

Report to: Corporate Issues Scrutiny Committee

Date: 20th August 2007

Report of: Director of Corporate Resources

Report No: 14

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Report Title: **Council Income Recovery and Write-off Processes**

Non Confidential

This report does **not** contain information which warrants its consideration in the absence of the press or members of the public

Purpose:

To advise members of the Council's Income recovery and write-off processes for Council Tax, Business Rates, Housing Rents and General Income

Decision:

That the report be noted.

Background Doc(s):

Introduction

At the last Scrutiny Committee, Members asked for a report outlining the steps the Council takes in recovering debts and its policies around write-offs. The Council has 3 main types of income and this report deals with each in turn. These are:-

- Council Tax/Business Rates
- Housing Rents
- General Income

General Income relates to all other invoices raised by the Council for services such as Adults Social Care, Markets, Property Rents, Trade Waste etc.

The Council Tax Recovery Process

Introduction

The main steps in the recovery process are:

- Issue of a bill
- Instalment reminder notice
- Second instalment reminder notice
- Final notice
- Summons
- Liability Order
- Further information notice
- Prosecution for failing to return further information notice
- Post liability order recovery options - bailiffs, attachment of earnings and benefits
- Application for committal to prison
- Bankruptcy
- Charging orders

The steps are summarised in a flow chart which is attached at appendix 1.

At each of these stages the notices sent include advice about what will happen next, what costs may be added, how to avoid this and how to contact us.

Stages of Recovery

Issue of a bill

Annual bills are issued in March each year with instalments starting in April through to January. Instalment due dates vary depending on the payment type and what the customer has requested. During the year if circumstances change amended bills are issued and instalments revised. New occupiers are issued with bills as soon as possible and instalments are given for the remaining months in the year until February and they are always given at least 14 days before the first instalment is due.

Instalment reminder notice

Reminder notices are produced where customers are late paying their instalments. If instalments are not brought up to date they are automatically cancelled and the remaining balance for the year becomes due in full.

Second instalment reminder notice

These are issued where customers have previously had a reminder, brought their instalments up to date, then have fallen behind again later in the year. Again if instalments

are not brought up to date they are automatically cancelled and the remaining balance for the year becomes due in full. If they then fall behind a third time their instalments are automatically cancelled and a summons will be issued without further warning. This is intended to stop the issue of reminders every month to habitual late payers.

Final notice

Final notices are only issued for overdue previous year's arrears and for cases where people have moved out and not paid their remaining balance. These are issued 14 days after the final bill.

Summons

These are issued monthly and no sooner than 14 days after instalments have been cancelled or a final notice has been sent. Summonses are issued at least 17 days before the court hearing. We also limit the issue of summonses to a maximum of 2,000 cases each month to ensure we are able to deal with any enquiries before the court hearing. This stage currently incurs the customer with costs of £53.00. These costs are approved by the Magistrates' Court and are reviewed annually. We do consider individual's circumstances and withdraw summonses where necessary, we also look to minimise the issue of summonses for small balances.

Liability Order

At the court hearing we apply for liability orders in each case where the balance has not been paid in full or the summons withdrawn. This stage currently incurs the customer with £20.00 costs. Again these costs are approved by the Magistrates' Court and are reviewed annually.

This then gives the council further options to recover the balance outstanding without having to go back to court. See **Post liability order recovery options** below.

Further information notice

These are issued on the next working day after the court hearing to customers who have not made an arrangement to pay. They request that a form is completed with details of income and expenditure and any proposals for payment. The customer is legally obliged to return this form within 14 days. If they don't return this then they may be prosecuted for failing to provide the information. This notice also advises the customer what recovery action will be taken next and what further costs they may incur if they don't pay in full or make an acceptable arrangement to pay.

Prosecution for failing to return further information notice

In a limited number of cases we have begun to carry out prosecutions for failing to return the further information notice. Legally this can result in a Magistrates' Court fine of up to £1000, however we have agreed with the Bolton Magistrates that the fine is £60 with an additional £60 costs. If the customer provides the information before the court hearing though the case is withdrawn and no fine or costs are added. This procedure is used to encourage people to supply details that will allow us to make attachments of earnings or benefits.

Post liability order recovery options

A liability order gives the council the right to recover the debt by any of the following:

Attachment of earnings

Where we have employment details an order can be made to the customer's employer to deduct amounts regularly from their pay until the debt is cleared. Legislation sets out a sliding scale for the amount that is deducted dependent on earnings.

Attachment from benefits

Currently attachments can only be made from income support, guarantee credit or jobseekers allowance of £3.00 per week.

Bailiffs

We only use bailiffs as a last resort where customers haven't paid, made arrangements or provided employment or benefits details that can be used. Bailiffs can make arrangements with customers or as a last resort may remove goods (furniture, electrical equipment etc.) to the value of the debt. Bailiffs do incur fees most of which are set by legislation though some such as removal fees are not fixed, but should be reasonable. We have agreed a code of practice with the bailiffs which gives guidelines on how to proceed with cases where removal of goods would be inappropriate because of the customer's circumstances.

Bankruptcy

We haven't used this option previously and are currently carrying out a trial. We only use this where everything else has failed and where the customer is an owner/occupier and therefore has an asset.

Charging orders

This is where an order is granted at the County Court to secure payment when a property is sold. This option is only used rarely where there are several years of arrears outstanding and where we know a property is already up for sale.

On any individual liability order the council cannot use more than one of these options at any one time.

Application for committal to prison

To progress to this stage the bailiffs must have attempted to recover the debt and failed. Following this we issue a warning letter that committal action will be taken, this gives the customer an opportunity to make an arrangement or clear the debt before a committal summons is issued. A committal summons orders the customer to appear before the Magistrates for an enquiry into their means. This can result in either an adjournment to pay, a suspended committal order to pay or an order committing them to prison (this is very rare).

Also at this stage the Magistrates have the discretion to write off the debt. If customers don't turn up at court without contacting us or the court then an arrest warrant can be issued.

Special arrangements

There is also the facility for customers to make special arrangements at most stages in the recovery process. Arrangement guidelines have been issued to staff and team leaders and managers exercise discretion depending on individual circumstances.

Changes of circumstances

Recovery action is withheld where there is a change of circumstances or a housing benefit application waiting to be processed.

Maximisation of Benefits

We always try to maximise people's benefits this generally means housing benefits, though our benefits staff help customers identify what other benefits customers may be entitled to and help them to apply.

Awareness of debt counselling

Staff have basic welfare rights training and can refer customers to other agencies for advice such as the Citizen's Advice Bureau and the Housing Advice Service.

The Business Rate (Non Domestic Rate) Recovery Process

The process for Business Rates is similar to Council Tax, though there are fewer options available. There are details below about the stages that are different to Council Tax.

The main steps in the recovery process are:

- Issue of a bill (same as Council Tax)
- Instalment reminder notice (same as Council Tax)
- Second instalment reminder notice (same as Council Tax)
- Final notice (same as Council Tax)
- Summons
- Liability Order
- Bailiffs warning letter
- Bailiffs (same as Council Tax)
- Application for committal to prison
- Bankruptcy or Liquidation

The steps are summarised in a flow chart which is attached at appendix 2

At each of these stages the notices sent include advice about what will happen next, what costs may be added, how to avoid this and how to contact us.

Summons

The process for issuing summonses is the same as Council Tax however number of cases is lower so there is no need to limit how many are issued each month. This stage currently incurs the customer with costs of £85.00 which are approved by the Magistrates' Court and are reviewed annually.

Liability Order

The process for applying for liability orders is the same as Council Tax except that there are no additional costs added at this stage.

Bailiffs warning letter

These are issued the next working day after the court hearing and advise the customer that the debt will be referred to the bailiffs within 7 days if they do not pay in full or contact us to make an arrangement.

Application for committal to prison

The process is the same as Council Tax except that we cannot commence committal proceedings against limited companies.

Bankruptcy or Liquidation

The process is the same as Council Tax except that Liquidation proceedings are used where the customer is a limited company. Liquidation proceedings against limited companies are only taken after bailiffs have failed to collect the debt.

Council Tax and Business Rates Write Off Policy

Introduction

This policy covers Council Tax, Business Rates and Housing Benefits Overpayments.

An integral part of debt recovery is the effective management of irrecoverable debts, this ensures that resources are applied to the collection of monies outstanding which can reasonably be expected to collect. Obviously every effort must be made to maximise the amount of income collected, however, it is bad practice and a failure to use resources to their maximum benefit if irrecoverable debts are not written off. This report contains an outline of the policy that the Revenues and Benefits Division of Corporate Resources follows to assist in the efficient management of debts and to enable the Division to concentrate on collecting recoverable debts.

There are a number of reasons why a debt becomes irrecoverable, these include

- Where the customer has absconded and cannot be traced.
- Where the customer has died and there are no funds available from the estate to clear the debt.
- Where the debt is too old to recover.
- Where the balance is small and the recovery costs would make the debt uneconomical to collect.
- Where it is not cost effective to continue recovery action.
- On the grounds of hardship
- Where individuals or companies have become insolvent.

There are also cases where there are overpayments on accounts which we are unable to refund because either the customer has moved without providing a forwarding address or they have died and we have been unable to trace the beneficiaries.

In addition to our efforts to locate absconded customers, our bailiffs also undertake “trace work” as part of their collection processes.

The intention of the policy is to ensure that there are consistent procedures to follow and that every effort is made to collect debts, it also provides a framework to write off debts once these procedures have been exhausted.

Debit Balances

No forwarding addresses (NFA’S)

These are all cases where the customer has absconded and all attempts to locate their new address have been unsuccessful and the account has been marked as No Forwarding Address. In these cases an above standard check will have been done in a previous year and nothing found. However, prior to write off a further standard check (see appendix 3) is undertaken.

Over £5000 outstanding

1. Where the customer has vacated more than 3 financial years ago a standard trace is done. If we are unable to find the customer then the debt may be written off after approval through internal audit, the director and members. Records are kept of all these cases for audit purposes for 3 years from the date of write-off.

2. For cases less than 3 years old an above standard trace (see appendix 3) is done. If we are unable to find the customer then the debt may be written off after approval through internal audit, the director and members. Records are kept of all these cases for audit purposes for 6 years from vacation.

Under £5000 outstanding

3. Where the customer has vacated more than 3 financial years ago the debt is written off after a standard trace has been done. Records are kept of all these cases for audit purposes for 3 years from write-off.
4. For cases with between £200 and £5000 outstanding that are between 1 and 3 years old an above standard trace is done. If we are unable to find the customer then the debt may be written off after approval through internal audit and the director. Records are kept of all these cases for audit purposes for 6 years from vacation.
5. Where the customer has vacated more than 2 financial years ago and the debt is under £200 the debt may be written off. Records are kept of all these cases for audit purposes for 1 year after write off.
6. Where the customer has vacated more than 1 financial year ago and the debt is less than £100 the debt may be written off. Records are kept of all these cases for audit purposes for 1 year after write off.

If a customer is found later then the debt may be brought back, although we need to assess whether it is still recoverable at this stage. (see 'Cases That Are Too Old to Recover' below)

Cases where the customer has deceased

In cases where it has been established that there are no funds to clear the debt then no matter what the amount, it will be submitted for write off. These will be listed and passed to internal audit and the director for approval. The over £5000 will also be passed to members for approval before write off.

Cases that are too old to recover

Case law has made it clear that if we do not try to collect charges as soon as practicable then they become irrecoverable. These will be submitted for write off and passed to internal audit and the director for approval. The ones over £5000 will also be passed to members for approval before write off. These cases, where it is not appropriate for the Council to pursue enforcement action through the Courts, are quite unusual and usually fall in to the following categories:

1. Debts that are over 5 years old where no payments or arrangements made in the last 6 months and every option to collect the debt has been exhausted.
2. Previous years arrears on cases where an attachment from benefits is in place on their current account means it is unlikely that we will ever collect the old arrears.

Small balances

Where these amounts are over twelve months old and the customer has vacated or is now on full Council Tax Benefit these can be written off as it is not cost effective to recover them beyond final notice stage.

Hardships cases

The Assistant Director of Corporate Resources has the delegated power to approve these cases. These cases are rare and are considered individually at the monthly review meetings between the Assistant Director and the Head of Revenues.

Liquidations, Bankruptcies, Administration Orders and Voluntary Arrangements

Regardless of the amount once official notification of insolvency is received then a claim is submitted for the relevant debt to the Insolvency Practitioner. The debt is then written off then if any dividend is paid to the Council, this amount of the debt is raised to offset the payment.

Credit Balances**No forwarding addresses (NFA'S)**

Where the customer has vacated more than 1 financial year ago and we do not have a forwarding address, the credit is written off. Records are kept of all these cases for audit purposes for 6 years in case the customer is found or contacts us.

Cases where the customer has deceased

Where the customer has died more than 1 financial year ago and we do not have the address of the beneficiaries, then the credit is written off. Records are kept of all these cases for audit purposes for 6 years in case the beneficiaries of the deceased's estate are found or contact us.

Collection of Housing Rent Arrears

Current Tenant Arrears

- When arrears build up to the equivalent of 1 weeks rent, a letter is sent by Tenancy Management staff (based at Housing Offices)
- If no response to this first letter, a second is sent seeking a visit by a Housing Officer
- If no response a letter is sent inviting the tenant to an interview with the Community Housing Officer (CHM)
- If no response, the CHM passes the case to Income Management (IM) staff
- IM staff then decide whether to issue a Notice Seeking Possession (NSP) or a Notice of Legal Proceedings (NLP) which seeks to recover money from the tenant
- The NSP/NLP is passed to court
- After court if there is still no cooperation possession is sought from court and a letter seeking eviction goes out.

Former Tenant Arrears (FTA)

- **If forwarding address known** then FTA1 letter sent
- If no response then FTA2 letter sent
- If no response the letter sent informing the tenant that the debt will be passed to a collection agency
- If no response, debt is passed to collection agency
- If no progress by debt agency it is passed back to IM team and then passed to second debt collection agency
- If no response to this and no payment received in previous 12 months then debt is recommended for write-off

- **If no forwarding address available** then tracing action is undertaken until an address is found.
- If no address established then the debt is written off if no payments received in the previous 12 months.

Write-off criteria

1. Small debts after 2 letters unless re-housed in another of our properties.
2. Deceased Cases – No next of Kin or no estate or no response after at least **TWO** letters and **ONE** telephone call– **3 months** after tenancy terminated or date the debt accrued, whichever is the latest.
3. Residential / Nursing Home cases - no assets or no response after at least **TWO** letters and **ONE** telephone call– **3 months** after tenancy terminated or date the debt accrued, whichever is the latest.
4. No Forwarding Address Cases –Must have been numerous searches undertaken - at least 4 unsuccessful traces must have been carried out in the last financial year and no payments in previous 12 months
5. Bad Debt Cases – **After 1 years** if no payment and no response to ALL reasonable attempts at recovery action

General Income – Collection Process

Standard Collection Process

- (a) A list of aged debt is run at the end of each month and sorted by highest value. Nominated Income staff review the list with a particular focus on the largest values and historically the most difficult to collect debts.
- (b) On a weekly basis progress is discussed and where appropriate enlist the help of the Service Department to discuss difficulties, or if they have registered a query.
- (c) Dunning (reminder) letters are generated automatically by the system when a debt becomes overdue, this is to supplement the chasing it is not designed to replace it. Two reminders are produced one 30 days after the invoice and a further one 14 days later.
- (d) For small values that are outstanding we pass onto a collection agency.
- (e) For larger values that are outstanding and there is not a valid reason, they are passed through to Legal to begin the legal process as follows:
 - i) A legal warning letter
 - ii) Court action
 - iii) Bailiffs will be used to recover the debt
- (f) Any correspondence that comes back “gone away” NFA (no forwarding address), we check to see if they have moved within the Borough. If that is unsuccessful we pass to a Tracing Agent, legal will advise if it is economically viable to go down that road.
- (g) If legal then advise the debt is uncollectible or too expensive to go for formal legal action for the value involved a write-off is prepared. For all other cases we then go through the formal legal processes.

Special Treatment of High Value Invoices

A report is produced of all invoices generated the previous day. Out of that report all invoices of £10,000 and over are given a 10 day “follow up call” on Oracle, which will generate a follow up call from a collector who contacts the customer, to ensure that:-

- (a) They have received the invoice
- (b) They are happy with its content and have no queries
- (c) They are aware of the payment due date

The idea of the above is react more quickly to disputes the customer may have, at the same time sending a message that we are monitoring their payment profile.

General Income Write-Off Process

- (a) General Income compile lists of accounts that are deemed uncollectible by Business Unit and they are emailed to the Business Unit advising them that the accounts will be written-off at the end of the month, they are advised to check the accounts and if they still think there is a possibility of recovery, they must indicate the reason next to the specific customer.
- (b) The lists are then taken to Internal Audit to “validate” the write-offs and check the supporting documentation.
- (c) The under £5,000 listing is submitted to the Director of Corporate Resources for write off. The over £5,000 listing is submitted through the Director of Corporate Resources for Executive Member approval.

'Standard Checks' include the following where applicable:

- All information held on the Revenues & Benefits system
- Revenues & Benefits electronic filing System
- LoCTA - a facility to query Council Tax records that other authorities hold
- Reports from bailiffs.
- DWP
- Experian - a special extract of a national data base that's used by the finance industry to keep track of credit information on individuals

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- Reports from bailiffs.
- DWP
- Experian - a special extract of a national data base that's used by the finance industry to keep track of credit information on individuals.
- Electoral Register
- Bolton at Home's rent system
- Telephone directory
- Any other agencies appropriate to individual cases