



**South Kesteven District Council  
Corporate Debt Management  
Framework**

**July 2013**

## **South Kesteven District Council Corporate Debt Management Policy**

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## **1. Introduction**

- 1.1 This policy applies to all sums owing to the Council and has been developed to ensure a consistent approach to the management of debts across the authority. The policy also includes provisions to help prevent our customers and tax payers from falling into debt, and details how we can help those that do fall into debt. This is best achieved by adopting the principles of early contact, consolidated action and effective money advice provision.
- 1.2 This policy sets out the general principles to be applied in relation to debt management across all services provided by this Council.
- 1.3 Prompt recovery action with debtors who have the means to pay will improve collection rates and benefit the Council's financial resources, as will making sensible arrangements with those that don't have the means to pay. Receiving something towards a debt over time is better than receiving nothing at all.

## **2. Policy Aims & Good Practice**

- 2.1 The key aims of this policy are as follows:
  - To ensure a professional, consistent and timely approach to recovery action across all of the Council's functions.
  - To consider fully the debtors circumstances and ability to pay and so distinguish between the debtor who won't pay and the debtor who genuinely can't pay.
  - To promote a coordinated approach towards sharing debtor information and managing multiple debts owed to the Council.
  - To improve the levels of income collected by the Authority.
  - To ensure that debts are managed in accordance with changing legislative provisions and best practice.
  - To treat individuals consistently and fairly regardless of age, sex, gender, disability and sexual orientation and to ensure that individual's rights under Data Protection and Human Rights legislation are protected.
  - Where appropriate, to encourage individuals to seek independent advice and provide details of where to get it from.

- Work with people in debt, or at risk of getting into debt, to set payments they can afford and to stay in touch with customers until their debts are cleared.

## **2.2 General Good Practice**

- Where possible:
  - receive payment before the good or services are received.
  - Sundry debts should not be raised for amounts below £50.
  - Further services shouldn't be provided if the previous services haven't yet been paid for.
  - Obtain accurate information so the debtor can be invoiced promptly, at the latest 5 days after the goods/service have been obtained.
- Bills, Notices and Reminders should:
  - Be clear, accurate and timely.
  - Detail different payment methods available.
  - Provide a contact number for queries.
  - Consistent with concessions, discounts, etc.
- Recovery should:
  - Be clear, accurate and timely.
  - Minimise the build-up of multiple debts.
  - Encourage those in difficulties to come forward early to discuss their individual circumstances.
  - Be flexible and agree reasonable payment terms at all stages of recovery.
  - Not cause unnecessary hardship.
  - Make use of the most appropriate recovery option available.
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### **3. Policies Common to All Types of Debt**

3.1 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.
- Ensure multiple debts owed across the Council by a debtor are recovered collectively.
- Ensure appropriate payment arrangements can be agreed where appropriate.
- Regularly review irrecoverable debts (and those where recovery is not economic) for write-off.

3.2 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" as far as possible based on the information available.

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

3.4 Demands will, wherever possible, be issued on the day of production.

3.5 Where possible all documentation relating to a demand will be kept either in paper or scanned image format until at least six years after the demand is raised. If at the end of that six-year period the demand still remains unpaid, the supporting documentation may be retained until either the bill is paid or the debt written off.

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

3.7 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.

- 3.8 Direct Debit offers the most cost effective payment option for both the payee and the recipient. In light of the move to Universal Credit in the future, which will be paid calendar monthly, options to maximise the utilisation of this method of payment will be undertaken with consideration given to additional direct debit runs (say one monthly run per week - depending upon the debt type).
- 3.9 Instalments are available for certain debt types (eg Council Tax) and these will be utilised in accordance with the latest legislation and guidance. If, however, an instalment is defaulted upon then the full debt outstanding becomes due.
- 3.10 In the interest of economy and where appropriate all demands, reminders and final notices shall be issued by 2nd class post unless contrary to regulations or other statutory or legal requirements.
- 3.11 Authorised officers will be able to intervene in the recovery cycle in appropriate circumstances to deal with hardship or dispute situations. This includes the ability to make deferred payment arrangements where immediate payment is impossible due to lack of means. This will always be balanced with the requirement to collect the outstanding debt.
- 3.12 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.
- 3.13 The Council welcomes the involvement of welfare agencies in connection with debts due to the Council and recognises the benefits that these organisations can offer to both the debtor and the Council in prioritising repayments to creditors and in maximising income available to the debtor.
- 3.14 Where an external agency is procured to assist with the delivery of a service the flow of information between the Council and the agency should, wherever possible, be in an electronic format.
- 3.15 Where legislation permits, the Council will seek to levy and recover from the debtor any and all costs/fees that are legitimately due from the debtor to the Authority or its agents.

Only in exceptional cases, where it would not be in the public interest to pursue costs/fees will they be waived.

- 3.16 All accounts that are written off will be written off against the income code against which they are raised. The VAT on written-off sundry debtor accounts will only be recovered by the Authority in accordance with the rules and procedures laid down by HM Customs and Excise. In practice this means that VAT on a written-off debt can only be reclaimed 6 months after the debt became due or the date of supply.
- 3.17 Where either national or local performance indicators exist the Council will strive for top quartile performance and will publish our actual performance against these targets annually. Progress reports will be made at regular intervals during the year to the Council's Performance and Programme Board and Scrutiny Committee.

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## **4. Principles of Enforcement (all debts)**

4.1 The Council will follow the principles outlined below.

- Our action will be **proportional**
- 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.

4.2 **Proportionality** - Proportionality allows for a balance to be struck between the potential loss of income to the Council and the costs of compliance/collecting the debt.

4.3 **Consistency** - Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aims to achieve consistency in:

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

4.4 The Council recognise 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.

4.5 **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/enforcement action.

If action is required:

- the reasons why must be clearly explained, in writing;
- time scales must be clearly stated; and
- a distinction must be made between advice and legal requirements.

4.6 Appropriate support such as the use of the Language Line facility is to be made available as an aid to improving verbal

communications with those customers for whom English is not their first language.

- 4.7 An opportunity must be given to discuss what is required to comply with the law before formal enforcement action is taken. A written explanation must be given of any rights of appeal against formal enforcement action either before or at the time the action is taken.

## **5. Debts Covered by This Policy**

- 5.1 The debts involved are primarily:
- Council Tax
  - Non Domestic Rates
  - Housing Rent
  - Overpaid Housing Benefit
  - Sundry Debts
- 5.2 The policy will apply to all units of the Council and focus on collecting the charge set rather than how the charge is arrived at. It is the responsibility of the service area raising the debt to ensure the correct charge is being made. Ability to pay is a paramount concern when considering debt recovery. For Council Tax and Housing Rent, statutory benefits are provided on application, which are designed to offset the effects of low income and address the issue of ability to pay.
- 5.3 A debt management policy will never completely remove the difficulties for people and families on low incomes. The approach to recovery must therefore be sensitive to individual circumstances and take into account multiple debts owed.
- 5.4 Income relating to all types of debt should be handled in accordance with the Council's Constitution and the Financial Regulations. Part 4 of the Constitution contains details of the delegations to the Council's Section 151 or Deputy Section 151 officer.
- 5.5 Where possible, multiple debts owed across the Council by a debtor will be recovered collectively and steps taken to reduce further debts arising.

## **6. Legal and Policy Framework for Recovery**

- 6.1 South Kesteven District Council has a duty to ensure cost effective billing, collection and recovery of all sums due to the Council.
- 6.2 This policy is in addition to existing legislation and will enhance the procedures already in place to collect debt.
- 6.3 This debt management policy is concerned primarily with the recovery of debts prior to legal action being taken but the principles should still be applied wherever appropriate even if litigation has commenced.
- 6.4 General provisions are set out in the Local Government Finance Act 1972, The Insolvency Act 1986 (as amended) and The Civil Procedure Rules 1998.
- 6.5 General provisions for charging are set out in Local Government Act 2003

### **6.6 Local Taxation**

- 6.7 Council Tax recovery procedures are laid down by statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.
- 6.8 Non-Domestic Rates recovery procedures are laid down by statute in The Local Government Finance Act 1988 and the Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent regulations and amendments.
- 6.9 South Kesteven District Council engages bailiffs to recover local taxation arrears, who must act in accordance with the bailiff's national code of conduct; The Lord Chancellor Department's 'National Standards for Enforcement Agents'. Only certificated bailiffs can levy distress for local taxation and fees charged to the debtor are governed by legislation.

### **6.10 Housing Benefits**

- 6.11 Housing Benefit overpayments are reclaimed in accordance with Regulations 99-107 of The Housing Benefit Regulations 2006 (as amended) for working age customers and Regulations 80-88 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as amended. In

addition there are 'Housing Benefit Overpayment Procedures' in place where Housing Benefit has been overpaid and is no longer in payment.

### **6.12 Housing Rents**

6.13 The Council has debt recovery procedures in place which set out all activities involved in recovering existing tenant and former tenant arrears in accordance with The Housing Act 1985.

### **6.14 Miscellaneous Income**

6.15 Sundry Debt arrears are collected within a well-established framework, up to the point where the debt is transferred to a Debt Collecting Agency and/or legal action is required. In terms of the latter, the debt is transferred to the Council's legal services for further recovery action.

6.16 In exceptional circumstances and where the council are legally entitled to do so, interest may be charged and costs incurred on debts where payment is beyond the time period allowed for payment. The debtor will be made aware of any additional costs in advance so that they have the opportunity to avoid this wherever possible.

## **7. Write Off Policy (all debts)**

- 7.1 The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice.
- 7.2 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 recovery, collection and legal procedures as outlined in this policy.
- 7.3 Irrecoverable debts will be referred to the Council's Section 151 or Deputy Section 151 officer at a pre-agreed frequency and in a pre-agreed format.
- 7.4 The limitations for writing off irrecoverable debts are those contained within the Council's Financial Regulations Rules and are listed at **Appendix 'A'**.
- 7.5 Debts may be referred to the Council's Section 151 or Deputy Section 151 officer for write-off in the following circumstances;
- Debt remitted by a Magistrate.
  - The Council has evidence to confirm the claimant is suffering a severe physical or mental illness which renders enforcement action inappropriate.
  - The Council is unable to trace the debtor.
  - The debt is not cost-effective to pursue due to small balance.
  - The debt is not cost-effective to pursue due to the likelihood of payment balanced against the cost of proceedings.
  - The claimant has died and there are no or insufficient funds in the estate to settle the debt.
  - The claimant is subject to formal insolvency proceedings and there is little likelihood of a dividend.

## **8. Policies Specific to Sundry Debtors**

- 8.1 For the most part, the responsibility for the billing collection and recovery of sundry debtor invoices is held by the Service Manager for Revenues and Benefits. He/she will work closely with other service managers who are also responsible for the recovery of specific types of debt. Where appropriate, it may be agreed that staff within other Service units become involved in the billing with responsibility being devolved to service areas that have a high number of sundry debtors.
- 8.2 Service providers must endeavour to obtain payment in advance or at the time of service delivery whenever possible. Sundry debtor accounts should only be raised where payment in advance for a service is not feasible.
- 8.3 Any minimum value of debts shall not apply to accounts relating to legal charges or charges where a contractual obligation exists
- 8.4 Except in the case of a demand payable by instalments, or as otherwise contractually agreed (markets), the settlement terms for all demands will be 14 days.
- 8.5 A reminder notice will be issued to the debtor 15 days after the invoice date which requires the account to be brought up to date/paid within 7 days. A final reminder will be issued after a further 7 days. An action notice is printed and reviewed on a weekly basis. If no activity after 1 calendar month the matter is passed a Debt Collecting Agency or Legal Services ( minimum debt £1,000) for further action. Debts referred to Legal Services must be accompanied by all relevant documentation, including proof of "obligation to pay", i.e. Invoice, Reminders etc..
- 8.6 The costs of enforcement action/litigation to recover sundry debtor invoices will be charged against the budget of the service raising the invoice. Any costs recovered from the debtor will be credited against these sums once legal costs (if any) have been deducted.
- 8.7 Sundry debtor invoices will only be raised using the Council's corporate sundry debtors system.
- 8.8 All statutory methods of enforcement of debts will be considered on a case by case basis (subject to court order).

These include:

- Attachments of Earnings
- Warrants of Execution
- Garnishee Orders
- Insolvency
- Possession proceedings

- 8.9 These methods shall only be used with consideration to the principles set out within Section 4 above. This will include working with individuals to agree an acceptable method of repayment such as instalment plans before proceeding to statutory methods of enforcement.
- 8.10 Prior to statutory methods of enforcement being taken (when available), officers may use, where cost effective to do so, external collection agents, visits to the debtor's home by designated Council officers (Environmental Protection) and telephone contact with the debtor as an alternative means of recovering sundry debts.
- 8.11 Where legally permissible, the provision of future services to the debtor will be suspended until outstanding debts are settled.
- 8.12 Legal Services will send a letter to all debtors where the amount owing is greater than £1,000, notifying the debtor of the next course of action in respect of recovering the debt.

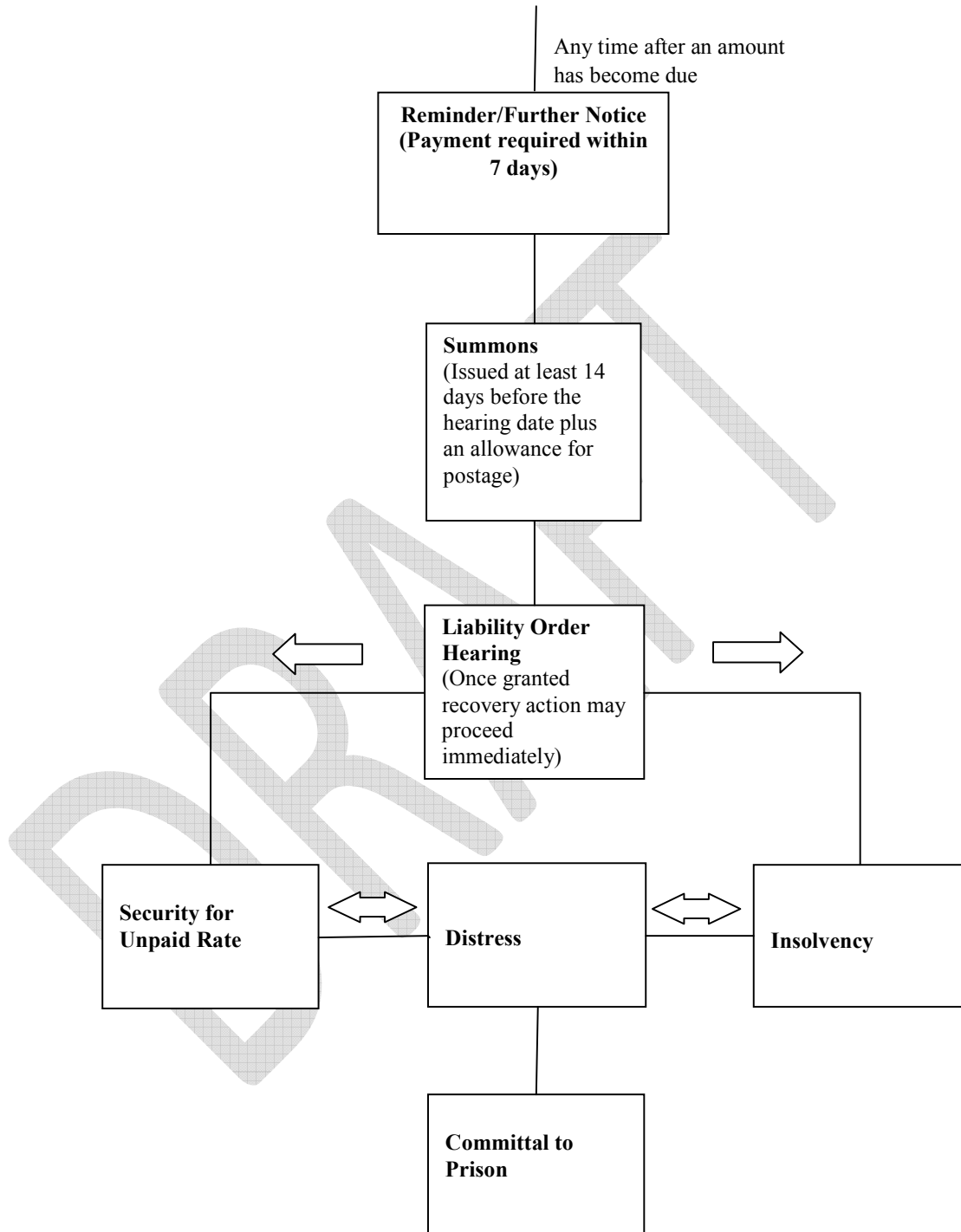
## **9. Policies Specific to Local Taxation Accounts**

- 9.1 Council Tax and Non-domestic Rate annual bills will be issued as soon as practical after the Council has set its Council Tax for the forthcoming year.
- 9.2 Non-annual bills will be issued as soon as practicable after the amount of liability is known with payment(s) being due on the earliest date(s) permitted by legislation.
- 9.3 All demand notices will be issued using the Council's corporate revenues systems.
- 9.4 Where a tax or ratepayer can demonstrate an inability to make payment on the set instalment date, staff authorised by the Council's Head of Finance will have the discretion to vary the instalment dates and payment type. Such arrangements will only be considered where no recovery action has yet commenced for the account in question.
- 9.5 Reminders and final notices will, as far as is operationally practical, be issued within 14 days of the payment default to which they relate in accordance with a recovery timetable, which is to be set at the start of each financial year.
- 9.6 Summonses will be issued as soon as reasonably practicable after the default to which they relate.
- 9.7 All appropriate methods of enforcement of Liability Orders will be available for use. These include:
  - Deductions from permitted Benefits (Council Tax only)
  - Attachments of Earnings (Council Tax only)
  - Distress
  - Attachment of Members' Allowances (Council Tax only)
  - Prosecution for failing to provide financial information (Council Tax only)
  - Prosecution of employers for failing to implement Attachment of Earnings (Council Tax only)
  - Insolvency
  - Committal to prison application (individuals only)
  - Charging orders (Council Tax only)

These methods shall only be used with consideration to the principles set out within section 4 above.

- 9.8 The Lord Chancellor's Department has produced National Standards for Enforcement Agents. Officers of the Council and contractors acting on its behalf in enforcement roles will comply with these standards.
- 9.9 Where recovery action has commenced, payment arrangements will generally only be entered into where the debt is secured by a liability order and/or the debtor agrees to make payment by way of direct debit. Arrangements will only be agreed by authorised staff and will generally only be agreed to where:
- The debt will normally clear by the end of the year unless there are reasonable grounds for extending the recovery period into the following year.
  - The debtor's proposals are reasonable in comparison with the amounts that could be secured by taking alternative action.
  - The debtor demonstrates a clear intention to honour the arrangement.
- 9.10 In cases where exceptional circumstances exist and it would not be in public interest to pursue enforcement action, arrangements may be made by authorised staff prior to a liability order being obtained and without the debtor agreeing to make payment by way of direct debit.
- 9.11 Flowcharts covering the recovery processes are set out below.

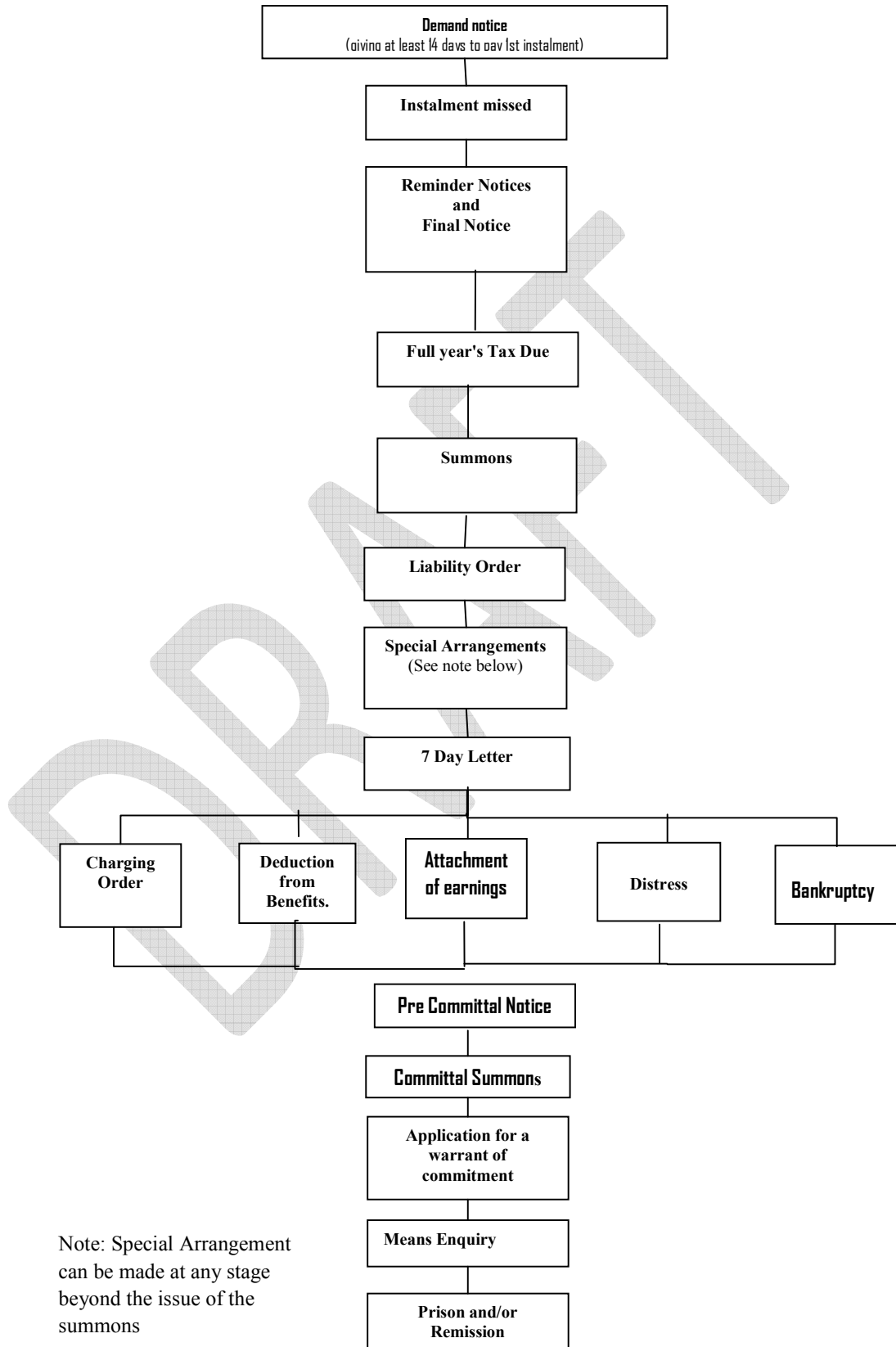
## Overview of NDR recovery process



It should be noted that this flow chart illustrates the legislative position. However, the council's procedures allow further time which is explained herein.

## Council Tax Billing and Enforcement The Statutory Timetable

(action can be stopped at any time if amount paid in full)



Note: Special Arrangement can be made at any stage beyond the issue of the summons

## **10. Policies Specific to Recovery of Benefit Overpayments**

- 10.1 All necessary invoices, reminder and final notices will be raised using the Benefit's sundry debtors system.
- 10.2 Invoices will only be issued when a recoverable overpayment of housing benefit exists and cannot be recovered by other prescribed means.
- 10.3 Measures are to be employed to minimise/ prevent overpayments occurring. These will include:
- Using a well laid out application form to collate accurate information which contains an unambiguous statement that failure to provide correct information could lead to overpayments of benefit and to prosecution.
  - Ensuring all that all benefit notification letters and relevant correspondence clearly inform claimants of their responsibility to tell the Benefits Service of any change of circumstances that may affect the amount of benefit they are entitled to receive.
  - Requesting evidence in support of claims and changes or circumstances for example:
    - Using checks for identity, residency and National Insurance numbers.
    - Visiting programmes targeting high-risk claimants
    - Targeted interventions which are risk profiled.
  - Ensuring officers dealing with overpayments of benefits receive suitable training with comprehensive access to overpayment recovery procedures and an awareness of problems relating to debt.
  - Using and developing information technology to automate some processes for the identification and recovery of overpayments.
  - Including publicity material, for example posters, guidance pamphlets sent with application forms and landlord

undertakings, information on responsibilities for reporting changes of circumstances.

- Ensuring that benefit awards are suspended and terminated in line with current regulations.
- Dealing as quickly as possible with reported changes of circumstances.
- Participating in various data matching exercises with external agencies and cross matching against internal databases whilst adhering to principles laid down by the Data Protection and Human Rights Acts.

10.4 Once overpayments are identified officers will provide quality information and advice, where practicable, to the claimant in order to recover the outstanding amount. We will:-

- Invite claimants to apply for underlying entitlement.
- Calculate the overpayment, on average, within 14 days of receiving all necessary information.
- Use the proper effective date of change to fix the correct overpayment period.
- Consider un-cashed or returned cheques or underpayment of benefit.

10.5 The Council will ensure that the correct classification of overpayments for subsidy purposes is always used in order to prevent subsidy errors and potential loss of subsidy.

10.6 Where the Council decides an overpayment is recoverable from the claimant, recovery arrangements will commence as follows:

- Recovery from the claimant's ongoing Housing Benefit entitlement. This includes where payment of Housing Benefit was made direct to a landlord (where the claimant is deemed to be responsible for the overpayment). The Council will apply the "ongoing" recovery rate as specified annually by the DWP. Normally, the council will seek to recover at the highest rate; however consideration will be given to the debtor's circumstances. The debtor has the right of appeal against the rate of recovery chosen by the LA. This appeal right extends, if necessary, for the matter to be considered by an independent tribunal. All such appeals will be processed in accordance with the Decisions and Appeals Regulations 2001.

- Council Tax Benefit overpayments will, apart from in exceptional circumstances, be debited to the respective Council Tax account.
- If there is no continuing Housing Benefit and no likelihood of continuing benefit or reduction by underlying entitlement, an invoice will be raised on the housing benefit debtors system and a Schedule 9 compliant letter for working age customers, and a Schedule 8 compliant letter for those who have reached the qualifying age for state pension credit will be issued within 14 days. At this point the Council will seek to recover the overpayment in full by a single payment. However, where this is not possible, due to the debtor's financial circumstances, the Council may agree a payment arrangement. A period of one month must elapse before any recovery action is taken in order to allow the statutory time for appeals in accordance with DMA Regulations 2001
- By deductions from other Social Security Benefits managed by the Department of Work and Pensions. Section 75(1) of the Social Security Administration Act 1992 allows recovery of overpaid Housing Benefit by deduction from prescribed benefits which are defined in Regulation 105 of the Housing Benefit Regulations 2006 and regulation 86 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 as amended.

10.7 Where a sundry debt account has been raised and payment is not received after the issue of a final notice, the Council will issue a claim against the debtor in the County Court with a view to obtaining immediate payment or failing which, to enter judgment against the debtor.

10.8 The Housing Benefit Regulations 2006 provide for the Council to recover overpayments from landlords by collecting the debt from the rent of a "blameless tenant". In these cases, appropriate notices must be sent to both the landlord and the blameless tenant to explain that the landlord must treat them as having paid rent equal to the amount being deducted from their benefit entitlement.

## **11. Policies Specific to Housing Rents (secure tenancies)**

11.1 When the tenant signs their Tenancy Agreement, they have made a legal contract with the Council to pay the rent on time.

As a result, if they do not pay, this will eventually lead to court action that may ultimately result in them losing their home. It is vitally important therefore to both the landlord and the tenant that arrears are not allowed to build up to such a level which would warrant this.

- 11.2 Housing rents (and associated charges) are charged and collected on a weekly basis over a period of 48 weeks (or 49 weeks) throughout the year. There are currently 4 "rent free weeks" (two at the beginning of April and two at Christmas). The rents charged are based on the application of national criteria / formula in respect of Rent Restructuring.
- 11.3 Tenants are advised prior to the start of each financial year what their gross weekly 'rent' charges will be. This will normally remain the same throughout the year, although it may also be affected by some changes in service charges.
- 11.4 The Council collects rents weekly in advance due each Monday. When the weekly cycle closes at the end of business on the Friday of each week, and payment has not been made, the tenant is deemed to be in arrears.
- 11.5 A significant proportion of Council tenants qualify for housing benefit. This is credited directly to their rent accounts on a weekly basis. New tenants are encouraged to apply for housing benefit at the time of signing the tenancy, and existing tenants are also encouraged to apply if they have not already done so.
- 11.6 Claims handling performance in terms of housing benefit is critical to the accuracy of recovery action taken in respect of housing rent arrears. Claims need to be assessed quickly so that the tenant knows how much they have to pay. Arrears can easily build up during a period when the tenant believes that they are entitled to a level of housing benefit that they do not ultimately qualify for. They are always advised to make payment, wherever possible, pending the assessment of their claim.
- 11.7 Staff are pro-active in helping to prevent arrears accruing to levels that will cause severe financial difficulties for the tenant and put their tenancy in jeopardy. As rent is a weekly accruing debt, action will be taken quickly where arrears arise to ensure that they do not continue to rise.
- 11.8 All reminder letters and correspondence encourage tenants that are experiencing financial difficulties to contact the Payments and Recovery team as a matter of urgency. The focus is to

prevent a build up of debt, as soon as financial difficulties in meeting payment obligations are obvious.

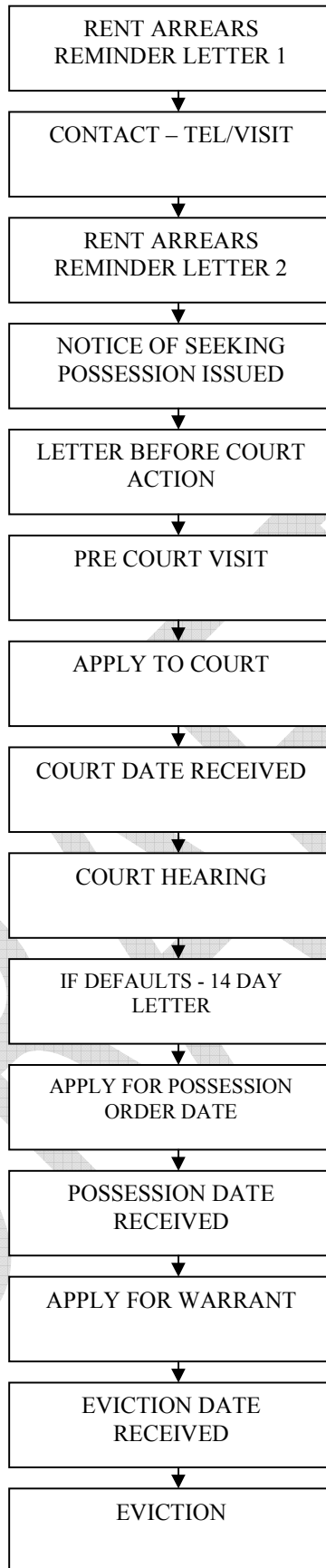
11.9 Before court action is taken i.e. appropriate notice, checks are carried out against the benefit system to ensure that a claim for housing benefit is not awaiting process. Where the process is awaited, action will be deferred until the process is completed and a record made of this.

11.10 **If arrears occur** the following course of action will be **taken** and at each stage, the tenant is encouraged to contact the office to make arrangements to pay, or to advise if there are any reasons as to why the payment should not or cannot be paid:

- Where arrears reach the equivalent of 2 weeks due rent, then a reminder will be issued.
- If the tenant fails to clear the arrears or contact us **within one week of this reminder** the Council will make every effort to visit the tenant personally or contact by telephone or text message in order to:
  - Remind them of the obligation under the tenancy agreement.
  - Identify any problems they have in making the repayments and to agree satisfactory payment and repayment arrangements.
- When arrears have not reduced by a satisfactory amount or where the arrears have increased, during the period of a further week from the date of contact with the tenant a 2<sup>nd</sup> reminder should be issued advising a Notice of Seeking Possession (NOSP) will be served if the debt is not cleared.
- Where, after a further 2-week period from the issue of the 2<sup>nd</sup> reminder, arrears remain at the same level or have increased during the period, then a NOSP will be issued accompanied by:
  - NOSP Letter
  - Statement of the rent account covering the period since the account was last free of arrears
  - Contact details of debt advice agencies / debt counselling services
- Where the tenant receives Income Support or Jobseekers Allowance, and the arrears are at least 4 times the gross

weekly rent, then an application may be made for direct payments from the DWP which is at our discretion

- If the tenant does not clear the arrears by the end of the notice period or come to a satisfactory arrangement for the payment of the arrears, then a letter before action (LBA) will be sent. The letter notifies the tenant that the Council intends to pursue possession action and recovery of the debt in the County Court. The tenant will also be advised that the Council will apply for the costs of the action to be met by the tenant and added to the tenants account.
- 11.11 If there is no response to the LBA a personal visit, contact by telephone, text message or email will be made before the case will be referred to the county court for possession and recovery of the debt.
- 11.12 On notification of the court hearing date a letter is sent to the tenant urging clearance of the debt, or at the very least to make a satisfactory offer to repay the arrears in addition to paying the ongoing rent.
- 11.13 After the court hearing the tenant will be informed of the terms of the order (either Outright Possession Order or Suspended Possession Order) in writing by the court. The Council will also notify the tenant of the Courts decision, and inform the tenant of the outcome if they do not comply with the Order.
- 11.14 If a tenant fails to comply with the conditions of the Suspended possession order then the Council can apply to the court to fix a date for possession. The Council will give the tenant no less than fourteen days and no more than three months notice stating the intention to apply for a date to be fixed for possession.
- 11.15 If the tenant has not made contact within fourteen days from the date of the notice and payments are not brought up to date within the terms of the possession order an application can be made to the court for a date for possession to be fixed.
- 11.16 Where a date has been fixed for possession or a tenant has an Outright order in force then eviction is the next course of action. In the case of an outright order e.g. fourteen or twenty eight day order, the council is entitled to apply for a warrant on or after the date the court specified that possession should be given (e.g. fifteen or twenty nine days).
- 11.17A flowchart of the arrears recovery process is set out below.



## **Monitoring and Performance Measures**

- 12.1 The monitoring of debts for the authority is undertaken through the use of Performance Indicators which are submitted on a monthly basis by the relevant Service Area.
- 12.2 The Performance targets are set annually by the relevant Service Manager and constantly reviewed throughout the course of the year and are reviewed by the performance programme board.

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## **Appendix A**

### **Bad Debt Write-Off**

Any debit or credit balance under £50 per individual debt can be written-off by a Service Manager or equivalent without the need to be counter-signed. In all other cases, each write-off will continue to be countersigned by the s151 Officer or Deputy S151 Officer as appropriate as laid out in the table below.

	<b>Delegated Limit (per debt) £</b>	<b>Authorised By:</b>
<b>Service Managers or equivalent</b>	Up to £2,000	Relevant Service Manager or equivalent & Deputy s151 Officer
<b>Heads of Service</b>	£2,001 – £5,000	Head of Service & S151 Officer
<b>Strategic Director</b>	£5,001 – £25,000	Strategic Director & S151 Officer (in consultation with Portfolio holder)
<b>Cabinet</b>	Over £25,000	Strategic Director, S151 Officer & Cabinet