Distress)
- Insolvency
- Committal proceedings

* *action for council tax debts only*

9.2 The council, in some cases, will consider a special arrangement.

10.0 Write Off Provision

10.1 Write-off of a debt is only used where all available collection processes have been attempted or considered, or there are other circumstances. Other circumstances would be:

- Tax payer deceased
- Insolvency
- Ceased trading with no assets
- Absconded with no trace
- Remitted by the courts
- Statute barred
- Uneconomical to pursue
- Financial hardship

10.2 Where these circumstance change, such that it is possible to recover some or all of the debt, then the debt will be written back on.



Finance, Revenues and Benefit Services

Debt Recovery Procedures for Local Taxation

Recovery Procedure

1.0 Reminder Notice

- 1.1 Not all instalments are paid on time. We acknowledge that there are many reasons for late or non payment. We will pursue all overdue payments diligently, whatever the payment method, and where an instalment remains unpaid we will issue the appropriate reminder notice.
- 1.2 Due to the number of accounts administered by the Revenues Team, reminders will not be checked individually before they are issued. Parameters are agreed by the Senior Managers in the Revenues Team and reminders are issued on this basis. The parameters consist of the number of days the instalment is behind and the monetary minimum value.
- 1.3 It is the customer's responsibility to make sure that all instalments are paid on or before the due date. Late payment causes cash flow problems and can lead to an increase in the Council Tax payable by all customers in the following financial year. A reminder notice will always be issued before a summons, but non-receipt of either is no excuse for missing payments and cannot be used as a reason for non-payment.
- 1.4 Reminders will not be cancelled without "good reason".
- 1.5 In some very exceptional circumstances, such as cases of demonstrable extreme financial hardship, and depending on the information available to us, we may agree to spread the charge over a longer period than the prescribed statutory instalment scheme. We will confirm any such arrangement in writing. If these arrangements are not paid then we will continue with recovery action in accordance with the regulations.
- 1.6 A reminder will give a charge payer seven days to pay the late instalment. If they do not pay within seven days, they will lose their right to pay by instalments and the full outstanding charge for the year will become due within a further seven days. A final notice will not be issued at this point.
- 1.7 A reminder notice will show the instalment that is over due, and the total charge due if the instalment is not paid within seven days. It will also warn of further action to be taken in the courts if the reminder is not complied with. The instalment may be for a single year or multiple years.
- 1.8 Reminder notices will be issued in the names of all liable parties. A separate notice for each party will not be issued.

2.0 Final Notices

- 2.1 Final notices are issued where there has been a third failure to pay an instalment on time within a financial year, or there was no right to instalments and the amount due has not been paid. (This is often the case for a closed account), or where all statutory instalments have fallen due.
- 2.2 A final notice will give seven days to pay the outstanding amount.
- 2.3 A final notice will state the amount due and payable and advise of further recovery action in the courts if the notice is not complied with.
- 2.4 To protect the Council's interests, a hold will not be placed on recovery action at this stage, unless the account is brought up to date and a Direct Debit instruction is set up to pay the remaining years instalments.
- 2.5 Final notices will be issued in the names of all liable parties. A separate notice for each party will not be issued.
- 2.6 As with reminder notices, final notices will not be individually checked prior to being issued.

3.0 Summons and obtaining a Liability Order

- 3.1 Each year a limit will be agreed by the Recovery Manager and the Revenues and Benefits Manager, on the level of debt above which a summons will be issued. This amount will be agreed in line with court costs and will stop a tax payer's debt being doubled due to recovery action. Costs usually fall on the tax payer and therefore the cost to the Council is mainly in terms of staff time.
- 3.2 A summons is issued when a reminder notice or final notice has not been paid. A summons is the first step in the process of obtaining a Liability Order.
- 3.3 The Council will lay complaint at Tamworth Magistrates Court, Hedging Lane, Tamworth, Staffs or other magistrates court if directed by Her Majesty's Court Service.
- 3.4 A list is produced prior to the issue of a summons. Each account on this list will be checked to ensure there is no genuine outstanding matter with the Council that should prevent a summons being issued. This will include work outstanding in the document work flow system. If it will affect the amount payable, to the extent that if the work was completed a summons would not be issued, a suppression will be put on the account. A check will also be made to ensure that there are no payments waiting to be allocated to the account and a review of any notes will be made. A summons will not be suppressed if there is an issue raised that does not affect liability or it could be considered frivolous with the intention of delaying payment or if there is an outstanding application for Council Tax Reduction. (Also known as Council Tax Support)
- 3.5 Summonses are issued each month and a minimum of 14 days prior to the court hearing.
- 3.6 At each stage of recovery, additional costs will be incurred. These costs are payable by the liable person. Reasonable costs will be incurred at the issue of a summons. Further reasonable costs are incurred upon the granting of a Liability Order. These costs are agreed with the Magistrates Court. Only in exceptional circumstances are these deemed not payable. A decision to remove costs will be made by the Senior Managers in the Revenues Team.
- 3.7 A summons is issued to each individual liable person/party. The summons will state that they are to appear at court on a specific date and time. The summons will state the amount due and the costs which are payable at this stage.
- 3.8 A code of practice leaflet is included with each summons for non-payment of Council Tax. This leaflet explains the procedure for obtaining a liability order and the steps which can be taken to recover the outstanding debt.
- 3.9 If the amount, including costs, shown on the summons is paid in full before the court hearing, no further action will be taken. The court will be notified that the debt is paid in full.
- 3.10 Any payment made to an account will be allocated to clear the costs first.
- 3.11 The person representing the council at the hearing will be a duly authorised person. Evidence will be provided as required by the legislation.
- 3.12 If any amount remains outstanding on the date of the hearing, the Council will ask the Magistrate's to grant a Liability Order. The court will grant the order if "it is satisfied that the sum has become payable by the defendant and has not been paid".
- 3.13 The Magistrate's do not have the authority to make arrangements with debtors to clear the amount outstanding or determine if a discount/exemption or benefit should be awarded. This will be explained to any person appearing at the hearing.

4.0 Post Liability Order Action

- 4.1 Once a liability order is granted, the council may, without further recourse to the Magistrates' Court, take further steps to recovery unpaid Council Tax or Non Domestic Rates. The remedies available and in no particular order are:

- An attachment of Earnings Order*
- An attachment of Benefits Order*
- An attachment of Allowances*
- A Charging Order
- Taking Control Of Goods
- Insolvency
- Committal proceedings

* *action for council tax debts only*

- 4.2 The Council, in some cases, will consider a special arrangement.
- 4.3 The method of recovery for individual cases will be determined by the recovery team based on what is viewed as the most efficient and effective means of securing the monies due to the council at that time. They may resort to the above remedies in any order, however will only pursue one option at any time on a liability order with the exception of a charging order. Only when committal proceedings are to be considered must taking control of goods have been attempted previously.
- 4.4 In respect of Council Tax, the Council has the legal right to request certain information once a liability order has been granted. Each liable person has 14 days to provide this information. This request for information is issued by the Council or its enforcement agents.
- 4.5 It is a criminal offence to fail, without reasonable excuse, to provide the information requested or knowingly provide false information. A fine can be imposed.
- 4.6 The information provided will assist the council in identifying the most appropriate remedy to recover any outstanding debt.
- 4.7 Where there are more than one liable party, they will be classed as joint and severally liable and we will look to all parties to pay the debt. Each party is liable for the whole debt. We will take recovery action against any or all of the parties. We will not accept payment of a share of the bill as full and final settlement of their liability.

5.0 Special Arrangements

- 5.1 Arrangements should be made in accordance with the arrangement procedures document.
- 5.2 Where a debtor makes an arrangement to pay but fails to keep to that arrangement, in the first instance of failure, the Council will usually take reasonable steps to establish the cause of non-payment and in some circumstances offer to make a further arrangement. Any further failure to keep to an arrangement will result in another remedy being used to recovery the outstanding debt.
- 5.3 An arrangement will be altered, when appropriate, following a change in a persons circumstances which has affected their ability to pay the sum agreed.

6.0 Attachment of Earnings Order

- 6.1 Where appropriate and when a liable persons employment details are known, an Attachment of Earnings order will be served upon a person's employer.
- 6.2 The order will remain in force until the debt is discharged and paid in full. If the debt is paid in full separately from the order, the employer will be advised to cease taking deductions.
- 6.3 A notice will be issued to the liable person to advise them an order has been served on their employer along with a copy of the order.

- 6.4 Instructions and a copy of the relevant regulations will be included with the order issued to the employer.
- 6.5 In cases where a liable person will suffer demonstrable and unwarranted financial hardship because of an Attachment to Earnings order, the Council will request they complete a financial request and if appropriate the order will be suspended whilst a special arrangement is made. If any special arrangement is not adhered to, the order will be re-instated and no further intervention will be considered.
- 6.6 A maximum of two Attachment of Earnings Orders can be served on a liable person.

7.0 Attachment of Benefits Order

- 7.1 Where a liable party is in receipt of Income Support, Job Seekers Allowance, Employment and Support Allowance or any other benefit determined by law as deductible and it is appropriate, an Attachment of Benefits Order will be issued to the appropriate agency.
- 7.2 Deductions are made at a fixed weekly amount determined by Central Government.
- 7.3 A notice will be issued to the liable person to advise them an order has been served and deductions requested.
- 7.4 Only one Attachment of Benefits Order can be issued on a liable person.
- 7.5 If deductions from a person's benefit would not clear the debt within a reasonable period of time, an alternative remedy may be used.

8.0 Attachments of Allowances

- 8.1 Where a liable party is an elected member of a relevant Billing Authority or relevant Precepting Authority, where appropriate, an attachment to Allowances order will be made. This does not include Members of Parliament.
- 8.2 Deductions are made at the rate of 40% of the Member's allowances. The allowances taken into account are those paid under Section 18 of the Local Government and Housing Act 1989 and Section 175 of the Local Government Act 1972.
- 8.3 The decision to serve an Attachment of Allowances Order will be made by the Director of Finance, Revenues and Benefits.

9.0 Restrictions on Voting

- 9.1 In respect of Council Tax, where a liable party is a Member of the Local Authority, whether solely or jointly liable for the Council Tax and they have fallen two months or more in arrears with instalments, they must declare their position at Council meetings. They must also abstain from voting on financial matters relating to the income and expenditure of the Billing Authority.
- 9.2 Failure to declare their position shall make the Member liable to a fine.

10.0 Charging Orders

- 10.1 Where the arrears of a liable party are in excess of a sum determined by legislation and they own a property, if appropriate, the Council can apply for a charging order to be placed upon that property. This order gives Lichfield District Council an equitable charge on the property, so if it is sold the Council are automatically entitled to receive the outstanding amount from the proceeds of sale where there is sufficient equity remaining after priority charges have been settled.
- 10.2 Prior to a charging order being requested, the council will write to the liable person to advise them of our intention and to offer them an opportunity to

- clear their debt by an alternative method of recovery. This letter will state that the council can force the sale of the property if a charging order is granted.
- 10.3 Interest can only be charged in cases for non-payment of Non Domestic Rates, not Council Tax.
 - 10.4 Once a charging order has been granted, the authority can look to recover the outstanding debt by another means as detailed in this policy.

11.0 Taking Control Of Goods (Use of Enforcement Agents)

- 11.1 The Council may take control of a debtors goods, to satisfy the amount outstanding on a liability order.
- 11.2 Prior to a debt being passed to enforcement agents for collection, a notice will be issued advising that enforcement agents may visit if the debt remains unpaid after 14 days.
- 11.3 Lichfield District Council currently employs Bristow and Sutor to carry out the function of taking control of goods. Bristow and Sutor where possible, will comply with the National Standards for Enforcement Agents and the Local Code of Practice.
- 11.4 Once a debt has been passed to Bristow and Sutor, unless there are extreme circumstances, the Council will not intervene with their actions, put their actions on hold, or request the debt is passed back to them.

12.0 Insolvency

- 12.1 The Council can instigate bankruptcy or liquidation proceedings against any person that owes in excess of a sum determined by legislation.
- 12.2 The Council will make enquiries in to the financial position of a debtor prior to serving a statutory demand. This will include an enquiry with the Land Registry, and a credit check where applicable.
- 12.3 The Council will, where reasonable and practicable, make enquiries with other departments/agencies to establish if there are any known reasons as to why bankruptcy or liquidation action should not be taken against a liable person or party.
- 12.4 The Council will write to the debtor advising them of their intention to make an application for bankruptcy or a winding up order. This notice will invite them to contact the Council to discuss alternative arrangements to clear their debt. The Council will include in this letter, details of the consequences of not paying and being made bankrupt. The letter will clearly state that the debtor may lose their home, business or assets.
- 12.5 A statutory demand will be issued that gives the liable party 21 days to pay the debt in full. If they do not pay the debt in full, a petition will be laid before the court to make a person bankrupt or to wind up a limited company.
- 12.6 Bankruptcy or liquidation proceedings do not affect the individuals or company's liability for ongoing council tax or non domestic rates.

13.0 Committal Proceedings

- 13.1 The Council can only make an application to the Magistrates Court for a debtor's committal to prison after an attempt to take control of goods has been made.
- 13.2 Committal action will usually only be taken when it has been established that an Attachment of Earnings Order or an Attachment of Benefits Order is not appropriate.
- 13.3 A "pre committal" letter will be sent to the liable party advising them of the intention to make an application for their committal to prison and give 14 days for the debt to be paid in full or to contact the Council to discuss their arrears. This letter will advise that a prison sentence can be imposed for up to 90 days and that further costs will be incurred.

- 13.4 A summons to appear can be issued to all liable parties; however a warrant of commitment can only be made against one party. Where more than one party has been issued a summons, a Senior Manager will decide which party action is to be continued against.
- 13.5 A summons to appear will show the total amount due including costs incurred by both the Council and the enforcement agents. The debt will be broken down into financial years. It will clearly show the date, time and place of the hearing and how to contact the Council. A means enquiry form will be included and a recommendation made that this should be completed and brought to the hearing along with evidence to support any claim made on it.
- 13.6 If a debtor contacts the Council and the Recovery Manager is satisfied that an arrangement to pay is appropriate and all employment and benefit information is supplied, the initial hearing will be adjourned for a period of up to 6 months to monitor payments. If the arrangement is adhered to the case will either be adjourned indefinitely (sine die) or withdrawn and monitored. If an arrangement is not adhered to, the debtor will be required to attend the hearing and no further adjournments will be requested.
- 13.7 If a liable party does not attend a hearing, it is usual for the Magistrate's to issue a warrant of arrest with bail and any related costs will be added to the outstanding debt. A letter will be issued to advise that the warrant has been awarded. It will give relevant information as to how to prevent their arrest. The debtor will be given a further date to attend
- 13.8 If, after a debtor has been bailed, there is a further failure to attend, it is usual for the Magistrate's to issue a warrant of arrest without bail. There will be instances where the Council and the magistrates deem it to be necessary to change a warrant of arrest with bail to one without bail. A letter will be sent to the debtor to advise them that the warrant has been awarded. It will give the relevant information as to how to prevent their arrest and that upon being arrested they will be detained until such time that the court is able to hear the case.
- 13.9 When a debtor appears at court, an inquiry into their means will be held by the Magistrate's. This inquiry will look at the conduct of the debtor for the whole period, from the date the first instalment became due to the date of the committal hearing. The magistrates will determine if they are guilty of wilful refusal or culpable neglect. There is no legal definition of wilful refusal or culpable neglect. The Magistrates can then choose to do one of the following:
- commit forthwith for a term not exceeding 3 months
 - Fix a term of imprisonment and postpone the issue of a warrant on terms
 - Remit all or part of the debt
 - Dismiss the proceedings
 - Adjourn the proceedings
- 13.10 Where a term of imprisonment is made and postponed on terms, the terms are set by the Magistrate's and the Council cannot amend or alter these repayments. If the terms are not adhered to, a debtor will be summonsed to a further hearing. A letter confirming the terms will be issued to the debtor. This will state the consequences of not paying.
- 13.11 At a further hearing, the Magistrates can commit forthwith or adjust the terms of repayment. They cannot change the sentence that has been imposed. Any payment made to date will be taken into consideration and the sentence reduced accordingly.
- 13.12 If a debtor is committed to prison, at any time the debt is paid in full, they will be released.
- 13.13 The Council will not pursue the debtor after a period of imprisonment has been served. The debt will be written off in accordance with the write off procedures.

13.14 All summons for committal hearing will be either delivered by hand or by recorded delivery.

13.15 Committal proceedings can only be taken against individuals and not limited companies/partnerships.

14.0 Absconders

14.1 If a debtor moves address, moves away from the District, changes names and believes they will not have to pay, the Council will trace them.

14.2 All debts will be vigorously pursued by the Council.

14.3 The Council will make enquiries with other departments and agencies to find absconders. They will also use all records that are legally available to use to trace absconders.

14.4 Absconders will be expected to pay their debt and any costs incurred in tracing them.

Write Off Procedure

1.0 Council Tax and NDR

1.1 In accordance with the Councils constitution, the Recovery Manager and the Director for Finance, Revenues and Benefits are authorised to write off debts.

1.2 Write-off of a debt is only used where all available collection processes have been attempted or considered, or there are other circumstances. Other circumstances would be:

- Tax payer deceased
- Insolvency
- Ceased trading with no assets
- Absconded with no trace
- Remitted by the courts
- Statute barred
- Uneconomical to pursue
- Financial hardship

Where these circumstance change, such that it is possible to recover some or all of the debt, then the debt will be written back on.

1.3 Write offs for Council Tax and Non Domestic Rates can be split into two categories, Mandatory Write Offs and Discretionary write offs.

1.4 The recovery and write off provisions for approval are as follows

Mandatory Write Off		
Insolvency		
Category	Action	
	Under £25,000	Over £25,000
Bankruptcy (Personal)	Complete and return proof of debt, submit for write off	Complete and return proof of debt, submit to committee for write off
Liquidation (Corporate)	Complete and return proof of debt, submit for write off	Complete and return proof of debt, submit to committee for write off
Voluntary Arrangement / Administration Order (personal)	Complete and return proof of debt, submit for write off	Complete and return proof of debt, submit to committee for write off
Company Voluntary Arrangement	Complete and return proof of debt, submit for write off	Complete and return proof of debt, submit to committee for write off
Administrative Receivership (Corporate)	Complete and return proof of debt, submit for write off	Complete and return proof of debt, submit to committee for write off
Ceased trading with no assets	Evidence gathered, submit for write off	Evidence gathered, submit to committee for write off

Mandatory Write Off		
Insolvency		
Category	Action	
Custodial Sentence served in respect of debt (Committal)	Submit for write off	Submit to committee for write off
Debtor deceased, estate insolvent (personal)	Obtain written confirmation from executor and submit for write off	Obtain written confirmation from executor and submit to committee for write off
Remitted by Courts (Committal)	Submit for write off as directed by court	Submit to committee for information purposes only and write off as directed by court

Discretionary Write Off	
No Known Forwarding Address	
All debts up to £1.00	Submit for write off
£1.01 - £25,000	Apply trace procedures. Consider use of tracing agent, submit for write off
£25,001 +	Apply trace procedures. Consider use of tracing agent, submit for write off. Submit to committee for write off.
Known Forwarding Address	
All debts up to £1.00	Prior to annual billing all debts submitted for write off
£1.01 - £50.00 Closed account	Recovery process to final notice, small balance letter sent. Submit for write off
£51 - £200 Closed account	Recovery process to enforcement agent action. Final letter sent. Apply trace procedures. Debt remains outstanding submit for write off
Other Circumstance for Write Off	
Inappropriate to continue enforcement due to persons known personal or financial circumstances	Prior to further recovery action consider each individual case regarding health, finances, age etc and submit for write off
Debt cannot be legally enforced	Submit for write off

1.5 A closed account is where the person or business no longer occupies a property.

2.0 Tax payer deceased

2.1 There are cases where the debtor has died leaving an amount of Council Tax or Non Domestic Rates outstanding. Where the debt is joint and several with a surviving charge payer, the surviving charge payer will be pursued for the debt. In all other circumstances the debtor's estate will be billed, however, where there is no estate the debt will be submitted for write off.

3.0 Insolvency

3.1 The Insolvency Act 1986 & 2000, further amended by the Enterprise Act 2000 governs the actions which can be taken against a debt once a debtor has become insolvent. Insolvency can include being made bankrupt, Liquidation, Administration, Individual Voluntary Arrangements and Company Voluntary Arrangements and Administration Orders. Where insolvency prevents further action the debt will be submitted for write off. In all cases of Insolvency the debt will be submitted for write off. If a dividend is paid, this will be written back on to the account.

4.0 Ceased trading with no assets

4.1 A company which has ceased trading as it no longer has the money to carry on business and has no assets is effectively insolvent. Once a company has been "struck off" by Companies House they have no legal identity and recovery action cannot be taken. In these cases the debtor will be treated as being insolvent and debts will be submitted for write off.

5.0 Absconded with no trace

5.1 In cases where a debtor has vacated a property and failed to provide the Council with a forwarding address, trace procedures will be applied. Tracing an absconder can be expensive and does not guarantee any income. Therefore the costs involved and recourses used should be considered at every point in the tracing process. Tracing methods will include checking all available Council records, and searching external databases available to the Council.

6.0 Remitted by the Courts

6.1 The Magistrates Courts have the power to remit a debt in full, where they feel it is appropriate, when the Council has made an application for a debtor to be committed to prison. These debts will be submitted for write off.

7.0 Statute Barred

7.1 Regulation 34 Council Tax (Administration and Enforcement) Regulations 1992 stipulates that where the Council has failed to obtain a liability order within six years of a debt first becoming due, action cannot be taken to pursue the debt through the Magistrates Court. These cases are rare and will be submitted for write off.

7.2 The Limitation Acts 1980 states:

"An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued"

This statute can be interpreted to mean if the council have failed to take any recovery for a period of 6 years or more since its last contact with the debtor then the debt becomes "statute barred" and the Council should not pursue the debt. These cases are rare and will be submitted for write off.

8.0 Uneconomical to pursue

- 8.1 Due to the costs involved in collecting Council Tax and Non Domestic Rates, in some cases pursuing the debt is uneconomical. The point at which a debt becomes uneconomical to pursue will vary depending on the debtors ability to pay, the recovery options available, the length of time the debt has remained unpaid and the costs involved. After all options have been considered and all reasonable steps taken to collect the debt, debts under £200.00 will be deemed uneconomical to pursue and submitted for write off.

9.0 Financial Hardship

- 9.1 The Council must acknowledge that there are instances where a debtor cannot reasonably be expected to pay their debts. Where a debtor can evidence that their income is sufficiently low and that there is little or no prospect of a change in circumstances; if after taking into consideration general living expenses, any repayment schedule would extend beyond five years, the debt will be considered beyond their means and submitted for write off.