



Northumberland  
County Council

# **Corporate Debt Recovery Policy**

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## **1. Introduction**

This document details the Council's policies on the billing, collection and recovery of monies due to the Council.

Sums due to the Council can be a mixture of statutory and non-statutory charges. The methods for billing and recovery of the statutory debts are tightly prescribed by statute. Our recovery practices must take account of this diversity.

This Policy sets out the general principles to be applied in relation to debt management across all services provided by the Council.

The management of income is a key business area for the Council. The Council collects income from many streams; some of this activity is governed by legislation while others by sound principles of financial management. The key to economic, efficient and effective income management is the creation and maintenance of a clear framework that sets out the approach, principles and strategy within which all activities will be conducted.

It is essential that all monies due are collected effectively by the Council, and that debt owed to the Council is kept to a minimum. This is because the Council has both a legal duty and a responsibility to its citizens to ensure that income due is paid promptly. The Council may charge late-payment interest on debts or seek interest during recovery processes where it is lawful and appropriate to do so.

Effective income management processes are critical to the delivery of overall Council service objectives. A more efficient income management process contributes to the availability of resources for wider or deeper service provision. Every pound of income that is not collected or takes extra effort to collect leads to one or two potential outcomes namely:

- A resource is needed to be taken from the overall service budget to compensate for the cost of collection or non-collection
- Extra income will need to be found to compensate for the extra cost of collection or non-collection.

## **2. Aims**

The aims of the corporate debt policy are to:

- Facilitate a coordinated approach to managing multiple debts owed to the Council.
- Identify, where appropriate, support which may be required to those owing money to the Council, and ensure circumstances are taken into consideration.
- Apply best practice to debt collection.

## **3. Scope of the Policy**

This policy applies to the collection of:

- Council Tax
- Non-Domestic Rates (Business Rates / NNDR)
- Housing Benefit and Council Tax Benefit/Support Overpayments
- Sundry Debt (Council Services)
- Overpaid salaries and wages
- Housing Income

There are specific rules and regulations which govern the recovery and collection of these debts, and are set out in the respective Annexes.

#### **4. Policies common to all types of debt**

Every demand for money will be correctly addressed to the person who is liable to pay it. The name on the demand will be that of a person or body possessing “legal personality”.

Demands will, wherever possible, be issued as soon as practicable and, if possible, on the day of production.

The Council will attempt at all times to use the most appropriate and effective method of debt recovery in order to maximise income.

The Council will encourage the most cost effective payment methods with the emphasis being on unmediated electronic means where possible. “Unmediated”, in the context of electronic payment methods means a method of payment that requires no human intervention by Officers of the Council to achieve its crediting to the account in question.

Equality and diversity considerations will be taken into account in accordance with the Council’s Equal Opportunities Policy. Specifically staff seeking to recover debts will have regard to ensuring information is accessible through translations, larger print versions or sign language, as appropriate, to the needs of the debtor.

Where the potential for a statutory benefit or discount exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities and they will be assisted and encouraged to apply for these.

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

Where either national or local performance indicators exist the Council will strive for top quartile performance and will publish its actual performance against these targets annually. Progress reports will be made available at regular intervals during the year to the Executive Management Team and Corporate Services and Economic Growth Overview and Scrutiny Committee.

The Council welcomes the involvement of welfare agencies where authorised by the debtor in connection with debts due to the Council, and recognises the benefits that these organisations can offer both the debtor and the Council in prioritising repayments to creditors and in maximising income available to the debtor.

The Council supports the provision of advice from external agencies and will work in conjunction with them. These include Age UK, Citizens Advice Bureau (CAB) and Shelter.

In cases of multiple debts there must be close liaison between services. Multiple debts are where a debtor has significant debts in more than one service area, e.g. NNDR, council tax benefit/support and housing benefit overpayment. Such cases can present problems in determining the relative priority of the individual debts for both the individual concerned and the Officers preparing settlement.

In such cases Officers are expected to liaise and agree an appropriate means of coordinated recovery, which reflects these policy aspirations together with the need to balance repayment profiles across all debts due to the Council.

Cross service communication may arise on an ad-hoc basis where appropriate cases present themselves.

The Council recognises that prompt recovery action is key in managing its debt and maximising income. The Council therefore aims to:

- Regularly monitor the level and age of debt.
- Set clear targets for the recovery of debt.
- Have clear written recovery procedures.
- Set priorities for specific areas of debt and assess recovery methods to ensure maximum recovery.
- Regularly review irrecoverable debts for write-off.

All sundry debt accounts that are written off will initially be written off as a charge against the income code against which they are raised. At the year-end an adjustment will be made if any of the debt was already provided for as doubtful in the bad debt provision.

Where an external agency is procured to assist with the delivery of a service the flow of information between the Council and the agency must be in a secure electronic format.

Where legislation permits, the Council will seek to take control of goods and recover from the debtor any and all costs/fees that are legitimately due from the debtor to the Council or its agents. Only in exceptional cases, where it would not be in the public interest to pursue costs/fees, will they be waived.

## 5. Principles of Recovery

The Council will follow the principles outlined below.

- Our action will be **proportionate**
- Our approach will be **consistent**
- Our actions will be **transparent**

Additionally our intention will be to be firm and fair, and our manner will be courteous.

**Proportionality** – Proportionality allows for a balance to be struck between the potential loss of income to the Council and the costs of compliance.

**Consistency** – Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council's aim is to achieve consistency in:

- The advice the Council gives.
- The use of its powers.
- The recovery procedures used.

The Council recognises that consistency does not mean simple uniformity. Officers need to take account of many variables such as:

- The social circumstances of the debtor.
- The debtor's payment history.
- The debtor's ability to pay.

**Transparency** – Transparency is important in maintaining public confidence. It means helping people to understand what is expected of them and what they should expect from the Council. It also means explaining clearly the reasons for taking any recovery action.

Transparency is a key part of the Council Officer's role. If action is required, the reasons why must be clearly explained and time scales must be clearly stated. A distinction must be made between advice and legal requirements.

Communications should be in plain English, and large print with Braille or translated versions will be made available to customers upon request.

With the exception of Council Tax and NNDR, an opportunity must be given to discuss what is required to comply with the law before formal recovery action is taken. A written explanation must be given of any rights of appeal against formal recovery action either before or at the time the action is taken.

## **6. Hierarchy of Debt**

Some customers will owe more than one debt to the Council, and may be on a low income or experiencing financial hardship. In such cases it needs to be clear which debts the Council considers a priority.

Priority will be given to debts where non-payment could lead to loss of the customer's home or imprisonment. These relate to Council Tax and Business Rates, which are most commonly enforced through the courts as per statutory requirements.

Other debts owed to the Council may, depending on the circumstances, be considered to be of lower priority.

## **7. Methods of Payment**

The Council's preferred method of payment is Direct Debit. However, this does not prohibit accepting payment by other methods. Apart from Direct Debit, the Council accepts a range of payment types as appropriate to the debt type and size.

These include cash, cheque, credit and debit cards, standing orders and other electronic banking methods, such as online internet banking and touch tone telephone payments. See Annex 4 Methods of Payment Policy.

## **8. Write Offs**

The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. See Annex 5 Write Off Policy.

The Council will seek to minimise the cost of write-offs to the local Council Tax payers by taking all necessary action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures as outlined in this policy. See Annex 1 Council Tax and NNDR Recovery Policy; Annex 3 Housing Benefit and Council Tax Benefit/Support Overpayment Policy, Annex 6 Sundry Debt Policy and Annex 11 Housing Income Management Policy.

Write off is only appropriate where:-

- the demand or invoice has been raised correctly and is due and owing; and
- there is a justified reason why the debt should not be pursued. See Annex 5 Write Off Policy.

### **Justified reasons**

It is not possible to list every scenario which could make a debt suitable for write off. However, the following factors could be appropriate depending on the circumstances. The advice of the Corporate Debt Team should be sought in determining whether a debt is suitable for write off. Some of the justified reasons are included below:

- The customer is insolvent and the Insolvency Practitioner has confirmed there is no dividend payable; these matters should be referred to the Corporate Debt Team as soon as an insolvency notification is received;
- The customer cannot be traced. The Corporate Debt Team should be consulted before applying for write off, as they have search engines and other methods to locate the absconded customer;
- The debt is uneconomical to pursue, or to pursue further. This may be based on more than one factor, such as the amount of the debt, the financial position of the customer and the cost of administrative and Officer time in pursuing the debt. If the debt is over £50 the Service should consult the Corporate Debt Team to determine whether the debt is economically viable to pursue;
- Administrative errors or loss of documentation. When a debt is referred to the Corporate Debt Team, under the Civil Procedure Rules, the Council is required to set out in detail the basis of the claim and enclose documentary evidence to back up the claim. If there is a lack of evidence it may not be possible to pursue the matter. The Service may wish to consult Legal Services on the position before referring the debt for write off;
- The debt is a contractual debt over 6 years old. Under the Limitation Act 1980, it is not possible to issue court proceedings in a contractual matter which is over 6 years old; however there are exemptions to this rule and the Services should consult Legal Services where they believe the debt is no longer enforceable by virtue of the Limitation Act 1980.
- The Magistrates' Court has refused a committal application and remitted the debt.
- The Council has evidence to confirm the claimant is suffering a severe physical or mental illness, which renders recovery action inappropriate.
- The customer has died and there are no or insufficient funds in the estate to settle the debt

**Please note Services will be required to confirm they have followed the normal debt recovery procedures before referring the debt for write off, and where the procedures are not followed an explanation will need to be provided.**

Where debts have been referred to the Corporate Debt Team and it becomes impossible to recover the balance, the Corporate Debt Team will provide a memorandum to the instructing Service explaining the reasons why it is considered appropriate to write off the balance. The Corporate Debt Team can only recommend or agree to write off. It is the responsibility of the Chief Officer of each Service to complete the write off form and submit the request to the Corporate Debt Team in accordance with the procedures identified in this guidance note. All relevant correspondence relating to the debt must accompany the write off form.

Irrecoverable debts will be referred to the relevant Officer(s) or Committee, designated under the Council's Finance and Contract Rules at a pre-agreed frequency and in a pre-agreed format.

The limitations for writing off irrecoverable debts are those contained within the Council's Finance and Contract Rules.

The appropriate policy on the write off of a debt is detailed in the Annexes attached.

## **Annex 1**

# **Council Tax and NNDR Recovery Policy**

## **Introduction**

1. Council tax is a tax levied on all eligible domestic dwellings. Non-domestic rates are a tax levied on eligible business properties. The amount of council tax levied is dependent on the council tax band that the property falls into and the amount of tax to be raised. The amount of non-domestic rates is dependent on the rateable value of the property and the nationally set rating multiplier.
2. The full rate of tax is liable to be paid unless the property, owner or occupier is eligible for a reduction or exemption. The main reasons for reductions include empty property discounts, Council Tax/benefit/support for residents on low income, disregards, single occupancy discounts and charitable relief.
3. Council tax and non-domestic rates are payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council and its Officers to collect outstanding debts in accordance with the Council Tax (Administration and Enforcement) Regulations 1992 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended).

## **Policy Aims**

4. The Recovery policy will ensure that:
  - The Council will bill, collect and recover all debts in an economic, effective and efficient manner in accordance with legislation and best practice.
  - All taxpayers and ratepayers are treated fairly and objectively.
  - Action taken will be fair and open, no-one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, gender, marital status, sexual orientation, age or disability.

## **Policy**

5. The Council will bill, collect and recover all debts in an economic, effective and efficient manner in accordance with legislation and best practice.
  - Demand notices and adjustment notices will be issued in accordance with regulations.
  - A recovery timetable will be drawn up before the beginning of each financial year.
  - Reminders and final notices will be issued 14 days after an instalment has fallen due.
  - A summons to the Magistrates' Court will be issued if full payment has not been made in accordance with the previously issued notice.
  - If settlement is still not made an application will be made to the Magistrates to grant a Liability Order.

6. Following the grant of a Liability Order the debtor will be given an opportunity to make a suitable payment arrangement. Should the debtor not make or keep to a payment arrangement the following recovery action(s) can be taken. The recovery action(s) will be dependent on the circumstances of each individual case.
- i. **Attachment of Earnings**  
Deductions are made from the debtor's earnings at a rate determined by legislation.
  - ii. **Deductions from Income Support, Job Seeker's Allowance, Employment Support Allowance, Pension Credit or Universal Credit**  
Deductions are made from the debtor's benefits at a rate determined by legislation.
  - iii. **Taking Control of Goods – use of Enforcement Agents**  
Enforcement Agents employed or engaged by the Council will be required to comply with the Enforcement Agent Code of Practice, Service Level Agreement(s) and the Tribunals, Courts and Enforcement Act 2007 and any other prevailing legislation at all times.
  - iv. **Bankruptcy/Liquidation**  
If sufficient assets exist to meet the outstanding debt the Council can petition for Bankruptcy/Liquidation.
  - v. **Charging Orders**  
An order placed on the debtor's property to secure the debt. County Courts are empowered to order the sale of the dwelling if the debtor does not pay.
  - vi. **Committal**  
The Council can make an application to the Magistrates' Court to instigate action that could ultimately result in the debtor being sent to prison for non-payment.
  - vii. **Attachment of Allowances**  
Deductions are made from Elected Members' Allowances.
- The Council reserves the right to pursue the most appropriate of the above recovery methods depending on the specific personal and financial circumstances of the debtor.**
7. A separate detailed recovery procedure document exists which can be viewed as a background paper to this policy document.
8. The Write Off and Costs Policies are attached as separate documents.

## **Annex 2**

# **Council Tax and NNDR Court Costs and Fees Policy**

## Introduction

1. Considerable costs are incurred to recover sums due from defaulting council taxpayers and non-domestic ratepayers. The Council Tax (Administration and Enforcement) Regulations 1992 (as amended) and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended) empower the Council to recover reasonable costs from defaulters with the approval of the Courts.

## Policy Aims

2. To provide a uniform scale of costs applicable at each recovery stage.
3. To ensure that the level of costs is reasonable.

## Policy

4. The following scale of costs is applicable with effect from 1<sup>st</sup> April 2017.

### Liability Orders and Committal Proceedings

Recovery Stage	Council Costs £	Court Costs £	Cost to Debtor £	Collectable £
Court Summons	49.50	0.50	50.00	49.50
Liability Order	50.00	Nil	50.00	50.00
Committal Summons/Warrant of Commitment	60.00	245.00	305.00	60.00
Warrant backed by bail	70.00	75.00	145.00	70.00
Warrant not backed by bail	70.00	75.00	145.00	70.00

NOTE: Arrest warrants executed by the Council's agents will be subject to a charge to the Council at different rates, depending on the agent's scale of charges and the location where the warrant is executed. Typical fees are:

Executing a warrant backed by bail £125.00 + VAT

Executing a warrant not backed by bail £175.00 + VAT

There may be instances where more than one warrant is required. This will affect the balance shown as collectable.

### Bankruptcy Proceedings

The petitioning creditor's costs associated with bankruptcy proceedings are:

**Fixed Costs** (in accordance with the statutory scale of fees and charges currently in force).

£280.00	Court Fee – payable on filing of petition (non-refundable)
£990.00	Official Receiver's Deposit - payable on filing of petition (£940.00 is refundable if a petition is withdrawn or dismissed)

**Typical Variable Costs** (to be claimed in the bankruptcy)

£225.00	Expense in relation to preparation and service of Statutory Demand and preparation of Certificate of Service.
£350.00	Expense in relation to preparation and filing of Petition and Statement of Truth.
£180.00	Expense in relation to the Personal Service of the Petition.
£115.00	Expense in relation to preparation and filing of Certificate of Service.
£325.00	Expense in relation to preparation of papers for and attendance at Petition Hearing.
Variable	Actual costs incurred for additional matters e.g. Legal opinion, additional legal representation, attendance at additional hearings etc.

All costs may be claimed in the bankruptcy.

**Charging Orders**

**Fixed Costs** associated with Charging Orders are levied in accordance with the statutory scale of fees and charges currently in force. They are currently:

£110.00	Application Fee
£20.00	Online Land Registry Registration Fee
£4.00	Cost of Office Copy of Land Registry Entry
£110.00	Fixed costs that may be awarded by the Court

All costs are included in the Final Charging Order.

5. Council costs will be reviewed annually in line with budget setting. The Council has no discretion in the level of Court costs which are governed by legislation.

## **Annex 3**

# **Housing Benefit and Council Tax Benefit/Support Overpayment Recovery Policy**

## **Introduction**

1. Overpayments of Housing Benefit and Council Tax Benefit/Support are established through a change in benefit entitlement. They are described as an amount of benefit that has been awarded but to which there is no entitlement under the regulations.
2. Accurate and prompt identification of overpayments is important to ensure that the incorrect payment of benefit is discontinued and to maximise the chances of successful recovery.
3. The Council recognises that to ensure there is minimal loss to public funds firm but fair action must be undertaken in the administration of Housing Benefit and Council Tax Benefit/Support overpayments.
4. Proactive action in the recovery of overpayments has a deterrent effect. However, the Council has a responsibility to act in accordance with all relevant legislation and regulations.
5. In all cases due regard will be given to the health and individual circumstances of the claimant to avoid causing unnecessary hardship.

## **Policy Aims**

6. The policy will reflect best practice in the procedure for dealing with the administration and recovery of Housing Benefit and Council Tax Benefit/Support overpayments.
7. The policy will be flexible in its approach to the recovery of overpayments with each case treated on its own merits. The Council recognises that a policy which, for example, requires recovery in all cases or recovery is always made from specific categories of claimants is unlawful.
8. The policy has regard to the rights of individuals and the obligations of the Council under the provision of the Human Rights Act 1998.
9. The Council will:
  - take steps to minimise and prevent overpayments from occurring
  - identify the overpayment promptly
  - stop the overpayment from continuing
  - classify the overpayment correctly
  - determine if the overpayment is recoverable and if recoverable
    - determine from whom to recover
    - determine the most appropriate method of recovery
  - notify the claimant and other affected persons of the decision
  - implement effective financial control of the recovery process

## **The Policy**

10. The policy will be applied in all cases where an overpayment of benefit has occurred, that is, any amount of Housing Benefit or Council Tax Benefit/Support which has been paid but to which there was no entitlement whether on initial decision or on a subsequent revised or superseded decision.
- 11.

In most cases overpayments can arise as a consequence of:

- payments made in advance
  - late disclosure of a change in circumstances
  - errors made by the claimant when completing an application form or review form
  - claimant error
  - official errors made by the Council or the Department for Work and Pensions
  - deliberate fraud
12. Official error overpayments are only recoverable if the claimant or the person from whom recovery of the overpayment is sought could reasonably have known that an overpayment was occurring at the time the overpayment occurred.

## **Prevention of Overpayments**

13. Overpayments are often difficult and time consuming to administer. They can cause difficulties for claimants and their families as they try to manage on limited incomes. They are to be avoided where possible. This will be achieved by:
- telling claimants how to avoid overpayments, with letters, in leaflets and during verbal communications
  - encouraging claimants to maintain contact with us
  - processing information quickly and accurately to minimise overpayments
  - offsetting any new or underlying entitlement

## **Identifying Overpayments**

14. The Council will endeavour to act on any information received in relation to a claimant's change in circumstances within seven days of having received sufficient information to identify that an overpayment has or will be occurring.
15. This action will in the first instance include the suspension of further ongoing payments of incorrect benefit.
16. The Council will endeavour to identify any change in circumstances that would result in an overpayment still outstanding after seven days by:
- undertaking a check of the Department for Work and Pensions records held on the Customer Information System (CIS) to identify whether entitlement to Income Support, Jobseeker's Allowance (Income Based) has ceased and if this information is not readily available on CIS by the sending of a benefits enquiry information letter
  - referring potential fraudulent overpayments to the Benefit Fraud team
  - ensuring that any post relating to the change in circumstances is collated and acted upon

## **Classification of Overpayments**

17. The correct classification of overpayments is essential as, depending on the type of overpayment, the authority will receive a percentage of the overpayment back from the government by way of subsidy. A summary of the types of overpayments and percentage of subsidy allowed is shown at the end of this policy.
18. All overpayments must be correctly classified by an Officer of the Council who has had training to a sufficient standard to allow them to make decisions, which ensure the correct application of the law in the decision making process.

19. All Officers with responsibility for classifying an overpayment must record both the classification and their reasons for it on the benefit file.

## **Calculation of Overpayments**

20. Where an overpayment has occurred the Council must invite claimants to provide sufficient information for any underlying entitlement to benefit for the overpayment period to be assessed.
21. The full amount of the overpayment should be recovered unless the health or financial circumstances of the person from whom recovery is being sought suggest a lesser amount would be appropriate.
22. In all cases the overpayment should be recovered as quickly as possible and normally no later than six years from the date recovery action is commenced.

## **Notification Letters**

23. All notification letters must be dated and issued to all affected persons within fourteen days of the Council having made the decision.
24. The notification must include the reasons for the decision, the right to request a further statement and the time limit for doing so and the claimants appeal rights and the time limit for doing so.
25. Copies of the notification letter must be able to be reproduced in the event of an appeal, complaint or proceedings taken against the Council.

## **Decisions on Recoverability**

26. In all cases where an overpayment has arisen the Council should consider whether an official error has caused or contributed towards the overpayment.
27. Where the Council has identified an overpayment, which was caused or contributed to by an official error, it should decide whether recovery of the overpayment is appropriate under the guidance issued by the Department for Work and Pensions.

## **Who Should the Overpayment be Recovered From**

28. Before recovery action begins consideration will be given as to whom is the most appropriate person to recover the overpayment from. This may in certain cases mean that further information is required from the affected parties.
29. Recovery should then be made from the most appropriate persons who may be:
  - the claimant
  - the person to whom the payment of benefit was made
  - the person who misrepresented or failed to disclose the material fact
  - the partner of the claimant if the partner was living with the claimant at the time of the overpayment and at the time the decision to recover was made
30. In all cases where the overpayment was the result of proven fraud the overpayment should, in the first instance, be sought to be recovered from the person who misrepresented or failed to disclose a material fact.

## **Recovery of Overpayments**

31. In all cases where recovery of an overpayment is sought the Council will have regard to its statutory duty to protect the loss from public funds but in doing so will have regard to:

- the length of time the recovery of the overpayment may take
  - the effect of recovery on the affected person
  - the ability of the affected person to repay the debt
32. The Council may consider the method of recovery of an overpayment at any time for the purpose of effectiveness and efficiency in financial control.
  33. Only if it becomes clear after all attempts at recovering the overpayment have become exhausted and there is no hope of recovery, or there are extenuating circumstances, shall the debt be recommended for write-off. In all cases, the Council's Finance and Contract Rules shall be adhered to.
  34. Recovery should be suspended if a claimant appeals a decision until the appeal has been resolved.

## **Methods of Recovery**

35. Overpayments of recoverable Council Tax Benefit/Support will result in an adjustment being made to the claimant's council tax account for the appropriate year. An amended bill will be issued and any unpaid monies will be subject to recovery action under the council tax regulations.
36. The most appropriate method of recovery for Housing Benefit Overpayments should be considered in all cases, including:
  - on-going deductions from further payments of Housing Benefit
  - deductions from other Department for Works and Pensions benefits
  - benefit debtor invoices
  - Direct Earnings Attachments
  - debits to the rent account where it is in credit
  - recovery from landlord
  - referral to an external debt collection agency (after all the above avenues of recovery are considered or exhausted)
  - applying to the County Court for a County Court Judgement (after all avenues of recovery are considered or exhausted). With a County Court Judgement (CCJ) further recovery actions can be taken, e.g. instructing enforcement agents or attaching the debtor's earnings.
37. In cases where an invoice has been issued a period of at least one calendar month should have elapsed before recovery action begins. This will allow time for the claimant to re-apply for benefit, which may identify an underlying entitlement to Benefit from which deductions may be taken to recover the overpayment, or for the claimant to register any appeal.
38. In cases where recovery from on-going benefit is sought the standard maximum rate of deduction as laid down by regulation should be applied unless the health or financial circumstances of the claimant suggest a more appropriate rate should be used. In all cases however a minimum amount of fifty pence per week Housing Benefit must remain in payment.
39. Recovery will be stopped when a bankruptcy order is made and the relevant debt will be included in the Council's claim in the bankruptcy. Where the overpayment is a result of fraud then recovery action may be resumed following discharge from bankruptcy.

40. Where the claimant is deceased an invoice will be sent to their executors or representatives to seek recovery from their estate.

### **Monitoring and Reporting Mechanisms**

41. Monitoring of overpayments will be carried out in conjunction with the Council's Corporate Performance Management System.

### **Write Offs**

42. Recovery of overpayments will be carried out as diligently as possible. However, if it becomes clear that there is no hope of recovery, or that there are extenuating circumstances the debt will be recommended for write off in accordance with the Write Off Policy. In all cases the Council's Finance and Contract Rules will be adhered to.

## Additional Information

- Housing and Council Tax Benefit/Support Overpayment Classification Types
- Extract on Overpayments from 2007/08 DWP Subsidy Claim
- LA Error Subsidy Calculation (all authorities) 2007/08

## Housing Benefit/Council Tax Support Overpayment Classification Types

Type of Overpayment	Description	Subsidy Payable
Local Authority Error	Local Authority (LA) error overpayments are those caused by a mistake, by an act or omission, by a LA when the claimant did not contribute to the mistake. These can result from incorrect information being extracted from a benefit claim, error in data input which result in the incorrect assessment of benefit or failure to act/act promptly on a notification of change in circumstances.	Subject to thresholds. The lower threshold is 0.48% of the total expenditure attracting full subsidy; the upper threshold is 0.54%. 100% subsidy will be payable if the level of error does not exceed the lower threshold. If LA error overpayments are greater than the lower threshold but do not exceed the upper threshold, then 40% subsidy is paid on the total LA error overpayments. If LA error overpayments exceed their upper threshold LA s receive nil subsidy on their LA error overpayments.
Claimant Error	An overpayment caused by the claimant or person acting on the claimants behalf or any person the benefit is paid to, failing to provide information in accordance with Housing and Council Tax Benefit/Support regulations and has not been defined as fraudulent.	40%
Fraud	An overpayment occurring as a result of a payment of HB or CTB arising from a breach of section 111A or 112 of SSAA1992 or a person knowingly failing to report a relevant change of circumstances with intent to obtain or retain HB or CTB either for themselves or someone else.	40%
DWP Errors (Departmental Official Errors)	An overpayment arising from a mistake, whether in the form of an act or omission made by an officer of the DWP, HMRC or a person acting for them.	Nil If recovered 100% if not recovered
Technical	An overpayment when a rent rebate is	Nil

HRA                    credited in advance of entitlement for a particular period, where a change of circumstances or a recoverable overpayment causes that entitlement to be removed or reduced.

## **Annex 4**

# **Methods of Payment Policy**

## Introduction

1. A number of payment methods are available to customers to pay the Council. To operate efficiently the Council needs to provide the same facilities to all residents and businesses.
2. The Council is committed to offer increased access to services and as such must offer different payment methods, but must do so consistently giving heed to the need to minimize the cost of collection.

## Policy Aims

3. The Policy aims to:
  - Improve customer services through the range of payment methods.
  - Allow customers to make payments outside of office hours.
  - Standardise payment methods.
  - Enable efficiency savings through rationalisation.

## Policy

4. The following methods of payment are offered/accepted (the list is not exhaustive):
  - Direct Debit (the preferred method)
  - Cash
  - Cheque/Postal Order
  - Debit card
  - Credit Card
  - Standing Order
  - BACS/CHAPS
  - Via the Internet or Touchtone telephone using a debit or credit card.
  - Using a bar-coded bill / invoice at any Post Office, Paypoint outlet or Council Customer Service/Information Centre
5. For sundry debts, a direct debit should, wherever possible, be set up against an invoice in advance of the service being provided.
6. Barcodes should be provided wherever possible on bills and invoices.
7. A de-minimis level will not apply for payments made by debit or credit card.
8. No extra fee will be charged to those customers paying by debit or credit card (the cost of this will be monitored and reviewed annually).
9. Instalment dates for council tax and non-domestic rates are as follows:
  - Direct Debit: 1<sup>st</sup>, 15<sup>th</sup> or 28<sup>th</sup> of the month commencing in April of any financial year. Customers can opt to pay in up to 10 or 12 instalments.
  - Non Direct Debit: 1<sup>st</sup> of the month commencing in April of any financial year in up to 12 instalments.

## **Annex 5**

# **Write-Off Policy**

## **Introduction**

1. The Policy is in respect of council tax, non-domestic rates, housing benefit and council tax benefit/support overpayments, sundry debts and housing income.
2. An integral part of debt recovery is the effective management of irrecoverable debts to ensure that resources are applied efficiently to the collection of monies outstanding which can reasonably be expected to be collected.
3. It is good practice to identify and write off irrecoverable debts. This enables the Council to use resources to their maximum benefit.

## **Policy Aims**

4. There are consistent guidelines and procedures to follow.
5. Provide a framework to write off debts once every possible recovery process has been exhausted.
6. Strike a balance between protecting the Council's financial position and making sure anti-poverty issues are addressed.
7. Write offs are carried out in accordance with the Council's Finance and Contract Rules in force at that time.

## **Policy**

8. Debts will normally only be considered for write off where the account is "closed" (i.e. no recurring debt). Only in exceptional circumstances will amounts on "live" (i.e. on-going accruing debt) accounts be considered. Such cases must demonstrate that further recovery action will not achieve collection of the debt.
9. The effectiveness of the Policy will be measured against the Council's Performance Framework.
10. It is not possible to list every scenario which could make a debt suitable for write off. However, Appendix A shows the main reasons why debts become irrecoverable.
11. Advice should be sought from the Corporate Debt Team in determining whether the debt is suitable for write off.
12. The Council will record all write off decisions.

## Appendix A

### Reasons for Write Off

Absconded / No Trace	All reasonable attempts to find the debtor have failed.
Deceased	Insufficient or no funds in the Deceased's estate to pay the amount outstanding.
Debt "out of time"/ too old to recover	Debts over 6 years old where a liability order has not been granted (for council tax and NNDR), or no contact has been made and no payments have been received (in accordance with the Limitation Act 1980 (as amended) for Sundry Debt. However for certain Sundry Debts there may be exemptions to this rule and the Service should consult Legal Services where they believe the debt is no longer enforceable by virtue of the Limitation Act 1980.
Uneconomical to pursue / pursue further	When all recovery processes have been tried or considered, or the cost of proceeding would be prohibitive.
Hardship	Each case taken on its merits.
Debt remitted by the Court	Magistrates have remitted the debt.
Bankrupt	The debtor is declared bankrupt and sums due as at the date of bankruptcy cannot be recovered.
Debt Relief Order (DRO)	The debt is included in a Debt Relief Order and cannot be recovered.
Company in Liquidation / Wound up / Dissolved / Struck off	The debtor is a Limited Company. The Company no longer exists as a legal entity and there is no means of recovering the debt.
Company in Administration	The company is being administered on behalf of its creditors and the Administrators have no legal responsibility for the accrued debts of the company.
Company Voluntary Arrangement (CVA)	The Company has entered into a voluntary arrangement with its creditors through an insolvency practitioner.
Individual Voluntary Arrangement (IVA)	The debtor has entered into an arrangement with creditors through an insolvency practitioner.
Non-recoverable housing benefit overpayment	Housing benefit has been overpaid but is not recoverable under the Housing Benefit Regulations 2006, 100(2) or the Housing Benefit (Persons who have reached the qualifying age for state pension credit) Regulations 2006, 81(2).

## **Annex 6**

# **Sundry Debt Policy**

## **1. Policy**

- 1.1 This Policy shall be known as 'The Sundry Debt Policy' and covers the collection of customer accounts due to Northumberland County Council.
- 1.2 It is the Council's policy to recover all collectable debt owed to it and with this overall objective in mind this policy aims to:
- Maximise the collection of the Council's income
  - Reduce the time taken to raise invoices to within 10 days of the provision of service(s)
  - Reduce the time taken to collect charges
  - Reduce the level of debt owed to the Council and its provision for bad debts
  - Reduce the incidence of debt that cannot be collected
  - Focus the attention and improve education of Services to raise awareness of the importance of prompt debt recovery
  - Tackle any non-payment culture amongst customers.
- 1.3 This Policy supports these aims by:
- Promoting ownership of debts by service providers
  - Ensuring that, where possible, payment up front is received
  - Ensuring whenever possible that collection of the fee or charge involved takes place prior to the service being provided so that credit is only given when essential to do so
  - Promoting a system of credit control
  - Ensuring invoicing procedures are carried out on an accurate and timely basis
  - Requiring that evidence to support the invoice exists in the form of an official purchase order or other written agreement
  - Encouraging debtors to pay promptly,
  - Making collection and recovery activity more efficient by prioritising collection of larger debts
  - Creation of a corporate framework to enable efficient and effective income management
- 1.4 The Policy aim is to achieve the following rates of collection in terms of both numbers and value of invoices:
- 90% of invoiced debt to be collected within 35 days of the invoice being issued
  - 95% of invoiced debt to be collected within 60 days of the invoice being issued
  - The respective Service Manager will review each year the targets above.
  - The Council will publicise the fact that it has this policy and that it intends to pursue and enforce the collection and recovery of all debts owed to it.

## **2. Key Principles of Fees and Charges**

- 2.1 The fee or charge imposed by the Council must be fair in relation to the goods and/or services provided and consistent with other Local Authorities.
- 2.2 The charge must reflect the principles outlined in the appropriate charging policy and in the Council's Finance and Contract Rules.
- 2.3 The charge must, depending on legislation, always cover the cost of providing goods or service and the costs of collection, unless the Council has taken a policy decision to subsidise the service.
- 2.4 The charge should wherever possible be obtained in advance of the goods and/or services being provided.
- 2.5 The charge must be collectable i.e. sound supporting documentation must be available with timely access.
- 2.6 Fees and charges must be reviewed at least annually as part of the budget setting process.
- 2.7 There must be a clear and prompt billing and collection process.
- 2.8 There must be a clear and consistent council-wide approach to the giving of credit and the collection of debt that is led by this policy.
- 2.9 The debt will remain the responsibility of the Service in which it was raised and that Service will remain responsible for pursuing overdue debts. Where the Service is unable to secure payment then the Corporate Debt Recovery Team will escalate recovery action.

### **3. Responsibilities**

- 3.1 Directors and Heads of Service must ensure that:
  - The Corporate Debt Recovery Policy is adhered to
  - The key principles of fees and charges are adhered to
  - The parts of this policy that apply to their Service areas are correctly followed
  - Specific attention is paid to prohibit the poor practise of raising large value invoices at the financial year end
  - They proactively support the achievement of corporate targets for debt collection
  - Budget Managers are fully aware of their responsibilities
  - Relevant systems and procedures are in place
  - Officers involved in the debt collection process are appropriately trained and are aware of their responsibility
- 3.2 Internal Audit will provide assurance that this Policy is adhered to and is effective.

### **4. Validation**

- 4.1 The Service responsible for raising the invoice must ensure that the evidence of the service provided is fully validated and that the invoice is accurate and contains sufficient detail for both billing and recovery purposes.

- 4.2 The Corporate Debt Team will validate customer name and address details prior to invoices being raised, to reduce errors and avoid duplication. It is the responsibility of the originating Service to ensure that the correct billing details are collected. If incorrect details are entered for validation the request will be referred back to the originator and deleted from the system until correct details are supplied.

## 5. Invoicing

5.1 Services are responsible for the raising of invoices in respect of the goods and/or services they supply on credit. They must ensure that an invoice pro-forma is fully completed. All fields must be completed in full, including:

- Customer's full name(s)
- Customer's full address(es), including postcode(s)
- Customer's contact telephone number(s)
- Customer's email address
- Date of supply
- Purchase order number (where applicable)
- Full description of the service/goods provided
- Amount due
- VAT amount - see note 1 below
- Total due
- Financial code
- Originating Service
- Certification

This applies not only to their service but also when they are acting as an agent for another Group. In this latter case they should advise the relevant budget holder of the charge raised.

**Note 1** Current rates of VAT are standard, reduced and zero. In addition some goods and services are exempt from VAT or out of scope. Officers should refer to the VAT manual on the intranet when deciding on the correct VAT treatment.

5.2 All invoices must be raised to a correctly named legal entity. In the event of non-payment, legal action cannot be taken against a non-legal entity. Legal entities are:

- Individuals
- Sole Traders
- Partnerships
- Limited companies
- Charities limited by guarantee
- Clubs run by a committee
- Trustees
- Executors or Personal Representatives

Further information and rules to follow are detailed in Appendix 6a

5.3 Unless agreed otherwise by the Corporate Debt Team, an invoice must be raised within 10 working days of the goods and/or services being supplied. The Corporate Debt Team will monitor performance against this target.

5.4 An invoice should not be raised:

- For less than £50.00. For fees and charges less than £50.00 payment must be made prior to the goods or services being provided. However, this excludes legal charges (e.g. ground rent) and arrangements already in place.
- Where the charge is not known in advance
- If a purchase order or written agreement has not been received
- When it cannot be proven that the goods and/or services have been supplied
- When the amount due has previously been paid
- Where an invoice for the same goods or service has already been raised.
- To artificially enhance income targets.

5.5 All services must keep a copy of the invoice pro-forma, together with any supporting information, for a period of six years plus the current year.

## **6. Payment Methods**

6.1 Invoices may be paid by any of the methods set out in Annex 4 - Methods of Payment Policy.

## **7. Credit Limits**

7.1 For goods and/or services to be supplied and costing over £5,000 and where a payment up front cannot be obtained, a credit check must be run on all customers except those in the public sector. The Service must contact the Corporate Debt Team to carry this out.

7.2 Where possible, systems should be checked prior to the provision of a service.

7.3 Credit/Service provision must not be given to customers who previously have been consistently late payers or have not paid at all. Only the respective Head of Service can approve credit facilities where a customer has previous history of non-payment or late payment and such approval must be given in writing and retained until outstanding balances are paid in full.

7.4 Preferential credit limits must not be agreed for any customer.

## **8. Payment Terms**

8.1 The Council will collect monies owing to it fully and promptly.

8.2 Payment terms may only be considered where the customer is not able to settle the debt in full in one payment. On receipt of an invoice a customer can request to make arrangements to clear the amount outstanding by way of weekly, fortnightly or monthly instalments. Payment should be made by direct debit wherever possible.

8.3 All requests from customers to enter into arrangements for payment must be referred to the Corporate Debt Team regardless of the amount.

The Corporate Debt Team will set up and monitor all payment arrangements.

- 8.4 The Corporate Debt Team will withdraw payment terms if a debtor fails to honour the agreement entered into.
- 8.5 Where invoices are raised payment becomes due after 30 days (unless agreed otherwise).

## **9. Accounting Arrangements**

- 9.1 Services will receive the credit when an invoice is raised.
- 9.2 Any third party fees or charges associated with recovering a debt will be charged to the Service.
- 9.3 Where debts cannot be recovered, the original credit will be debited from the Service budget by way of a write off; all write offs must be signed off in accordance with the Council's Finance and Contract Rules.
- 9.4 Refunds of any overpayments will be processed by the Corporate Debt Team via a Debit Memo only where there are no other debts owed to the Council by that customer. Should a customer have an outstanding debt then any overpayment will be off set after the customer has been informed. Credits of less than £1.00 will not be refunded.
- 9.5 Direct debit administration is carried out by the Corporate Debt Team. All rejections and cancellations are carried out by the Corporate Debt Team who will arrange to notify the Income Management Team and the appropriate individual Services.

## **10. Recovery**

- 10.1 A reminder will be sent for all invoices unpaid usually after 1 day past the due date, i.e. day 33 after the invoice is raised.
- 10.2 If an invoice is unpaid after a minimum of 6 days past its due date (i.e. 36 days after the invoice is raised) a telephone reminder is made to the debtor by the Corporate Debt Team to recover the amount due.
- 10.3 If after a further 10 days the invoice is unpaid, a pre legal letter (letter before action) will be issued, and a request for the supporting information for legal action may be sent to the Service.
- 10.4 After a further 7 days if the invoice is still unpaid, the Corporate Debt Team may commence legal action.

<b>Stage*</b>	<b>When</b>	<b>How</b>
Reminder notice	33 days from date of invoice	Generated by the debtors system
Telephone reminder	36 days from date of invoice	List generated by the debtors system
Letter before action	46 days from date of invoice	Generated by the debtors system
Request for supporting	On decision to take Court action	Manually generated Email to Service requesting proof of

information for legal action		debt in 7 days
Legal action	On receipt of full documentation from Service	Legal action taken to recover debt

Note\* these tasks will be performed by the Corporate Debt Team.

- 10.5 At any time after the issue of a reminder notice the Corporate Debt Team may refer the debt to a debt collection agency or, in the case of outstanding commercial rents where the debtor is still in occupation, the Corporate Debt Team may refer the debt to an enforcement agent to follow the Commercial Rent Arrears Recovery process (CRAR) as set out in the Taking Control of Goods Regulations 2013. Once a case has been referred to a debt collection agency or enforcement agent any payment arrangement the debtor enters into must be made directly with that agency unless the Corporate Debt Team agrees otherwise.
- 10.6 The Corporate Debt Team must attempt to trace any debtors who have absconded or use external agents to do so. Where an external agent is used, charges will apply to the originating Service for this work.
- 10.7 Recovery action may be halted at any part of the process if the debtor enters into suitable payment terms with the Corporate Debt Team to clear the debt by instalments within a reasonable timeframe.
- 10.8 Recovery action may be halted at any part of the process if the originating Service decides not to allow recovery for the good of the service. When this happens the originating Service must bear the cost. The Corporate Debt Team will arrange to raise a credit note to cancel the charge and will also recharge the Service for any fees and costs already incurred.
- 10.9 In cases of non-payment for on-going services withdrawal of non-statutory services must be initiated no later than the pre-legal letter stage (46 days) to prompt payment.
- 10.10 No further requests for goods or services should be actioned until outstanding debts are paid in full. Services must check the debtors system to confirm this.

## **11. Queries and Disputes**

- 11.1 If a charge is disputed the Service must notify the Corporate Debt Team immediately to prevent the recovery process continuing. All disputes must be resolved by the Service within 90 days of the invoice being raised and the Corporate Debt Team notified of the outcome.
- 11.2 Where disputes are not resolved within this timeframe the Corporate Debt Team will raise a credit note to remove the debt from the system and notify the Service when this happens. The Service is then responsible for the re-raising of the invoice once the dispute is resolved, if appropriate.

## **12. Legal action**

- 12.1 Where a debt collection agency or enforcement agent fails to collect the amount due or where a decision is made to pursue the debt in the County Court:
- 12.2 Single or multiple recoverable debts up to £5,000 will be considered for action through the County Court by the Corporate Debt Team, but only if the originating service can provide the necessary supporting documentation.
- 12.3 All recoverable debts over £5,000 will be considered for County Court action by the Corporate Debt Team, but only if the originating service can provide the necessary supporting documentation.
- 12.4 Failure to provide the necessary supporting documentation will result in the Corporate Debt Team raising a credit note to cancel the charge, and the loss of income will be met by the originating Service.
- 12.5 Where necessary, legal advice and representation will be sought by the Corporate Debt Team.

### **13. Credit Notes**

- 13.1 There is a clear distinction between raising a credit note and writing off a debt.
- 13.2 A credit note to cancel or reduce a debt must only be issued to:
  - Correct a factual inaccuracy
  - Correct an administrative error
  - Cancel an invoice where a dispute has not been resolved in the specified time.
  - Adjust the amount of debt due
- 13.3 Where a credit note is submitted to correct a factual error the credit note will not be processed until the correct details are supplied for resubmission. Both actions will be carried out simultaneously to ensure prompt and accurate processing with a clear audit trail.
- 13.4 Credit note requests raised by Services must be made on the correct credit memo with a full written explanation of why a credit note is applicable. Credit notes will be reviewed during the Audit process to ensure that they are completed in accordance with this policy.

### **14. Write Offs**

- 14.1 A review will be undertaken to assess the recoverability of debt outstanding at the year-end. The following factors will be considered in the review:
  - The type of debt;
  - How long it has been unpaid; and
  - The history of the debt since it was raised.

Where these factors suggest that the debt may not be recovered, a provision will be raised against the balance and a charge will be made against the service to more accurately reflect the financial position of

the Council. In the event that the income is collected at a future date, an adjustment will be made to the service to reflect the recovery.

- 14.2 Write offs will be charged to individual service budgets.
- 14.3 Delegations and limits regarding write offs can be found in the Finance and Contract Rules which form part of the Council's Constitution.
- 14.4 A debt write off must not be used to by-pass the normal debt recovery procedure and therefore there will be internal monitoring of the revised policy to ensure write off is being used correctly.
- 14.5 Write offs can only proceed after consultation with the Corporate Debt Team.
- 14.6 A Write-Off Request Form must be completed for each write off explaining the reasons for the decision for write off and confirming that the debt recovery procedures have been followed
  - The original Write Off Request form should be sent to the Corporate Debt Team who will suppress debt recovery in relation to the invoice to which the write off relates.
  - When a write off is approved the form will be signed and returned to the Corporate Debt Team to update the Sundry Debt system.
  - The Corporate Debt Team or any delegated officer who may authorise write-offs in accordance with the Council's Finance and Contract Rules may request further information from the originating Service to determine whether the debt is enforceable.
  - If the Corporate Debt Team or any delegated officer who may authorise write-offs in accordance with the Council's Finance and Contract Rules believes the justification for write off does not comply with the guidance procedures or an invalid reason is given, the form will be returned to the Service for reconsideration or amendment.
    - A centralised record of all write offs will be kept by the Corporate Debt Team to be accessible for monitoring purposes.

## **15. Monitoring**

- 15.1 Information and reports will be used to monitor performance against targets and timescales set. Regular reports will be issued to each Service for them to review their outstanding debts.
- 15.2 The Corporate Debt Team is authorised to:
  - Carry out the central monitoring of this policy,
  - Agree amendments to the policy for operational, efficiency and effectiveness purposes,
  - Report to the Chief Executive any major issues arising from the above.

## **16. Review**

- 16.1 This Policy will be reviewed annually but may be amended at any time to incorporate new procedures, practices or legislative requirements.

## **Raising of Debtor Accounts to Legal Entities**

All invoices must be raised to a correctly named legal entity. In the event of non-payment, legal action cannot be taken against a non-legal entity. Legal entities are:

1. Individuals
2. Sole Traders
3. Partnerships
4. Limited companies
5. Charities limited by guarantee
6. Clubs run by a committee
7. Trustees
8. Executors or Personal Representatives

All invoices must state the full correct postal address, including postcode.

### **Rules to follow:**

1. Individuals - This is usually someone living at a residential address. When a request is received for a service, the person's full name (title, forename(s) and surname) must be obtained and stated. Initials are not sufficient. If the request is on behalf of more than one person then the full name of each person must be obtained and stated. The full correct postal address, including postcode, must be stated.
2. Sole Traders – Where an individual is trading in his or her own name the full name of the individual as well as the business name must be obtained e.g. Mr John Smith, trading as Fast Removals. Evidence of the name of the business could be in the form of a request for services on a business letterhead. The individual's full postal address must also be requested.
3. Partnerships - 'LLP' must be added where applicable, otherwise the full names of one, two or more partners must be stated, followed by 'trading as' (as above). If LLP is applicable the full correct business address, including postcode, must be stated, otherwise the full correct postal address(es), including postcode of the partner(s) should be stated.
4. Limited Companies - the name must include 'Ltd' or 'Plc'. Invoices can be addressed to either the current registered office or to a place of business of the company. Evidence of their Limited Company Status and registered office must be obtained by requiring confirmation of the service request on their official letterhead. Further confirmation can be obtained from <https://www.gov.uk/get-information-about-a-company>
5. Charities limited by guarantee – companies which are charitable and also limited by guarantee can be exempted from using the term 'Ltd' so, for example: "Oxfam" is a correct name. Evidence of their charitable status must be obtained by requiring confirmation of the service request on their official letterhead. Further confirmation can be obtained from <http://apps.charitycommission.gov.uk/showcharity/registerofcharities/RegisterHomePage.aspx>
6. Clubs run by a committee – the full name(s) and address(es) of the treasurer and / or the secretary, or the trustees must be stated.
7. Trustees – the full name(s) and address(es) of the trustee(s) and the full name of the trust must be stated.

8. Executors or Personal Representatives – must be addressed e.g. ‘Mr Peter Smith, Executor of James Brown Deceased or ‘Personal representatives of James Brown Deceased. The full postal address(es) of the executors/personal representatives must be stated.

## **Annex 7**

# **Statutory and Chargeable Debt Policy**

## **1. Policy**

This policy covers debt arising from the council carrying out its statutory duties and/or enforcement functions. A variety of legislation covers this debt and a number of examples are given below;

- Building Act 1984 – taking action to prevent injury or damage to property as a result of a dangerous structure
- Housing Act 2004 – works in default to remove hazards from rented accommodation.
- Water Industries Act 1991 testing of private water supplies.
- Highways Act, 1980 - Carrying out emergency repairs to the highway following an accident

Note: the above is illustrative and is not an exhaustive list.

## **2. Fees and charges for this debt**

The nature of this debt generally requires invoicing to take place after the works have been carried out and frequently against those that dispute the debt. Thus, it does not often fit with the standard invoicing and sundry debt recovery approach.

Different approaches need to be considered to both secure the debt and if required, recover it.

## **3. Enforcement**

In terms of enforcement, it is not always clear who is the responsible or liable person. Different legislation can identify different people, such as the person responsible for an issue, or the owner of the premises. People's circumstances will be different and their circumstances may change during a case; it is sensible therefore to take a flexible approach and keep available a range of options for recovering a debt.

Options available to recover debt include the use of debt collection agents and also Court proceedings to obtain a judgment for the debt. Once a Court judgment is obtained, there are a number of ways this may be enforced, including:

### **Attachment of Earnings**

Deductions are made from the judgment debtor's wages at a rate determined by legislation.

### **Deductions from Income Support, Job Seeker's Allowance and Employment Support Allowance**

Deductions are made from the judgment debtor's benefits at a rate determined by legislation.

### **Use of Enforcement Agent**

#### **Charging Orders**

This is a Court order which secures the debt against the judgment debtor's property. A charging order may then be enforced by seeking an order for sale of the property.

#### **Third Party Debt Orders**

A Court order against a third party, often (but not necessarily) the judgment debtor's bank or building society, requiring them to pay the judgment debt out of the judgment debtor's funds.

#### **Insolvency**

Insolvency proceedings may be commenced against the judgment debtor providing the requirements of prevailing insolvency legislation are met.

An order to obtain information may be sought from the Court which requires a judgment debtor to attend Court and provide information to a Judge or Court officer about their means and any assets they hold. This may be of assistance in determining how to recover a judgment debt.

Where Court proceedings and other enforcement options are pursued, the Council will seek to recover the costs of the Court / enforcement action against the debtor.

### **Enforced Sale**

In some cases there will not be any need to secure a Court Judgment to enforce a debt. Statutory and chargeable debts may often be secured against a property as a financial charge in the Council's Local Land Charges register. Some debts may be registered as charges with the Land Registry. In some cases, where legislation provides that the debts are charges on "all estates and interests" in a property, the charges will have priority over all existing charges, including mortgages and other loans secured against the property. The authority may also serve a formal demand on the debtor, which allows the authority to enforce the registered charge and act as mortgagee in possession of the property. The property may then be sold, usually at public auction with the proceeds used to pay off debts on a priority basis. It should also be noted that enforced sale of properties can bring wider benefits to individuals and the community by improving the condition of a property and bringing an empty property back into use. This is often used as

an enforcement tool in Private Sector Housing and neighbourhood renewal strategies.

## **Annex 8**

# **Overpaid Salaries and Wages Policy**

## **1. Summary**

- 1.1 Northumberland County Council is required to ensure that employees are paid correctly at all times. If an overpayment of salary or any other payment of public funds occurs for any reason, the Council will recover the overpayment from the employee. Similarly the Council will take steps to correct any underpayment of salary or any other payment to which an employee is entitled.
- 1.2 If it is considered that an overpayment has been brought about fraudulently, then the matter will be reported to the Council's Corporate Fraud Team and an investigation carried out under the Council's Counter Fraud Policy.

## **2. Scope of Policy**

- 2.1 This procedure applies to all employees of the Council.

## **3. Background**

- 3.1 The purpose of this document is to ensure that there is a consistent approach to the recovery of salary overpayments throughout the Council.
- 3.2 Overpayments are additional and unnecessary charges against service budgets which may never be recovered.

## **4. Introduction**

- 4.1 This document explains the process in use when a member of staff receives an incorrect payment in their salary.
- 4.2 This document applies to all employees on a permanent or fixed term contract with Northumberland County Council. This document also applies to those staff employed on a casual basis

## **5. Definitions**

- 5.1 There are several ways in which a member of staff can be incorrectly paid including, and not restricted to:
  - An overpayment of salary
  - An underpayment of salary
  - Payment of incorrect travel or non-travel expenses
  - Duplication of a payment

- Deduction made in error
- 5.2 The definition of an underpayment is where an employee is paid an amount less than their contractual entitlement. Likely causes of an underpayment include but are not restricted to:
- A variation form being submitted after the Payroll deadline
  - A late change of notification
  - Incorrect salary banding
- 5.3 The definition of an overpayment is where a current member of staff or someone who has left employment is paid an amount in excess of contractual entitlement. Likely causes of an overpayment derive from a Service error and include but are not restricted to:
- A termination form not being completed, received or implemented on time
  - Late or no notification of sickness absence
  - Staff not returning from maternity leave
  - An error being made
  - A late change notification
  - Incorrect salary banding

## **6. Identification of payment errors**

- 6.1 Payment errors can be identified in several ways:
- A member of Payroll identifies that an error has occurred
  - The employee upon receipt of payment
  - The budget manager
  - An audit review
- 6.2 When an error in payment has been identified, action must be taken as quickly as possible to rectify the error

## **7. Responsibilities of Payroll**

- 7.1 It is the responsibility of Payroll to:
- Identify payment errors and advise the employee in a timely manner (normally immediately)
  - Confirm in writing the overpayment.
  - Ensure the Payroll Administrator contacts the appropriate line manager to advise of any overpayment situation that occurs

## **8. Responsibilities of line managers**

- 8.1 It is the responsibility of Line Managers to ensure that
- Paperwork relating to changes in pay or termination etc. is submitted to Payroll in a timely manner

- When an error in payment is identified the member of staff concerned is supported and appropriate action taken to resolve the situation
- Review on a regular basis all salaries charged to their cost centre

## **9. Responsibilities of employees**

### **9.1 It is the responsibility of individual employees to**

- Ensure that they understand their salary as agreed contractually
- Raise any anomalies with their pay in a timely manner with their immediate line manager and contact Payroll.

## **10. Payroll's process for overpayments**

### **10.1 For employees, the Payroll process is**

- All payroll queries must be logged with the relevant Payroll Administrator
- The information provided will be used to support the monthly Workforce Committee and Payroll Management Team meetings.

10.2 The exact nature of the payment error will be investigated by a Payroll Administrator who will calculate the amount of the payment error.

10.3 Once the amount has been verified as correct the employee will be notified in writing. This will include an explanation as to how the error occurred and will request consent from the employee to recover the overpayment from salary deduction.

10.4 Current employees will have overpayments recovered from their gross pay. The repayment period will normally be equal to the period over which the overpayment occurred and remaining balance will be recovered from their final pay.

10.5 In cases where the period of overpayment is longer and therefore greater, the Payroll Manager can agree a suitable repayment period.

10.6 Decisions regarding the duration of this extended period for repayment of an overpayment will take into consideration a number of factors. Issues such as the amount of overpayment, personal circumstances which could lead to undue financial hardship, duration of contract (if not permanent) proximity to retirement, redundancy or maternity leave are all factors which will be considered and form part of the decision making process.

10.7 A full investigation would be required if for example there has been an over/underpayment over a long period of time, where there is concern that fraudulent activity may have taken place or where there is a significant over or under payment. The Corporate Fraud Manager will be notified in such cases.

10.8 Internal audit will be notified of any suspected fraud and also where systems improvements are recommended to avoid any repetition.

## **11. Leavers**

- 11.1 Where an overpayment has occurred, and an employee leaves, during or before the start of an agreed repayment period, the balance of the overpayment will be taken from their final salary. If the overpayment is greater than the final salary or notification of leaving is received after the final salary has been paid, the repayment process for ex-employees will be used.
- 11.2 Where an underpayment has occurred and an employee leaves, full payment will be made in their final salary

## **12. Ex-employees**

- 12.1 When a payment error is identified for an employee who has already left the organisation, the gross and net figure of the overpayment will be calculated. Payroll will write to the individual detailing the circumstances surrounding the error and request a payment to be made for the outstanding balance.
- 12.2 If the former employee is unable to repay the overpayment in full then a subsequent invoice will be raised by the Accounts Receivable Team.
- 12.3 Once an agreement to repay by instalments has been made between the former employee and the Accounts Receivable Team and subsequently stops, the normal escalation process will be followed.
- 12.4 Overpayments will be processed through the payroll once a former employee has been advised of the error unless they left in a previous tax year. In this case Payroll will correct by a manual adjustment and inform HM Revenue & Customs accordingly.

## **13. Reporting**

- 13.1 Payroll will maintain a spreadsheet detailing all payment errors. This will include details of the resolution period, last payroll action taken and the reason for the payment error.

## **14. Complaints**

- 14.1 Any complaints regarding the processing of a payment error can be made by writing to:

Payroll Manager  
Northumberland County Council  
County Hall  
Morpeth  
Northumberland  
NE61 2EF

Email: [employee.services@northumberland.gov.uk](mailto:employee.services@northumberland.gov.uk)

## **Annex 9**

# **Bankruptcy and Liquidation Policy**

## **Purpose of document**

This policy covers debts owed to the Council. Those debts include council tax, non-domestic rates, sundry debts and housing benefit overpayments. The Council is committed to using the most effective recovery methods available to it, and this policy will ensure that the Council's use of bankruptcy or winding-up proceedings is consistent and complies with the relevant legislation and best practice.

## **Legislation and Prerequisites to Bankruptcy**

The Council Tax (Administration and Enforcement) Regulations 1992 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 allow for council tax and non-domestic rate debts of over £5,000, that are the subject of liability orders, to be taken forward for bankruptcy proceedings in accordance with the provisions of the Insolvency Act 1986.

For sundry debts and housing benefit overpayments bankruptcy proceedings may be taken against debtors who owe in excess of £5,000 where a County Court Judgement has been granted in respect of the debt.

The consequences can be severe and can involve the loss of the debtor's home or business, and considerable legal and Trustee's costs can be incurred. The level of costs will reflect the complexity of the matters involved, and the extent to which the debtor co-operates with the Trustee who is administering the bankruptcy estate.

Bankruptcy action usually takes place in the debtor's local County Court with bankruptcy jurisdiction unless the debtor resides in London, in which case the action takes place in the High Court or the Central London County Court.

## **Administration**

The Corporate Debt Team will manage the administration of bankruptcy cases and proceedings. Assistance may be sought from Legal Services.

## **When Bankruptcy Action may be taken**

The Recovery Section may consider using insolvency proceedings in the following circumstances (the list is not exhaustive):

- Where the debt exceeds £5,000 and the debtor appears to have sufficient assets or equity to ensure the debt is recoverable by the Official Receiver or the Trustee in Bankruptcy.
- Where the debtor is not making regular and mutually agreed payments that are sufficient to clear accruing debt and arrears within a reasonable and acceptable timescale.
- Where other methods of recovery are considered inappropriate or have failed and bankruptcy action appears to be a fair and proportionate course of action to recover from a particular debtor.
- Where the debt has arisen as a result of fraud.
- Where bankruptcy action may elicit payment from specific groups of debtors, for example company directors, those for whom a bankruptcy order may affect their employment, professional status or ability to practice, self-employed people and those people needing finance.

## **Recording Information and Decisions**

A Bankruptcy Checklist and log of events will be maintained throughout the process to ensure that bankruptcy remains the most appropriate course of action.

### **Decision Making (1)**

Prior to commencing bankruptcy proceedings enquiries will be made of the Revenues and Benefits Sections' computerised systems to:

- i) Establish a debt history and whether any previous debts have been collected within a reasonable period by other means.
- ii) Ensure that all known benefits, discounts and exemptions have been granted based on the information held.
- iii) Based on information held, establish whether the debtor may be vulnerable or unable to deal with their day to day financial matters.

Where the debtor resides in Northumberland contact will also be made with Adult Social Care to ascertain if the debtor is known to them and therefore may be vulnerable. If the debtor is currently receiving any Adult Social Care services (or has previously received Adult Social Care services) Adult Social Care will be requested to provide the contact details for their Key Worker. Further enquiries will be made with the Key Worker, if their details are provided, to establish if the debtor may be vulnerable by way of, for example, age, mental illness, serious learning difficulties or where it is known that they are unable to deal with their affairs. Should it be apparent that the debtor has such difficulties then consideration will be given to whether the help of other agencies should be sought, and to the appropriateness of pursuing an alternative course of action.

### **Decision Making (2)**

If records held and enquiries with Adult Social Care do not indicate that the debtor may be vulnerable then enquiries will be made with a credit reference agency and the Land Registry to establish information about the debtor's financial standing and ownership of property.

### **Decision Making (3)**

In order to assist with the decision as to the appropriateness of bankruptcy the Council will follow The Pre-Action Protocol for Debt Claims that came into force on 1 October 2017. The aims of the Pre-Action Protocol are to:

- a) encourage early engagement and communication between the parties;
- b) enable the parties to resolve the matter without the need to start court proceedings;
- c) encourage the parties to act in a reasonable and proportionate manner in all dealings with one another;
- d) support the efficient management of proceedings that cannot be avoided.

Where payment in full cannot be made, financial information and a proposal for repayment will be requested. If payment in full is not made but financial information is provided it may result in either acceptance of a proposal for repayment, an alternative course of action being taken, or pursuing bankruptcy proceedings. The reasons for the decision will be recorded.

In the event that a response from the debtor establishes that the debtor may be vulnerable then details of the perceived vulnerability will be recorded. Further enquiries will be made to check that council tax benefit/support, discounts and exemptions have been applied for, for possible referral to other agencies, and to determine an appropriate method of recovery. The debtor will be notified in writing of any decisions taken.

## **Decision Making (4)**

Where a decision is taken to commence bankruptcy proceedings a letter will be sent to the debtor setting out the decision, warning them again of the consequences and high costs of bankruptcy, advising them to seek independent advice, and warning them of the intention to issue a Statutory Demand after 14 days unless the debt is paid in full.

The Council may take a decision to issue proceedings immediately if it becomes known that a debtor may dispose of assets to prevent a debt being recovered.

## **Statutory Demand**

A Statutory Demand is a formal demand for payment issued by the creditor to the debtor, and service of the Statutory Demand upon the debtor is the first formal stage in bankruptcy proceedings.

Guidance on service requirements are set out in the Insolvency Proceedings Court Practice Direction. In addition to the requirements of the Practice Direction, a letter will be issued with the Statutory Demand setting out the intentions of the Council and what the debtor needs to do to comply with it.

The debtor has the opportunity to contact the Council at this stage and, depending on information supplied, it may still be possible to consider a short term repayment arrangement or alternative recovery action. The debtor also has the right to apply to the County Court to have the Statutory Demand set aside.

## **Bankruptcy Petition**

The Council may present a Creditor's Bankruptcy Petition to the County Court within four months of the date of service of the Statutory Demand if the debtor has not complied with it, or if alternative arrangements cannot be agreed following service of the Statutory Demand. Prior to presentation of the Petition further enquiries will be made with Adult Social Care to establish whether the debtor has become known to them during the process, in which case the action will be reconsidered. The Council is required to serve the Petition upon the debtor and guidance for service requirements are set out in the Insolvency Proceedings Court Practice Direction.

At this stage the debtor is required to pay the debt in full before the hearing of the Petition at Court otherwise the Court will be asked to make a Bankruptcy Order. However, the Council will not object to a short adjournment of the proceedings if the debtor provides the Court with evidence that they will be able to pay in full within a very short period.

If, between the Petition being presented to the Court and the hearing of the Petition, it becomes known that the debtor does not have the capacity to deal with the matter, then full consideration will be given to seeking an adjournment of the proceedings to enable both the debtor and the Council to obtain further advice.

## **Legislation and Prerequisites to Winding-Up Proceedings**

The Council Tax (Administration and Enforcement) Regulations 1992 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 allow for council tax and non-domestic rate debts of over £750, that are the subject of liability orders, to be taken forward for winding-up proceedings in accordance with the provisions of the Insolvency Act 1986.

For sundry debts and housing benefit overpayments winding-up proceedings may be taken against limited companies who owe in excess of £750 where a County Court Judgement has been granted in respect of the debt.

The consequences can be severe and can involve the closure of the company, and considerable legal and Liquidator's costs can be incurred. The level of costs will reflect the complexity of the matters involved, and the extent to which the debtor co-operates with the Liquidator who is administering the affairs of the company.

Winding-up petitions are usually heard in the High Court or the Central London County Court.

Winding-up proceedings will usually only be started against companies that appear to have sufficient assets to be realised for the benefit of creditors or, in cases where companies appear to have insufficient assets to be realised for the benefit of creditors, it would be in the public interest to stop the company trading and accruing further debts that would have to be borne by the County's taxpayers.

The Council may take a decision to issue proceedings immediately if it becomes known that a debtor may dispose of assets to prevent a debt being recovered.

## **Trustees in Bankruptcy/Liquidators**

When a Bankruptcy or winding-up Order is made the Official Receiver is immediately appointed Trustee in Bankruptcy/Liquidator. In the event of there being realisable assets in the bankruptcy estate or liquidation then it is likely that an Insolvency Practitioner will be appointed Trustee in Bankruptcy/Liquidator to deal with the matter.

When the Council is the petitioning creditor in a bankruptcy or winding-up proceedings we will usually nominate a Trustee in Bankruptcy/Liquidator who is local and easily accessible by the debtor. The appointment of a local and easily accessible Trustee/Liquidator will enable Officers to attend meetings of creditors when necessary.

However, the ultimate decision to appoint the Trustee in Bankruptcy/Liquidator is not that of the Council.

## **Annex 10**

# **Enforcement Agent Code of Practice for Council Tax and National Non-Domestic Rates**

## **Introduction**

This code of practice outlines the way that internal enforcement agents or external enforcement agent companies collecting local taxation debts on behalf of Northumberland County Council should conduct themselves. It includes:

- The professional standards they must adhere to;
- The procedures they must follow;
- Guidance on how quickly the money should be repaid; and
- When it is inappropriate to take action.

## **Professional standards**

The Council and the enforcement agent company will ensure that all enforcement agents, employees, contractors and agents have an appropriate knowledge and understanding of all relevant legislation, case law and powers, and at all times act in accordance with them. The enforcement agent must comply with the principles of the General Data Protection Regulations and any other relevant legislation.

Enforcement agents and employees, contractors and agents of the enforcement agent firm must be aware that they represent the Council in their dealings with debtors. They should at all times act lawfully and in accordance with the provisions of prevailing local taxation legislation. They must also act in a responsible, professional and courteous manner and be aware that their behaviour, appearance and attitude have a great influence on the success of the debt recovery process.

External enforcement agent firms must at all times:

- Hold up to date professional indemnity insurance, ensuring the fullest indemnity against legal proceedings resulting in compensation awards due to illegal or irregular actions. Details of such insurance must be provided to the Council on request.
- Maintain a separate client bank account for monies received from debtors, evidence of which must be supplied to the Council on demand.

The enforcement agent must be firm but polite and courteous at all times when dealing with the public. They must avoid being provoked by vexatious debtors. In the event of a breach of the peace occurring as a result of an enforcement agent's visit, the Council must be debriefed of the circumstances as soon as practicable.

At all times, enforcement agents must carry:

- Their Enforcement Agent's General Certificate issued by the County Court, which must be shown when visiting a property to take control of goods.
- Written authorisation of the Council to be shown on request

The enforcement agent must at all times make clear to the debtor the purpose of their visit and the fact that they are acting on behalf of, and, as agent of the Council. For Council Tax matters visits to residential addresses must be made after 6am and before 9pm, with no visits on Sundays or bank holidays unless specifically agreed in writing in advance. Visits for Non-Domestic Rate matters may be made to business premises at any time during their hours of opening.

The enforcement agent must hand to the debtor or leave on the premises documentation detailing costs incurred, the legislation relating to taking control of goods and any relevant guidance notes.

## **Taking Control of Goods**

This means entering a debtor's property and listing goods belonging to the debtor, or listing goods belonging to the debtor found on a public highway, that may be removed and sold at auction with the proceeds being paid towards the amount owed to the Council and costs incurred by the enforcement agent. Only an enforcement agent properly vetted and trained by the authorised company and who is certificated by the County Court may take control of goods in respect of liability orders on behalf of the Council.

Upon receipt of any instruction to take control of goods, the enforcement agent company shall ensure that a visit is made to take control of goods only after any pre-agreed letter and telephony strategy has been unsuccessful. Where more than one liability order is held for a debtor, the enforcement agent, where practicable, will attend the property for all liability orders at the same time, with only one enforcement fee being charged. Visits to debtors' premises must be made on different days and at different times of the day.

## **Arrangements to pay the debt**

If, on attendance, contact is made with the debtor, the enforcement agent should attempt to recover the amount in full immediately. If full payment cannot be made immediately, the debtor should be given the opportunity to enter into a Controlled Goods Agreement. A Controlled Goods Agreement allows the debtor to keep the listed goods on their premises provided a suitable payment arrangement is agreed with the enforcement agent and is adhered to. The enforcement agent must explain to the debtor the terms of the Controlled Goods Agreement and the consequences of payment default, and leave a copy of the Agreement with them. There must be no administration fees for entering into a payment arrangement.

Enquiries should also be made about possible eligibility for reliefs, discounts, exemptions or Council Tax Support and details of debtors who may potentially be eligible for any reduction must be passed to the Council. Information regarding employment or benefit status should also be obtained and passed to the Council.

Council Tax payment arrangements can be made at the Enforcement Agent's discretion over a period of up to 6 months, or to clear the debt within the financial year, whichever occurs sooner. The repayment period may be extended up to a maximum of 40 weeks if the debtor's circumstances warrant this, and an income and expenditure statement supports it. If an offer for payment extends beyond 40 weeks, and the Enforcement Agent either considers it inappropriate to remove goods or there are exceptional circumstances, the Enforcement Agent must refer the case back to the Council to re-check the records for benefit or discount entitlement etc., and to consider alternative enforcement action before an extended arrangement can be agreed.

Non-Domestic Rate payment arrangements can be made at the enforcement Agent's discretion over a period of up to 3 months. If an offer for payment extends beyond 3 months the Enforcement Agent must refer the case back to the Council to re-check the records before an extended arrangement can be agreed.

## **When the Enforcement Agent should consider taking no action**

The enforcement agent should at all times use their professional judgement to refer a case back to the Council if they consider that, due to the personal circumstances of

the debtor, **it would or may be inappropriate to take control of goods or continue with the case.** In particular, where the debtor:

1. Appears to be severely mentally impaired or suffering severe mental confusion.
2. Has young children and severe social deprivation is evident (Council Tax only).
3. Disputes liability or claims to have paid, has applied for Council Tax Support, a discount or any other relief not yet granted.
4. Is heavily pregnant and there are no other adults in the household (Council Tax only).
5. Is in mourning due to recent bereavement of a close family member (within 1 month of death).
6. Is having difficulty communicating due to profound deafness, blindness or language difficulties. In these cases arrangements must be made for provision of the appropriate support in terms of a signer or translation services etc.
7. Is currently unemployed and provides proof that they are in receipt of Income Support or Job Seeker's Allowance (Income Based), and details are obtained of the debtor's National Insurance number (Council Tax only).
8. Has severe long term sickness or illness, or is terminally ill.
9. States that they have raised their case with their local councillor or Member of Parliament.
10. Appears to be vulnerable in any other way.

The enforcement agent must also take no action if it appears that no responsible adult is present at the debtor's address. If an adult is present, the enforcement agent must attempt to establish their identity. If the debtor is unavailable the enforcement agent must ascertain when they will be available. No reference should be made to the nature or purpose of their visit. The enforcement agent must be aware of the sensitive and confidential nature of this work and should take care to ensure that information regarding the debtor's circumstances is not passed on to, or discussed with, a third party except those specified in the Taking Control of Goods Regulations. If children are present at the time of the visit the debtor should be encouraged to ask them to leave the room while the matter is dealt with. Any documents left at the premises when the debtor is not present must be left in a sealed plain envelope, clearly addressed to the debtor and marked strictly private and confidential.

## **Removing goods from a debtor's premises**

Before attending to remove goods, the enforcement agent must give notice to the debtor in accordance with the Taking Control of Goods Regulations and highlight the costs of removing the goods. However, if there are circumstances that indicate that by telling the debtor it may compromise the ability to remove goods (for example if a company is about to go into liquidation, or the debtor is about to abscond) then an application must be made to the Court for permission to attend without giving the required notice. Such a decision and the reasons for the decision must be recorded and the Council notified.

Enforcement agents must not attend a Company Director's personal address when the liability order is not in his specific name, unless that address is the registered office or the trading address of the company.

In the event of the need to remove a debtor's goods, the enforcement agent should obtain the express permission of the Council before doing so unless this happens outside of normal working hours (8.30am to 5.00pm) in which case the enforcement agent may conduct the removal if appropriate to do so, or unless it is believed the debtor will attempt to remove goods themselves to prevent the action continuing..

For Council Tax debts, certain goods are protected under the Taking Control of Goods Regulations 2013, and must not be removed for sale by the enforcement agent. Only goods belonging to the debtor or a co-owner may be seized. Goods subject to hire purchase cannot be removed.

The enforcement agent should not remove goods for sale unless it is anticipated that the sum realised will be sufficient to settle a reasonable proportion of the debt and the costs. However, in some cases e.g. Non-Domestic Rates, the enforcement agent may still remove goods if it is anticipated that the debtor may be about to enter into an insolvency procedure.

Costs charged to the debtor should be strictly in accordance with the provisions of the Taking Control of Goods (Fees) Regulations 2014.

Any goods removed must be transported and stored securely with due care and attention and the appropriate insurance cover must be in place.

The debtor must be notified of the place to which the goods have been removed to. If the debt is paid in full between the removal and the sale of the goods the goods should be made available for collection by the debtor.

When the debtor's goods are removed and sold at public auction, the Council and the debtor must be provided with a full statement which:

- lists the goods sold;
- lists the amount realised;
- lists the costs incurred; and
- details the amount subsequently outstanding or overpaid as appropriate.

### **Where the enforcement agent is unsuccessful**

At least 3 unsuccessful visits must be made to the debtor's address before the case is returned to the Council as unpaid. The visits must be made on different days and at different times and at least one of these visits should be made to the debtor's address outside normal office hours. Documents other than prescribed documents issued to debtors must be agreed with the Council and be in plain English. Documentation must be left at the property at each visit giving details of the date and time of the visit, the debt and charges to date and the name and contact details for the enforcement agent. Any documents left at the premises when the debtor is not present must be left in a sealed plain envelope, clearly addressed to the debtor and marked 'strictly private and confidential'.

Where the enforcement agent is unsuccessful in their attempts to obtain payment or take control of goods and the liability order is to be returned to the Council, they must submit a report clearly showing that the person attending to take control of goods was unable (for whatever reason) to find any or sufficient goods of the debtor to take control of. The report must also give full details of the actions taken by the enforcement agent together with any details ascertained concerning the financial or personal circumstances of the debtor.

## **Where the debtor has left the property**

If the debtor is no longer resident, the enforcement agent should make appropriate, discreet enquiries to ascertain the debtor's date of leaving and new address as well as details of any new occupier. This information must be referred back to the Council. The enforcement agent may visit and take control of goods at the debtor's new address.

## **Reporting requirements**

Payments and payment schedules must be submitted to the Council at a pre-agreed frequency on the agreed day(s). The enforcement agent company must account for all monies received and provide a proper system for dealing with unpaid cheques and recalled credit/debit card payments.

Monthly statistical reports in the agreed format must be submitted to the Council.

Monthly reports must be submitted to the Council for those cases that are still outstanding after six months.

## **Responsibility**

The Corporate Debt Team will be responsible for the operation and monitoring of this Code of Practice and for resolving any complaints from the debtor.

## **Complaints**

Any complaints received will be dealt with in accordance with the Council's Corporate Complaints Procedure.

When a formal complaint is made about the actions of an enforcement agent company the Council will instruct the enforcement agent company to suspend the action for an initial period of 21 days.

The Council will instruct the enforcement agent company to provide a written case report and other relevant information within 5 working days.

A written response will be issued to the complainant in accordance with the time requirements set out in Stage 1 of the Council's Corporate Complaints Procedure.

Should the complainant remain dissatisfied with the findings of the investigation then they have the right to have the complaint escalated to Stage 2 of the Council's Corporate Complaints Procedure.

Should the complainant still remain unhappy with the response they receive they have the right to contact the Local Government Ombudsman.

The enforcement agent company will maintain an internal complaints procedure overseen by a senior member of staff.

Where the enforcement agent company receives a formal complaint about the actions of their company or one of their staff they must also suspend action to allow an investigation to be conducted in accordance with their complaints procedure. A copy of the complaint and the outcome of any investigation must be provided to the Council electronically within 14 days of receipt of the complaint.

## **Review**

This Code of Conduct will be reviewed annually but may be amended at any time to incorporate new procedures, practices or legislative requirements. External enforcement agent companies will be consulted about any proposed changes.

Citizens Advice have been consulted in the drafting of this policy and will be notified of any amendments as and when they occur.

## **Annex 11**

# **HOUSING INCOME MANAGEMENT POLICY**

## **Part 1 – Current Rent Arrears**

### **Supporting Information**

The collection of rent is vital to enable Northumberland County Council to provide services to all tenants.

As such we offer a firm but fair approach to rent arrears recovery. It is the tenant's responsibility to ensure that they pay their rent weekly, when due and not allow any arrears to accrue.

Emphasis should be made at the sign up stage of the importance of paying rent every week or monthly in advance. Advice should be given on payment options, Housing Benefit, Universal Credit and Council Tax forms should be completed. If it is felt that the tenant may require additional support in order to maintain their tenancy the Allocations Officer should refer to the Housing Benefit officer, Citizens Advice, Gov.Uk for Universal Credit Enquiries or other relevant support agencies.

### **Universal Credit**

Northumberland County Council has seen the introduction of Full Service Universal Credit (UC) for working age claimants from December 2018. This change has been reflected within the arrears Policy. Support has been put in place to assist UC applicants with their claims if required and in addition to this the rent arrears escalation procedure has been extended for all UC claimants.

### **Prevention of Arrears**

Early intervention and personal contact are essential to prevent arrears from spiralling out of control.

### **Home visits, telephone calls and agreements**

The object of the above is to maximise recovery of monies owed to Northumberland County Council, to understand the reasons why the arrears have accrued and to offer as much help to the tenant as possible.

- Obtain income and expenditure details to ascertain if there could be any possible benefit entitlements, issues with debt or budgeting and to make referrals for money advice.
- Try to make an agreement with the tenant to pay off arrears, be realistic about what the tenant may be able to pay; tenants themselves may make unaffordable offers.
  - In full.
  - To pay the arrears by affordable and realistic instalments in addition to current rent
  - To make up missed payments.
  - Complete direct debit/standing order mandates.

- If they owe minimum of 4 weeks gross rent consider direct payments or Alternative Payment Arrangement for Universal Credit Claimants (APA).
- Confirm agreements in writing to the tenants
- Out of hours visits and calls should be considered where it has not been possible to contact the tenant during office hours. These should be authorised by the Housing Manager in advance and the lone working procedure should be carried out. It is essential that personal contact is made with the tenant prior to the Notice Seeking Possession (NOSP) and Notice of Possession Proceedings (NOPP) being served.
- All agreements made should be recorded.
- It is important that refusals to provide any details such as income and expenditure are also recorded
- When writing to joint tenants ensure that you write separately to each named tenant.
- Set out clearly in correspondence any time limits with which the tenant should comply.

It is important that the system is updated with every type of action taken.

## **ARREARS GUIDELINES**

### **Assistance to Sustain Tenancies**

Alongside the recovery of any debts owing to Northumberland County Council it is very important that we assist the tenant to sustain their tenancy. Eviction should only be considered as a last resort and we should ensure that, as a minimum, we offer the following assistance.

- Housing Benefit referrals including discretionary housing payment
- CAB referrals
- Other agencies which may be able to assist if tenant deemed to be vulnerable i.e. Age UK, Silx, Voices, BRIC etc.
- Offer repayment agreements which the tenant can maintain
- Inform of Direct Debit and Standing Order Options
- Money Advice and budgeting
- Support with Universal Credit Applications

### **Vulnerable Tenants**

Northumberland County Council will have tenants who may have special requirements, are vulnerable or both and as such are at greater risk of losing their tenancy. Vulnerable tenants include:-

- Under 18 years of age or young people under 21 leaving care

- Elderly person aged 70 or over
- Mental Health conditions
- Substance Abuse
- Living with chronic long term illnesses
- Severe physical disability
- Illiteracy
- First Language is not English
- Rehoused from Supported Accommodation
- Domestic violence

In these cases these accounts will be flagged as at risk and the arrears will be monitored and progressed by the Housing Officer.

### **Direct Payments**

Where a tenant is in receipt of Income Support, Income Based Job Seekers Allowance or Income Related Employment and Support Allowance, Universal Credit and has over 4 weeks gross rent arrears, then a direct deduction from their benefit should be requested from the DWP. (See letter DPR).

When Direct Payments commence or cease the officer will update the NPS system with the relevant information.

### **RENT ARREARS ESCALATION PROCEDURE**

Arrears action should commence when a weekly payer has missed one payment or a monthly payer is one week late. Not taking into account benefits paying in arrears.

The following is the basic procedure to be followed in the recovery of rent arrears; however this process can be extended or reduced depending on the individual's circumstances and the level of arrears.

#### **Extended:**

These may arise because:-

- The tenant is in hospital
- There are mental health issues or the tenant is unable to understand their responsibilities
- Delays in claims for benefit being processed
- Recent bereavement
- Recent unemployment
- Recent matrimonial difficulties.
- The tenant is awaiting Universal Credit Payment.

### **Static Balances**

Where there is a consistent low level static balance on an account send letter SB1 to the tenant, to attempt to arrange a repayment plan to clear the arrears. Should this fail, consider action 1 below.

Should an account reach the stage of NOSP then this may be served if the balance is over £25 and the arrears procedure has been followed.

### **Insufficient Payments**

Where it appears that the tenant is making insufficient payments to cover rent and arrears a visit should be made to make them aware of this. Alternatively a letter should be issued.

### **Rent Arrears Procedure**

**1<sup>st</sup> Action** – visit with letter SL01/IL01 - If the tenant is present ascertain the reasons for the non-payment e.g. hospitalisation of tenant, mental illness, or the inability of the tenant to understand their responsibility for paying rent and make arrangements with them to repay the outstanding amount due. Advise the tenant of all payment options available and identify the most appropriate option for the tenant's circumstances, encourage Direct Debit or Standing Orders.

Check if there are any Housing Benefit or Universal Credit delays or if the tenant is in severe financial difficulties. Check if there is a recent bereavement, unemployment or matrimonial problems. Enquire if the tenant requires money advice. If there are any Housing Benefit issues the tenant should be advised to make contact with the Housing Benefit section, or in the case of Universal Credit the Department of Work and Pensions.

The system should be updated following the visit and notes added.

**This procedure should be followed at each subsequent visit.**

**2<sup>nd</sup> Action** - next missed payment, arrears rising – visit with letter SL02/IL02

**3<sup>rd</sup> Action** – next missed payment, arrears rising – visit with letter SL03/IL03 (Notice Warning Letter)

**4<sup>th</sup> Action** - Next missed payment, arrears rising – Consider issuing Notice of Seeking Possession (NOSP) or Notice of Possession Proceedings (NOPP). Letter SLO4/IL04 to be sent with NOSP/NOPP. **Remember: when writing to joint tenants ensure that you write separately to each named tenant.**

Upon service of a NOPP to an introductory tenant, the tenant has the right to request a review of Council's decision to seek possession of their home within 14 days. (See legal process for Introductory Tenants).

Check management notices to see if the case is an active Anti Social Behaviour (ASB) case, speak with ASB officer.

Visit with NOSP/NOPP and if contact made explain seriousness of situation and try to make agreement with the tenant for them to reduce/clear arrears. Update system, and file NOSP/NOPP.

If any agreement is reached at this stage with regard to reduction/clearing arrears write to the tenant(s) to confirm that agreement. Proceedings should not be commenced if the tenant(s) continues to comply with that arrangement. If the tenant ceases to comply with such arrangement you should warn the tenant of the intention to bring proceedings and give the tenant clear time limits within which to comply.

Consider alternative dispute resolution.

**NOTE – If no agreement can be reached no legal action can be sought until the 28 day Notice period has expired. However the arrears recovery procedure should still continue during this period if no arrangement or contact had been made with the tenant.**

**NOTE – If customer is in receipt of Universal Credit option to apply for Alternative Payment Arrangement (APA)**

**NOTE – Where 12 months have elapsed since service of the NOSP but the tenant remains in arrears at a level where possession may not have been considered appropriate, speak with the Area Housing Manager to consider whether service of a new NOSP may be necessary together with letter AR4B.**

**The NOSP is valid for a period of 12 months and will remain valid even if the tenant clears the arrears.**

**5<sup>th</sup> Action –** Next missed payment, arrears rising – Visit and reiterate legal situation.

**6<sup>th</sup> Action -** Letter SL06/IL06 (Court Warning Letter)

**7<sup>th</sup> Action**

**Consider application to Court for possession. The following application process must be carried out at this stage:-**

**Housing Manager authorises application for Court.**

- Officer completes court application on line to HM Court Service which generates a Court Hearing Date and time (<https://www.possessionclaim.gov.uk/pcol/>.)
- Officer informs tenant of this. Letter AR7/ITAR7 – ENSURE THAT THE TENANT IS ADVISED IN WRITING OF THE DATE AND TIME OF THE HEARING AND ADVISED TO ATTEND COURT ON THAT DATE.
- ENSURE THAT AT LEAST 10 DAYS PRIOR TO THE COURT HEARING DATE A RENT STATEMENT AND DETAILS OF OUR KNOWLEDGE OF THE TENANT'S HOUSING BENEFIT ENTITLEMENT ARE SENT TO THE TENANT(S)
- Officer to advise tenant that it is still not too late to come to an arrangement regarding payment and discuss with tenant advantages of clearing account prior to the court hearing. If the tenant complies with an arrangement for payment of the current rent and a reasonable amount towards the arrears we

should agree to postpone court proceedings so long as the tenant keeps to such an agreement. However if the tenant ceases to comply we should warn the tenant of the intention to restore the proceedings and give the tenant clear time limits within which to comply.

- Discuss with tenant the consequences of possession and the need to discuss case with Homeless Persons Officer.
- Inform tenant that account must be cleared to prevent possession being granted at Court.
- On the hearing date the officer who is attending on behalf of Northumberland County Council will ensure that all the following documentation is available:-

Copy of the Notice, together with proof of service

Copy of the application for possession and particulars of claim

Current arrears figure

Rent statement (last 104 weeks).

Copy of Diary Notes

## **Court Hearing**

The Court may make one of the following judgments:-

### Introductory Tenants

The Judge will usually grant possession within 14 days but the Judge has discretion to order possession for a date up to six weeks (42 days). Ensure that the Judge records the decision as a mandatory outright possession

### Secure

The judge has discretion and can make the following Judgements:-

Outright Possession (Absolute) (OPO) (IOP0) -The date specified for possession should usually be within 14 days but the Judge has discretion to order possession for a date up to six weeks (42 days)

Suspended Possession Order (SPO)

Proceedings adjourned generally with liberty to restore (ADJT)

Proceedings Adjourned new date (ADJ)

Proceedings dismissed.

Send appropriate Court Judgement letter to tenant following hearing to advise tenant of the outcome

If the Tenant clears the arrears shortly before the hearing you can still ask the Judge to make an Order for payment of the costs.

## **Post Court Action**

Officer to check the Judgment details are correct. IF AN INTRODUCTORY TENANT, CHECK THAT THE ORDER SPECIFIES THAT IT HAS BEEN MADE ON MANDATORY GROUNDS.

If an outright order for possession has been made, diary the matter until the expiry of the date for possession referred to in the Order e.g. 14, 28 days, then consider an application for warrant.

If a warrant is applied for a visit to the property must be made prior to it being executed.

If a suspended possession order is made and the Order is not being complied with:-

**1<sup>st</sup> Action** – next missed payment, arrears rising – visit with CODL letter (breach of Court Order). Explain to the tenant that eviction is likely if rent arrears are not reduced in line with the Order and any missed payments are not made up.

**2nd Action** - next missed payment, arrears rising – visit with letter FWAL to invite the tenant to come into office to discuss the situation at which time the eviction process will be outlined and the tenant will be given one final opportunity to make up payments and avoid this.

### **Process for applying to Court for Eviction**

Eviction application should be made to court using relevant internet address (<https://www.possessionclaim.gov.uk/pcol/>)

Keep monitoring account and update if necessary,

Court advises tenant and Northumberland County Council of date and time of eviction.

Contact Homelessness Team (AE3). Email Homeless team to advise of the eviction of the tenant.

If tenant is able to clear arrears and court costs in full, the eviction should be cancelled and the court, bailiff and joiner advised accordingly.

### **Applications to Suspend Possession**

Introductory tenants cannot apply to suspend the date for possession beyond 6 weeks from the date of the original possession hearing. If application to suspend is listed in such a case draw the Judge's attention to the fact that this is a mandatory ground and there is no legal basis to suspend the warrant.

### **Secure tenants**

When the tenant receives notification of the eviction date they can lodge an application to suspend the warrant to the Court. If this happens Northumberland County Council will be informed of the time and date of the hearing and must attend.

The eviction cannot proceed until after the court has heard the tenant's application and made a decision.

If the Judge accepts the tenant's application and grants the suspension (CODL) then the warrant will be suspended usually on terms. If the tenant breaches the terms of this order then a visit should be made to make them aware that the matter could be referred back to court, after which the process then reverts back to post court action, action 3.

### **Variation of Court Order**

At any time after a Court Judgment has been made, either party has the opportunity to apply to the Court to amend the terms of the Order.

### **Eviction**

- Two officers to attend with a joiner to change the locks and secure the property when the Bailiff has gained possession.
- If there is a possibility of violence of any kind, the police should be requested to be in attendance.
- Officers should catalogue and photograph any possessions left by tenant INVENTORY FORM.
- Arrangements should be made to allow the tenant an accompanied visit at a pre-arranged date and time to collect the remainder of their belongings.
- If no arrangements have been made with the outgoing tenant for this, then the officer will arrange the removal/storage of the possessions after 7 days.
- A Notice in accordance with S41 Local Government Miscellaneous Provisions Act may need to be served for any goods left at the property (SEC41). Whilst these ought to be prepared by Housing staff, these must be signed by NCC legal before serving.

## **COURT COSTS**

### **Supporting Information**

When an existing tenant has cleared all outstanding rent arrears on the account and the court costs remain, technically they are still in default of the Court Order and possession can still be sought, provided that the Court have ordered that the costs be included as part of the arrears.

### **Recovery of Court Costs**

All rent arrears should be cleared before any action is taken to recover court costs

1<sup>st</sup> Action – Letter CL01 will be sent to the tenant outlining amount due.

2<sup>nd</sup> Action – Letter CL02 will be sent to the tenant.

If no attempt has been made to clear these costs these remain on the account as part of the original Court Order.

## **Part 2 – FORMER TENANT ARREARS**

### **Supporting Information**

It is essential that the recovery of Former Tenant Debt is pursued in order to maximise the revenue for Northumberland County Council.

Former Tenancy arrears are debts accrued when a tenant fails to clear all Income Management accounts prior to the termination of their tenancy.

### **Recovery of Former Tenants Arrears**

Upon the termination of a tenancy the officer must ensure that the final outstanding debt is correct, that there are no allowances due to be credited, and that there are no further outstanding amounts to be debited to this account, e.g. Rechargeable repairs, garage arrears, court costs, garden tidy ups etc.

Any account with a credit balance of £20 or more will have the credit refunded to the former tenant.

Check system for any relevant information e.g. tenant deceased.

Arrears and credits under £20 will not be pursued or refunded and will be recommended for write off unless they can be transferred to a current NCC rent account.

If no agreement has been made with the ex-tenant to clear the debt and a forwarding address is known the following action will commence.

**1<sup>st</sup> Action** – send Letter FTL1 – detailing amount outstanding to forwarding address.

If no forwarding address available investigations to locate whereabouts of tenant should be carried out. This will involve checking the Housing File for contact telephone numbers for relatives and next of kin and using Call Search 360.

If unable to trace the Former Tenant the account should be updated accordingly.

**2<sup>nd</sup> Action** – If no response from known address send letter FTL2 – advising that debt still outstanding and that former tenant must contact to make agreement to clear debt.

**3<sup>rd</sup> Action** – Home visit where possible or telephone contact.

When contact is made with a tenant the officer should assess the income of the tenant(s) and non-dependents and their ability to pay the arrears. Once this is done an agreement should be made with the tenants to clear the arrears in full or to make affordable and realistic instalments.

**It may be possible at this visit that the officer can assess whether the tenant has the means to keep to this agreement and any further action will be successful** The Officer will update the system with details of the repayment agreement and any observations.

**4<sup>th</sup> Action** – If no repayments made send letter FTL3 informing that due to non-payment the debt will be passed to (a) a Debt collection agency (b) Court action will be sought which may include an application for an attachment of earnings from salary.

### **Court Action**

Northumberland County Council can seek a County Court Judgement against the former tenant for any outstanding arrears or other amounts owing. This action can be a drawn out process and by no means guarantees that the debt will be paid. As court costs to issue a money claim have to be paid up front by the Council this action should only be taken where there is a realistic prospect that the debt will be repaid and after authorisation by the Housing Operations Manager.

### **Debt Collection Agency**

A debt collection agency will pursue the debt on behalf of Northumberland County Council

Officer to refer the case to approved Debt Collection Agency. (Asupp12).

Periodically Agency will forward a summary of all monies received and the officer will update the Former Tenant Account appropriately.

If no monies are recovered by the Debt Agency then the Former Arrears Officer prepares a list of write offs for authorisation by Housing Operations Manager

### **Attachment of Earnings**

In certain circumstances NCC can ask an employer to repay the debt owed, in instalments from any salary due to the Former Tenant. This can only be requested following a court order judgement and unless there is a court order against the former tenant, proceedings have to be instigated in order to follow this process.

### **Former Tenant arrears added to a Current Tenancy**

#### **Supporting information**

If a current tenancy has been found to have former tenancy arrears from another NCC Property, these Former Tenant Arrears can be added to the Income Management Account as a sundry debt.

The tenant should be informed that they must make arrangements to clear this debt. However tenants must first clear any current arrears on their accounts and once this

has been done, an agreement is made to continue to pay extra weekly rent in order to clear the former debt.

## **WRITE OFFS**

All cases for submission for write off must be actioned in line with the Corporate Write off Policy. In all cases the Council's Contract and Finance Rules will be adhered to.

## **Rechargeable Repairs**

Repairing minor plaster cracks  
Internal decoration  
TV Aerial's (except communal aerials)  
Loose screws on cupboards, windows, doors or gate furniture  
Washing machine installation  
Curtain Rails  
Gaining entry to the property  
External door locks  
Additional House keys  
Reglazing windows  
Shower curtains and poles  
Laminate flooring  
Loose floor coverings and carpets  
Bolts and locks to outhouses or garden gates  
Plugs and fuses for electrical appliances  
Light bulbs, fluorescent tubes and starters  
Batteries for smoke detectors  
Clothes posts  
Security Chains  
Door Bells  
Blocked Gullies  
Sink and Bath plugs and chains  
Toilet seats  
Coat rails or hooks