

Corporate Policy and Strategy Committee

10.00am, Tuesday 3 September 2013

Compliance, Risk and Governance: Corporate Debt Policy

Item number	7.3
Report number	
Wards	All

Links

Coalition pledges	P30
Council outcomes	CO25 , CO26
Single Outcome Agreement	

Alastair Maclean

Director of Corporate Governance

Contact: Hugh Dunn, Head of Finance

E-mail: hugh.dunn@edinburgh.gov.uk | Tel: 0131 469 3150

Executive summary

Compliance, Risk and Governance: Corporate Debt Policy

Summary

Improvement actions are being taken forward in line with the Compliance, Risk and Governance work stream within the Efficient and Effective Transformation Programme (EETP) sponsored by the Director of Corporate Governance to develop, revise, strengthen and embed the Council's internal control framework.

The Corporate Debt Policy is a key element of the revised governance arrangements and outlines operational debt recovery activities for a range of debt types, including Council House rent arrears, Council Tax, service charges, Non-Domestic Rates, benefit overpayments, parking charges and salary overpayments.

It is essential that all monies owed to the Council are actively pursued. The policy therefore reflects a range of measures to help customers pay sums due, maximising the level of resources available to support frontline public services.

The Policy is underpinned by the following key principles:

- taking early and co-ordinated debt recovery action;
- taking account of all relevant circumstances relating to the debt;
- offering a range of payment methods to make it easier to settle debts;
- providing links to debt advice; and
- adopting a debt hierarchy that prioritises those debts where non-payment could directly impact on an individual's wellbeing.

The Corporate Debt Policy will be reviewed and updated on an annual basis and will align with relevant updates of the Scheme of Delegation and Financial Regulations.

Recommendations

1. To approve the Corporate Debt Policy, as detailed in Appendix 1;
2. To note the Council's commitment to engage with those in debt, helping them to pay by providing advice and guidance and involving relevant welfare and debt agencies; and
3. To note that the Corporate Debt Policy will be reviewed on an annual basis, taking account of changes in legislation, service improvements, regulations and wider policy initiatives.

Measures of success

To ensure the Corporate Debt Policy achieves its objectives a range of performance indicators have been developed to monitor performance against targets. Key indicators include:

- Average debtor days
- Aged debt profile
- Value of debt more than 90 days old
- Sundry debt invoices outstanding
- In-year collection targets
- Legal/recovery costs as % of direct debt recovered
- In year write-off as % of total debt

Financial impact

The recovery actions detailed in the Policy are responsible for the collection of over £600m of Council income annually.

Equalities impact

The Council will ensure that the provisions outlined in the Corporate Debt Policy are accessible to everyone and that customers are treated fairly and equitably. The Council will:

- ensure that all relevant equality standards are being met;
- ensure appropriate staff receive cultural awareness, disability discrimination and mental health awareness training; and
- communicate to customers using plain English and help customers whose first language is not English.

A draft version of the policy was shared with partner and welfare agencies representing relevant equalities groups. A number of elements of feedback were received and have, where possible, been incorporated in the final policy. These comments reflected general support for the policy's emphasis on the relevance of joint working, including publicising existing advice services, given the positive impact preventative action or early intervention can have on both an individual's well-being and subsequent calls on a range of health, social care and child care services.

Comments were also received on the rationale for the differing levels of delegated write-off authority and additional explanatory narrative has therefore also been included within the relevant appendix.

Sustainability impact

There are no direct sustainability impacts as a result of this report.

Consultation and engagement

Consultation with elected members, council officers and equalities and anti-poverty groups has been undertaken and feedback included in the documentation presented for approval by Committee. The Policy also addresses Audit's recommendations on its content.

The Council will make every effort to support customers in managing their Council debts and will engage with relevant welfare and debt agencies on an ongoing basis.

Background reading / external references

[Item 8.1a Governance: Operational Governance Framework](#), City of Edinburgh Council
2 May 2013

[Item 8.2 – Operational Governance Update](#), Corporate Policy and Strategy Committee
4 December 2012

[Item 8.3 – Operational Governance – Scheme of Delegation to Officers](#), City of
Edinburgh Council 22 November 2012

[Item 8.5 – Operational Governance Update](#), Governance, Risk and Best Value
Committee 6 November 2012

[Item 8.1 – Governance Review: Political Management Arrangements and Operational
Governance](#), City of Edinburgh Council 20 September 2012

[Item 8.1 – Governance Review](#), City of Edinburgh Council 23 August 2012

Compliance, Risk and Governance: Corporate Debt Policy

1. Background

- 1.1 Council approved the latest operational governance framework update on 2 May 2013 and noted that the Corporate Debt Policy would be presented in due course to Committee for approval.
- 1.2 This report sets out the proposed Council Corporate Debt Policy (“the Policy”), which has been prepared following consultation and engagement with elected members and equalities and anti-poverty groups.

2. Main report

- 2.1 Customers, citizens and businesses within Edinburgh have a responsibility to pay for the services they receive and the charges and rents they are liable for. It is essential that all monies due are collected effectively by the Council. The Policy sets out the general debt management principles to be applied across Council services.
- 2.2 Personal indebtedness levels are increasing and there may be circumstances where our customers are suffering hardship and need help and advice in paying sums due. The Council is committed to providing appropriate support and will engage with relevant welfare and debt agencies.
- 2.3 The Policy is included as Appendix 1 to this report and covers key Council debt types, including Council house rent arrears, Council Tax, service charges, Non – Domestic Rates, benefit overpayments, parking charges and salary overpayments. The Policy is underpinned by the following debt recovery principles:
 - **Proportionality:** establishing an appropriate balance between the potential loss of income to the Council, recovery costs and any emerging Council or third party costs relating to welfare, care or housing support;
 - **Consistency:** the Council aims to achieve consistency in the advice it gives, the use of its powers and the recovery procedures adopted. Council officers will take account of the social circumstances of the debtor, the debtor’s payment history and their ability to pay in pursuing sums due; and
 - **Transparency:** ensuring people understand what is expected of them and what they should expect from the Council, including explaining clearly the

reasons for taking debt recovery action. The Council aims to take early recovery action before debts become unmanageable for the customer.

- 2.4 Where the Council is pursuing multiple debt then payments will be allocated firstly to debts where non-payment could lead to loss of the customer's home or have direct implications for an individual's wellbeing.
- 2.5 A small proportion of the Council's overall income may not be collectable due to matters outside its control. Where a debt is assessed to be irrecoverable it will be subject to a write-off process that is consistent with recognised accounting practices. The Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due.
- 2.6 Prompt recovery action is essential for effective debt management and the level and age of key debt types will be regularly reviewed. A range of indicators have been developed to monitor performance against agreed targets and these will be included in the Council's performance reporting updates.
- 2.7 Subject to Committee's approval of the adoption of a standardised policy template as included at Item 7.2 on today's agenda, the policy will be reformatted in line with the template.

3. Recommendations

- 3.1 It is recommended that Committee:
 1. approves the Corporate Debt Policy, as detailed in Appendix 1;
 2. notes the Council's commitment to engage with those in debt, helping them to pay by providing advice and guidance and involving relevant welfare and debt agencies; and
 3. notes that the Corporate Debt Policy will be reviewed on an annual basis, taking account of changes in legislation, service improvements, regulations and wider policy initiatives.

Alastair Maclean

Director of Corporate Governance

Links

Coalition pledges	P30 – Continue to maintain a sound financial position including long-term financial planning
Council outcomes	CO25 - The Council has efficient and effective services that deliver on objectives. CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.
Appendices	Appendix 1 Corporate Debt Policy (and related appendices)

The City of Edinburgh Council

Corporate Debt Policy

1. Overview
2. Key Aims of the Policy
3. Scope
4. Debt Recovery Principles
5. Hierarchy of Debt
6. Methods of Payment
7. Write-offs
8. Performance Monitoring
9. Stakeholders
10. Equalities and Diversity
11. Confidentiality
12. Review
13. Segregation of Duties

Appendix 1 Rent Collection Policy

Appendix 2 Council Tax and NNDR Recovery Policy

Appendix 3 Council Tax and NNDR Court Costs and Fees Policy

Appendix 4 Sundry Debt Policy (including statutory repairs)

Appendix 5 Housing and Council Tax Benefit Overpayments Policy

Appendix 6 Parking Charges and Bus Lane Charges Recovery

Appendix 7 Overpaid Salaries and Wages Policy

Appendix 8 Methods of Payment Policy

Appendix 9 Write-off Policy

Appendix 10 Bankruptcy Policy

The City of Edinburgh Council

Corporate Debt Policy

1. Overview

While an element of the Council's overall spending is supported by means of Scottish Government grant, Council services are also funded through taxes and a range of statutory and non-statutory service charges. Customers, citizens and businesses within Edinburgh have a responsibility to pay for the services they receive and the charges and rents they are liable for. It is essential that all monies due to the Council are actively pursued and this document sets out the general debt principles to be applied in doing so.

The Council also recognises that personal indebtedness levels are increasing and there may be circumstances where our customers are suffering hardship and need help and advice. The Council is committed to providing suitable support wherever it is appropriate, for example issuing Scottish Welfare Fund grants, and will engage with all relevant welfare and debt agencies.

2. Key Aims of the Policy

This Policy aims to strike a fair balance between the financial needs of the Council and the social needs of our customers by:

- coordinating income collection, recovery and debt management activities;
- ensuring circumstances are taken into account when determining appropriate recovery action, including potential emerging costs for ongoing support and care;
- adopting a debt hierarchy for multiple debts;
- providing money management advice and identifying appropriate support to those owing money to the Council, ensuring they are maximising reliefs, discounts or benefit entitlements;
- taking early recovery action before debts become unmanageable for the customer;
- applying best practice debt collection methods e.g. timely and accurate billing;
- offering a range of cost effective payment methods;
- treating customers fairly and equitably and avoiding stigmatising those in debt; and
- recognising that failure to recover monies due impacts on the Council's ability to provide key services.

3. Scope

This Policy applies to the collection of all debts, including:

- Rental income for Council properties;
- Council Tax;
- Sundry debt and service charges e.g. Trade Waste and including statutory notices;
- Non-Domestic Rates;
- Housing Benefit and Council Tax Benefit/Reduction overpayments;
- Parking Charge Notices; and
- Overpaid Council salaries and wages.

4. Debt Recovery Principles

The Council's debt recovery principles are outlined below.

- **Proportionate:** establishing an appropriate balance between the potential loss of income to the Council, recovery costs and any emerging Council or third party costs relating to welfare, care or housing support.
- **Consistent:** the Council aims to achieve consistency in the advice it gives, the use of its powers and the recovery procedures adopted. Council officers will take account of the social circumstances of the debtor, the debtor's payment history and their ability to pay.
- **Transparent:** ensuring people understand what is expected of them and what they should expect from the Council, including explaining clearly the reasons for taking debt recovery action. The Council aims to take early recovery action before debts become unmanageable for the customer.
- **Offset:** where a customer owes money to the Council but this is less than any funds due from the Council, this will be offset against what is owed and the net balance settled. Where a customer owes money to the Council that is greater than any funds due to them by the Council, these funds will be used to reduce the amount owed and the customer contacted about arrangements to repay the outstanding balance. Any such arrangements will be undertaken in a fair and legal manner and with the customer's agreement wherever possible.
- **Appropriate Costs/Fees:** where legislation permits, the Council will seek to apply and recover from the debtor any costs/fees that are legitimately due to the Council or its agents. Only in exceptional cases, where it would not be in the public interest to pursue such costs/fees, will these be waived.

Detailed recovery action for key debt types is outlined in the appendices to the Corporate Debt Policy.

5. Hierarchy of Debt

Customers, citizens and businesses within the City of Edinburgh have a responsibility to pay for the services they receive and the charges and rents they are liable for. In some instances customers will owe more than one debt to the Council. The Council will adopt a co-ordinated approach when dealing with multiple debts, taking into account the person's circumstances, legislation, the level of debt and the potential for financial hardship.

Where the Council, or its identified collection agent, is pursuing multiple debt then payments will be allocated firstly to debts where non-payment could lead to loss of the customer's home or have direct implications for an individual's wellbeing.

Collection of rent for current tenancies is the first priority in terms of income collection as the overall aim is to help tenants remain in their homes whenever possible and to minimise the impacts on tenants of accruing debt. The collection of current rent arrears is managed within Services for Communities but any existing repayment arrangements and the responsibilities for payment of current rent will be taken into account when pursuing other debts outstanding to the Council.

Priority debts have then been ranked as follows:

- 1) Former Housing Rent Arrears and tenancy related charges
- 2) Council Tax Arrears
- 3) Arrears relating to supported accommodation and care in the home charges

All debt will be actively pursued in accordance with the Corporate Debt Policy, however, for accounting and collection purposes the above debts will have priority.

The Council's Corporate Debt Policy and complementary third party collection arrangements will ensure that incidences of multiple debt are effectively monitored. These arrangements will provide timely and regular information to facilitate the annual review of the Policy and assess the ongoing appropriateness of the hierarchy of debt.

6. Methods of Payment

The Council recognises that the easier it is to pay, the more likely that payment will be made and the less likely that debts will accrue. The Council's preference is for low cost payment options that provide a high degree of accuracy and certainty, such as Direct Debit. However to provide our customers with the greatest flexibility a range of payment types appropriate to the debt type and size is offered. Customers currently use a mixture of payment methods and channels for different services, including cash, cheque, postal order, debit cards, standing orders and other electronic banking methods, such as online internet banking and touch tone telephone payments. Specific services can also be paid by credit card.

7. Write-offs

The Council recognises that a small proportion of its overall income may not be collectable due to matters beyond its control. Where a debt is assessed to be irrecoverable it will be subject to a write-off process that is consistent with recognised accounting practices. The Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due including the use, where appropriate, of inhibitions.

Income deemed irrecoverable must satisfy one of the pre-determined criteria in Appendix 9. Key write-off categories include:

- the customer has died and there are no or insufficient funds in the estate;
- the customer cannot be traced;
- it is cost-prohibitive to pursue the debt;
- the income is uncollectable due to insolvency;
- all recovery methods have been exhausted;
- it is not in the public's interest to pursue e.g. at risk and vulnerable service users; and
- the debt is prescribed under the Prescription and Limitation (Scotland) Act 1973.

All write-offs will be carried out in accordance with the relevant provisions contained within the Council's Financial Regulations, as supplemented by the Finance Rules. A summary of write-offs will be reported on an annual basis, including where appropriate reporting to Committee for approval and scrutiny.

8. Performance Monitoring

The Council recognises that prompt recovery action is essential for effective debt management. The Council will:

- regularly monitor the level and age of its debt;
- set clear targets for the recovery of debt;
- have written recovery procedures;
- assess recovery methods to ensure maximum returns; and
- regularly review irrecoverable debts for write-off.

To ensure the Corporate Debt Policy achieves its objectives a range of indicators has been developed to monitor performance against annual targets. Key indicators include:

- Average debtor days
- Aged debt profile (28, 60, 180 and 365 days plus – proportion and value)
- Value of debt more than 90 days old
- Sundry debt invoices outstanding (value/number)
- In year collection targets
- Long term collection rate – rolling trend
- Legal/recovery costs as proportion of direct debt recovered
- Outstanding inhibitions (number/value)
- In year write-off as proportion of total debt
- Summary warrant accounts on hold/suspense (proportion and value)
- Summary warrant accounts withdrawn (proportion and value)
- Related social and welfare outcomes

The Council recognises that failure to achieve income and collection targets will have financial and service consequences. Performance will be reviewed on a monthly basis by the Council Income Manager, liaising as appropriate with relevant section managers, and this information will be reported as part of the Council's wider performance updates to Committee.

Where an external agency assists the Council's collection and recovery process it will also be required to produce detailed performance and management information.

9. Stakeholders

The Council recognises that personal indebtedness is increasing and that any debt recovery action can potentially cause distress, particularly where the person has other debts or is on a low income. The Council will make every effort to support customers in managing their Council debts and will engage with relevant welfare and debt agencies where appropriate.

The Council's Welfare Rights Service offers free, independent and confidential advice and representation on benefits and tax credits for people living in Edinburgh. Staff can assist in identifying all relevant entitlements, completing forms and appealing assessments. The Council also offers a free, comprehensive and independent money and debt advice service to Edinburgh residents, including advice around rescheduling existing debts, bankruptcy and steps that can be taken to reduce the likelihood of getting into debt. Appointments can be booked at the Council's Advice Shop based at 249 High Street, Edinburgh, advice.shop@edinburgh.gov.uk, telephone (0131) 200 2360, or through surgeries held at the Community Ability Network and Citizens' Advice Bureaux across the city.

The Council is also responsible for the administration of various benefits and support funds for the citizens of Edinburgh. This includes the Scottish Welfare Fund, a discretionary scheme that provides two types of grant, Community Care Grants and Crisis Grants.

In cases of multiple debts there will be close liaison between Council services to determine any current payment responsibilities, the relative priority and repayment of debts. In such cases Council Officers will identify an appropriate means of coordinated recovery, consistent with this Policy.

10. Equalities and Diversity

The Council will ensure that the provisions outlined within the Corporate Debt Policy are accessible to everyone and that customers are treated fairly and equitably. The Council will:

- ensure that all relevant equality standards are being met;
- ensure appropriate staff receive cultural awareness, disability discrimination and mental health awareness training;
- communicate to customers using plain English and help customers whose first language is not English; and
- ensure our documents and communications can be made available in different languages and formats.

11. Confidentiality

The Council will ensure that all information about a customer's personal and/or financial circumstances is dealt with in the strictest confidence.

12. Review

The Corporate Debt Policy will be reviewed on an annual basis. This review will take account of changes in legislation, service improvements, regulations and wider policy initiatives. Any proposed changes will be discussed with appropriate stakeholders and updated in line with related policies. These include:

- [A Framework to Advance Equality and Rights 2012-17](#)
- [Customer Access Strategy](#)
- [Customer Care Charter](#)
- [Financial Regulations](#)
- Rent Collection Policy
- Rent Collection Strategy
- Scottish Welfare Fund

13. Segregation of Duties

The Council will ensure that income and debt recovery transactions are governed by robust controls, with clear segregation of duties. Financial decisions will be made by identified officers and reviewed by appropriate managers. These arrangements will be clearly detailed in relevant service operation manuals and the Finance Rules.

Rent Collection Policy**Overview**

1. The Council's Rent Collection Policy details the services provided for existing and former Council house tenants. The Council recognises that effective arrears management helps pay for the services that all tenants receive and contributes to investment in existing homes and new homes.
2. The collection of current tenancy rent arrears is managed within Services for Communities and the overall approach focuses on prevention and early intervention, with eviction serving as a last resort. Before serving a Notice of Proceedings for recovery of possession, the Council will always make efforts to provide advice and assistance on Housing Benefit and other financial help and put in place a reasonable plan for repayment of rent arrears and future rent.
3. The Council will only seek possession of a property where the tenant refuses to engage with the Council and negotiate repayment arrangements. Enforcement of decrees for repossession comes at a high social cost and imposes a heavy financial burden through the provision of temporary accommodation and other support services. This action is therefore only taken as a last resort where a tenant refuses to engage and all attempts taken to support them to deal with their debts have been unsuccessful.

Recovery of Former Tenancy Arrears (FTA)

4. The Council also aims to minimise the amount of rent arrears owed by former council tenants and to ensure the collection of outstanding debt is maximised. Involvement commences when a notice to terminate a tenancy is received and ends when the former tenancy arrears are cleared.
5. The aim of policy is to:
 - Minimise the amount of rent arrears owed by former council tenants
 - Ensure the collection of outstanding debt is maximised which in turn contributes to the provision of services which tenants need
 - Ensure through training and learning that staff are well-equipped and the service is well organised to deliver ambitious targets.
 - Support continuous improvement in FTA service and performance.
6. The Council will pursue former tenants' arrears when a tenancy comes to an end. The initial attempt to recover debt is pursued by staff within Services for Communities (Housing and Regeneration Division). The Council will:
 - Ensure tenants with arrears are contacted before and after their tenancy is terminated;
 - Provide advice and assistance on repayment of debt. Former tenants may be referred to other debt and advice agencies where appropriate; and
 - Accurately calculate the former arrears outstanding, taking into account the individual circumstances in each case such as Housing Benefit entitlements, contested tenancy termination dates and any rent abatements applicable.
7. Repayment of arrears will be sought in full where possible but reasonable arrangements will be agreed to enable former tenants to meet their obligation to reduce and then clear debts without them incurring undue financial hardship.
8. Where internal checks have been exhausted, the case will be referred to the Council's contracted external debt collection agency. Cases will be referred for both trace and collect and trace and/or collection only. Further action will only be taken as long as recovery remains viable.

Write-Off

9. The Council recognises that a proportion of income from former tenancy arrears may not be collectable due to matters beyond its control. The Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due and every effort is made to trace former tenants to collect debt prior to making the decision to write off. Where a debt is irrecoverable it will be subject to a write-off process that is consistent with recognised accounting practices. The write-off relates to any accounts with outstanding arrears where all attempts to trace the tenant and collect have been exhausted. If the whereabouts later become known after a debt is written off in line with accounting practice the debt will still be pursued for payment.
10. Debts arising from former tenancy arrears are written off on an annual basis. Debts under £1,000 are written off under delegated authority by the Director of Services for Communities (Scheme of Delegation to Officers- Appendix 5 Section 154). Write-off for debts over £1,000 is reported to the Finance and Budget Committee for approval and the debts under £1,000 are also provided for information.

Performance Management

11. The collection of Former Tenancy Arrears is managed within the Housing Management Northgate IT system and an escalation policy is set for former tenancy rent arrears accounts. An audit trail of action and activity is available for each account.
12. FTA is included and monitored on an ongoing basis as an element of the Services for Communities performance management framework. External reporting on FTA is also included within the Scottish Social Housing Charter Contextual Indicator (C23 Amount and percentage of former tenant rent arrears written off at the year end) that will replace the former Audit Scotland Statutory Performance Indicators from 2013/14. Benchmarking and best practice exchange is also undertaken on an ongoing basis through the Scottish Housing Best Value Network, Scottish Rent Forum and Rent Income Excellence Network.

Council Tax and Non Domestic Rates Recovery

1. Council Tax is levied on all eligible domestic dwellings. Non-Domestic Rates are 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 rates poundage.
2. The full rate of tax is liable to be paid unless the property, owner or occupier is eligible for a reduction, relief or exemption. The main reasons for reductions include empty property discounts, benefits 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) (Scotland) Regulations 1992 and the Local Government (Scotland) Act 1947 (as amended).
4. The Council will ensure that all billing, collection and recovery action is undertaken 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.
 - Council Tax reminders will be issued 14 days after an instalment has fallen due.
 - Non-Domestic Rates reminders/final notices will be issued in accordance with statute.
 - A summary warrant will be issued by the Sheriff Court if full payment has not been made in accordance with the previously issued notice.
5. Following the granting of a summary warrant the debtor will be given an opportunity to make a suitable payment arrangement. Should the debtor not make, or keep to, a payment arrangement then recovery action(s) can be taken. The recovery action(s) will be dependent on the circumstances of each individual case. Where a Charge for Payment is served the customer has 14 days to pay. If payment is not made the following diligences may apply
 - **Attachment of Earnings** - Deductions are made from the debtor's wages at a rate determined by legislation.
 - **Funds Attachment** - Attachment placed on the debtor's bank account of any funds in excess of £400.
 - **Ordinary/Exceptional Attachments** - Allows for Officers to enter a property (Exceptional attachment requires prior application to Sheriff) and list items of value for possible removal and sale.
 - **Money Attachment (NDR only)** - Allows seizure of money belonging to the debtor (at business premises) in satisfaction of debt.
 - **Deductions from Income Support, Job Seeker's Allowance and Employment Support Allowance** - Deductions are made from the debtor's benefits at a rate determined by legislation.
 - **Bankruptcy/Liquidation** - If sufficient assets exist to meet the outstanding debt the Council can petition for Bankruptcy/Liquidation.
 - **Inhibition Order** - Prevents debtor from selling any property prior to payment of outstanding debt.
6. All taxpayers and ratepayers will be treated fairly and objectively, and any activity will be consistent with the Council's equalities policy.

Council Tax and NNDR Court Costs and Fees Policy

1. Considerable costs are incurred to recover sums due from defaulting Council Tax payers and Non-Domestic ratepayers. The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 (as amended) and the Local Government (Scotland) Act 1947 (as amended) empower the Council to recover reasonable costs from defaulters with the approval of the Courts. The Council has no discretion in the level of Court costs which are governed by legislation.
2. The following scale of costs is applicable with effect from 28 January 2013.

Sheriff Officer Recovery Stage Costs	£
Summary Warrant	64.00
Charge for Payment	76.45
Additional Copy	17.25
Bank Arrestment	76.45
Earning Arrestment (inc Postage outlay)	56.79

Bankruptcy Proceedings

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

Fixed Costs (in accordance with statutory scale of fees and charges currently in force)	£
Court Fee – payable on filing of petition (non-refundable)	101.00
A.I.B. fee, if no I.P. appointed additional fee of £200 incurred	100.00
Service fee	76.45
Solicitor's fee – presenting petition	400.00
Variable Costs (to be claimed in the bankruptcy)	
Actual costs incurred for additional matters e.g. Counsel's opinion, additional legal representation, etc.	-

All costs may be claimed in the bankruptcy.

Charging Orders

Fixed Costs (in accordance with statutory scale of fees and charges currently in force)	£
Application fee	100.00
Land registry Registration Fee	50.00
Cost of Office Copy of Land Registry Entry	4.00
Fixed costs that may be awarded by the Court	110.00

Sundry Debt Policy

Overview

1. This Policy covers the collection of customer accounts and sundry debt due to The City of Edinburgh Council. It is the Council's aim to recover all collectable debt owed to it and this Policy aims to:
 - maximise the collection of the Council's income;
 - 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;
 - raise service awareness of the importance of prompt debt recovery; and
 - tackle any non-payment culture amongst customers.
2. This Policy supports these aims by:
 - making recovery activity more efficient by prioritising debt collection;
 - ensuring invoicing procedures are carried out on an accurate and timely basis; and
 - encouraging debtors to pay promptly.

Key Principles of Fees and Charges

3. The key principles for fees and charges are:
 - the fees or charges imposed by the Council must be fair in relation to the goods and/or services provided;
 - charges must, depending on legislation, always cover the cost of providing goods or service and the costs of collection, unless the Council has taken a decision to subsidise the service;
 - charges should wherever possible be obtained in advance of the goods and/or services being provided;
 - there should be a clear and prompt billing and collection processes;
 - a consistent Council-wide approach to credit and debt collection should be taken; and
 - recovery action will be taken by the Council Income Team.

Billing and Invoicing

4. 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. It is the responsibility of the originating Service to ensure that the correct billing details are collected. Any invoice discrepancies must be treated as a service priority to prevent unnecessary delays in payment.
5. Services are responsible for the raising of invoices in respect of the goods and/or services they supply on credit. Information for the invoice will be determined by the service provided but will potentially include:
 - Customer's full name(s)
 - Customer's full address(es), including postcode(s)
 - Customer's contact telephone number(s)
 - Date of supply
 - The Council's VAT registration number
 - Purchase order number (where applicable)
 - Full description of the service/goods provided
 - Amount due

- VAT amount
 - Total due
 - Financial code
 - Originating Service
 - Certification
6. All invoices must be raised timeously and 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 (over 18 and with sufficient capacity to contract)
 - Sole Traders
 - Partnerships (including those with Limited Liability)
 - Limited companies
 - Charities limited by guarantee
 - Incorporated Scottish Charities
 - Clubs run by a committee
 - Trustees
 - Executors or Personal Representatives
7. An invoice should not be raised:
- where the charge is not known in advance;
 - when it cannot be proven that the goods and/or services have been supplied;
 - when the amount due has previously been paid; and
 - where an invoice for the same goods or service has already been raised.

Payment Terms

8. The Council will collect monies owing to it fully and promptly. Where invoices are raised payment will typically become due after 14 days. Payment terms will only be considered where the customer is not able to settle the debt in full in one payment.
9. The Council will consider an interest free instalment plan if the debt is settled within three months of becoming due. Any instalment plan longer than three months will attract interest at the court approved rate. The Council's maximum instalment term is 48 months. Where the Council secures a court decree interest will immediately be applied to the principal debt at the court approved rate.
10. The Accounts Receivable Team will set up and monitor all payment arrangements. Payment terms will be withdrawn if a debtor fails to honour the agreement.

Accounting Arrangements

11. Services will receive the credit when an invoice is raised. Where a debt cannot be recovered, the original credit will be debited from the Service budget by way of a write-off.
12. Refunds of any overpayments will be processed by the Accounts Receivable Team via an email request only where there are no other debts outstanding for that customer. If the customer has an outstanding debt then any overpayment will be offset after the customer has been informed.

Recovery

13. The revised recovery process for the majority of sundry debts is outlined below:
- A **final notice** will be sent for all invoices unpaid usually after one day past the due date (15 days from date of invoice)

- If after a further 14 days the invoice is unpaid, a **pre legal letter** (letter before claim) will be issued. (30 days from date of invoice)
 - After a further seven days, if the invoice is still unpaid, the Accounts Receivable Team may commence **legal action to recover the debt**. (37 days from date of invoice)
14. At any time after the issue of a final notice the Accounts Receivable Team may refer the debt to a debt collection agency. Payment arrangements will then be made directly with that agency.
15. A number of other debt types such as supported accommodation and care in the home charges have an extended recovery process. This reflects the nature of the debt:
- A **final notice** will be sent for all invoices unpaid usually after one day past the due date (day 43 from date of invoice)
 - If after a further 21 days the invoice is unpaid, a **pre legal letter** (letter before claim) will be issued (65 days from date of invoice)
 - After a further 21 days if the invoice is still unpaid, the Accounts Receivable Team may commence **legal action to recover the debt** (86 days from date of invoice)
16. At any time after the issue of a final notice the Accounts Receivable Team may refer the debt to a debt collection agency and further action will be agreed with the service.
17. The Accounts Receivable Team must attempt to trace any debtors who have absconded and where appropriate use external agents to do so.
18. Recovery action may be halted at any part of the process if the debtor enters into suitable payment terms with the Accounts Receivable Team to clear the debt by instalments within a reasonable timeframe.
19. Recovery action may be halted at any time if the originating Service decides that it is not in the best interests of the Council e.g. for at-risk service users. When this happens the Accounts Receivable Team will arrange to raise a credit note to cancel the charge.
20. Further requests for goods or services should be reviewed by services where outstanding or repeat debts exist. This will be for each Service to determine e.g. school lets service withdrawn following non-payment of three invoices.

Queries and Disputes

21. If a charge is disputed the Service must notify the Accounts Receivable 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 Accounts Receivable Team notified of the outcome.
22. Where disputes are not resolved within this timeframe the Accounts Receivable Team will place the invoice on suspend or hold. The Service is then responsible for resolving the issue and updating the Accounts Receivable Team.

Legal action

23. Legal action will be taken where a debt collection agency fails to collect the amount due or where a decision is made to pursue the debt in the Sheriff Court.

24. Single or multiple recoverable debts up to £5,000 will be considered for action through the small claims court by the Accounts Receivable Team. All recoverable debts over £5,000 will be considered for Sheriff Court action by the Accounts Receivable Team.

25. Where necessary, legal advice and representation will be sought by the Accounts Receivable Team.

Credit Notes

26. 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; or
- adjust the amount of debt due

Write-offs

27. A review will be undertaken to assess the recoverability of debt outstanding on a monthly basis. 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.

28. 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. Write-offs will be charged to individual service budgets.

29. Delegations and limits regarding sundry debt write-offs are detailed in the relevant Appendix of this Policy.

30. A debt write-off must not be used to by-pass the normal debt recovery procedure and internal monitoring will ensure write-offs are being used correctly.

Monitoring

31. Regular reports, including monthly write-off reports, will be issued to each Service to enable a detailed review of outstanding debts. A centralised record of all write-offs will be maintained by the Accounts Receivable Team.

Housing Benefit and Council Tax Benefit/Reduction Overpayment Policy

Overview

1. The Council's policy for the administration and recovery of Housing Benefit and Council Tax Benefit overpayments is intended to be used in conjunction with operational procedures maintained by the Department for Work and Pensions and takes account of all current legislation, corporate policy and best practice. The monitoring of overpayments is essential to maintaining a secure and effective Benefit Scheme.
2. The administration of the Schemes requires Local Authorities to calculate and recover any recoverable overpayments as defined by the regulations.
3. The Policy aims to:
 - prevent or minimise the number and value of overpayments via effective administration and publicising the duty of any persons claiming or receiving benefit to report relevant changes of circumstance;
 - prevent the occurrence of overpayments through timely administrative procedures, verification of data and associated verification visits;
 - minimise the occurrence of Local Authority error overpayments through effective administration, documented procedures, quality control and staff training;
 - maximise the recovery of overpaid benefit through effective and documented recovery procedures and the use of all recovery methods available to the Council;
 - maximise subsidy income through the accurate classification of overpayments; and
 - monitor the effectiveness of the administration of overpayments through ongoing assessment and reporting of overpaid benefit against set targets.

Calculation and Classification

4. The accurate and timely calculation and classification of overpayments has a direct effect on the level of overpaid benefit and the amount of subsidy claimed. The Council will seek to:
 - prevent the continuance of an overpayment and minimise Local Authority error by ensuring that changes of circumstances are identified and the ongoing payment ceased or reduced within 10 calendar days of receipt of the relevant correspondence;
 - process the calculation of the overpayment within 10 calendar days of receipt of the correspondence. The same timescale will apply to underpayments;
 - ensure that the appropriate subsidy classification is allocated to each overpayment and that sufficient management checks are carried out to maximise accuracy;
 - ensure that uncashed Rent Allowance cheques are stopped to reduce the overall overpayment; and
 - reduce the total overpayment through application of the underlying entitlement provision.

Notification

5. The notification of an overpayment is a statutory requirement that can be contested during the recovery stage, should the requirements of the regulations not be met. The Council will:
 - ensure that all notifications are compliant with relevant regulations;
 - ensure that notifications are issued to all persons affected within two working days of the calculation of the overpayment;
 - maintain copies of all notifications; and
 - carry out visits to vulnerable persons, where requested or considered appropriate, in order to explain the notification and proposed recovery action.

Recovery

6. The effective recovery of overpaid benefit is essential to minimise the outstanding value, the number of overpayments and the management of debt to the Council. The Council will seek to maximise the recovery of debt by:
 - documenting, maintaining and making the procedures used for recovery action available to all relevant persons;
 - ensuring that overpayments are recovered from the appropriate person, depending on the nature and reason for the overpayment;
 - utilising all recovery methods at the Council's disposal to maximise recovery;
 - recovering from ongoing entitlement to benefit wherever possible;
 - utilising Rent Account credits to offset overpayments of Rent Rebate where appropriate;
 - recovering overpayments of Council Tax Benefit by debiting the Council Tax account;
 - issuing invoices within 35 days of the calculation of the overpayment. To comply with legislation, one calendar month for appeal must be allowed between the issue of the overpayment notification and issue of the invoice;
 - agreeing payment arrangements that recover overpayment within an acceptable period;
 - reviewing instalment arrangements for changes in debtor's circumstances; and
 - maintaining records of debts where no recovery action is currently possible for future recovery for up to a period of five years.
7. When determining the person from whom recovery should be sought, the Council will give relevant consideration to:
 - the person from whom recovery can be made;
 - the person to whom payment was made;
 - the reason for the overpayment occurring;
 - any information relating to the fact that an overpayment was occurring that was available to any person affected and from whom recovery may be sought; and
 - whether the overpayment was caused by fraudulent activity.
8. When considering the maximum amount that shall be deducted from ongoing entitlement, the amount shall be determined in light of the regulations and any specific earnings or income disregards.

Write-Offs

9. In certain circumstances the Council will give consideration to the non-recovery of overpayments and the subsequent write-off of the debt. The circumstances in which this consideration will be applied are as follows:
 - where the recovery of the overpayment will cause undue hardship; and
 - where the recovery process has been exhausted and/or there are no realistic prospects for recovery.
10. In considering a debt for write-off the following stipulations will be applied:
 - each case will be considered on the merits of the individual's circumstances;
 - each request will be supported by relevant documentation;
 - each case will receive authorisation from the appropriate authorised officer;
 - financial authorisation limits will be set for authorised officers by the Benefits Manager;
 - appropriate records of all authorised write-offs will be maintained; and
 - relevant Financial Regulations, operational procedure and guidance will be followed in all cases.

Monitoring

11. Housing Benefit Overpayment arrears will be regularly monitored in terms of the age and value profile. This will ensure that resources are targeted and that arrears are not allowed to accumulate without recovery action being taken.

Parking Charges and Bus Lane Charges Recovery

1. In the case of parking and bus lane charges a Notice to Owner is sent to the registered keeper advising that payment is due within 28 days. Should payment not be received within this timescale the debt is increased by 50% and a Charge Certificate is issued.
2. Following the issue of a Charge Certificate the customer has 14 days to settle the debt before it is passed to the Sheriff Officer for collection. The Charge Certificate has the same status as an extract registered decree and contains authority for immediate enforcement by officers of the court.
3. The Sheriff Officer has the authority under legislation to collect debt by:
 - **Attachment and auction of effects** (usually vehicle) owned by debtor.
 - **Attachment of Earnings** – deductions are made from the debtor's salary at a rate determined by legislation.
 - **Attachment on Bank Account** – Funds can be attached from Debtor's bank account.
 - **Money Attachment** – Allows seizure of money belonging to debtor at business premises.
 - **Bankruptcy/Liquidation** – The Council can petition for bankruptcy/liquidation to meet the outstanding debt.
 - **Inhibition Order** – Prevents debtor from selling any property prior to payment of outstanding debt.
4. If, at any stage, the charge is disputed the case will be put on hold until the matter is resolved. The target for resolution is within 10 working days. Where this is not possible an acknowledgment letter will be sent extending the timeframe

Monitoring and Write-off of Parking and Bus Lane Charges

5. All actions in regard to debt recovery for Parking and Bus Lane Charges are recorded on the Parking system. The system produces reports of monies collected by type, reason, payment date and amount. Reports can also be produced to verify write-off and cancellation reasons. These reports are used for monitoring and audit purposes.
6. The Parking Services Team Leader and Parking Services Manager have the authority to write off debt in the following circumstances:

<ul style="list-style-type: none"> • All Actions Failed • Company Liquidated • Deceased • Diplomatic Vehicle • Discount for Postal Payments • Foreign Driver • Make Mismatch no Photos • No Poindable Effects • No Trace at DVLA • Outwith Sheriff Officer Jurisdiction 	<ul style="list-style-type: none"> • Overseas Hirer • Unable to Trace • Small Balance Write Off • Unable to Trace Keeper/Owner • Unable to Process • Vehicle Disposed of • Vehicle Driven Away • Vehicle Released from Pound
---	--

Overpaid Salaries and Wages Policy

Introduction

1. The Council must ensure that employees are paid correctly at all times. The purpose of this document is to ensure that there is a consistent approach to the correction of underpayments and the recovery of overpayments throughout the Council. It is an overriding principle that if an overpayment of salary occurs the Council will recover the overpayment from the employee. Overpayments are recoverable even when the employee is not at fault.
2. If it is considered that an overpayment has been brought about fraudulently, the matter will be reported to the Chief Internal Auditor, in line with Section 4.4.7.3 of the Financial Regulations.

Scope of Policy

3. This procedure applies to all employees of the Council.

Overpayments

4. This document explains the process which will be used when an employee receives an overpayment in their salary.

Definitions

5. The definition of an overpayment is where an employee or someone who has left employment is paid an amount in excess of contractual entitlement. Likely causes of an overpayment include but are not restricted to:
 - a termination form not being completed, received or implemented on time;
 - late notification of sickness absence;
 - staff not returning from maternity leave;
 - an error being made; and
 - a late change notification.

Identification of Overpayment

6. Overpayments can be identified in several ways by:
 - a member of staff in the HR and Payroll Service Centre who identifies that an error has occurred, as part of the internal controls;
 - the employee upon receipt of salary/payslip; or
 - the budget manager through normal budget monitoring.
7. When an overpayment has been identified, action must be taken as quickly as possible to rectify the error.

Underpayments

8. This document explains the process which will be used when an employee is underpaid in their salary.

Definitions

9. The definition of an underpayment is where an employee is paid less than their contractual entitlement. Likely causes of an underpayment include but are not restricted to:
 - a contractual change request being submitted after the service centre deadline;
 - a late submission of a claim form;
 - a deduction made in error;

Identification of Underpayment

10. Underpayments can be identified in several ways:

- a member of HR and Payroll Service Centre identifies that an error has occurred, as part of the internal controls;
- the employee upon receipt of salary/payslip; or
- the relevant budget manager.

11. When an underpayment has been identified, action must be taken as quickly as possible to rectify the error.

Resolving Errors in Pay

Responsibilities of HR and Payroll Service Centre (HR and PSC)

12. It is the responsibility of HR and PSC to:

- identify errors and advise the employee (or their line manager, if appropriate) in a timely manner (normally immediately);
- take interim action to ensure the error cannot continue, while the matter is being resolved;
- confirm in writing any overpayment;
- where necessary issue a new contract, amendment to contract letter etc.;
- ensure any errors are resolved by following the appropriate business procedure; and
- escalate any individual errors in excess of £2,000 or errors over a period of more than 12 months with a value greater than £1,000 to the Customer Services Manager.

Responsibilities of line managers

13. It is the responsibility of line managers to make sure that:

- paperwork relating to changes in pay or termination, etc. is submitted to HR and PSC in accordance with Service Centre deadlines;
- when an error in payment is identified the member of staff concerned is supported and appropriate action taken to resolve the situation; and
- review on a regular basis all salaries charged to their cost centre

Responsibilities of employees

14. It is the responsibility of individual employees to:

- ensure that they understand their salary, as agreed contractually; and
- raise any anomalies with their pay immediately using the HR and PSC escalation process set out at item **15** below.

Failure to report a known overpayment is deemed to be a fraudulent act.

HR and PSC escalation process for employees

15. For employees, the HR and PSC process is as follows:

- all payroll queries must be logged with the help desk;
- where an employee has received no pay or less than 75% of basic pay, the HR and PSC will respond within 24 hours. Underpayments will normally be corrected on the next pay day or in extreme circumstances immediately;
- calls relating to overpayments will be responded to within 48 hours;

- if the query has not been resolved within the agreed timescale, individuals should contact the HR and PSC again and speak with the Customer Services Assistant to check the status of their query; and
- where a response is still not received the query should be escalated by contacting the relevant Customer Services Team Leader

Process for resolving payment errors

16. The exact nature of the payment error will be investigated by a Customer Services Assistant who will calculate the amount of the payment error. Payroll will then be notified of the error including the reason.
 - For underpayments, Payroll will arrange payment to the employee where it has been agreed that an immediate payment is to be made.
 - For overpayments, Payroll will write to the employee including an apology and a brief explanation as to how the error occurred. This letter will confirm the repayment plan, specifying the amount and the period of recovery.
17. 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. In cases where the period or value of the overpayment is significant, the Payroll Team Leader can agree a suitable repayment period.
18. Decisions regarding the duration of this extended period for repayment of an overpayment will take into consideration a number of factors. This includes the amount of overpayment, personal circumstances which could lead to undue financial hardship, duration of contract (if not permanent), proximity to retirement or maternity leave.
19. If the employee has not made contact to discuss the letter received, Payroll will commence recovery from the next available pay period as specified in the letter to the employee.
20. Where necessary the Customer Services Manager will conduct a full investigation of the payment error. A full investigation would be required if for example there has been an overpayment over a long period of time, where there is concern that fraudulent activity may have taken place or where there is a significant overpayment.
21. Internal audit will be notified of any suspected fraud.

Leavers

22. 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 a former employees will be used.
23. Where an underpayment has occurred and an employee leaves, full payment will be made in their final salary.

Former employees

24. Where a payment error is identified for an employee who has already left the Council, the gross and net figure of the overpayment will be calculated. Payroll will write to the former employee to request a payment be made for the outstanding amount. If the former employee is unable to repay the overpayment in full, an invoice will be raised by the Income Services Team.

25. 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 and Customs accordingly.

Reporting

26. Payroll will maintain a list of all payment errors including the reasons. This will be reported to the Payroll Manager on a monthly basis and is monitored as part of the Performance Indicators of the HR and Payroll Service Centre.

Methods of Payment

1. The Council is committed to providing a wide range of payment methods for its customers. These methods will offer flexibility through online, contact centre and face to face engagements while also promoting the Council's objective to operate accurately, consistently and efficiently.
2. In order to minimise the cost of collection the Council will actively promote low cost payment options such as Direct Debit. The following main methods of payment will, however, be offered/accepted:
 - Direct Debit (the preferred method)
 - Cash
 - Debit card/Credit Card (for specific services)
 - Online
 - Touchtone telephone using a debit or credit card.
 - Standing Order
 - BACS/CHAPS
 - Cheque/Postal Order
 - "Allpay" facilities at shops and outlets across Edinburgh
3. Invoices raised by the Council will be clear and wherever possible include a barcode to facilitate easy payment. Instalment plans, payment dates and any relevant interest will be communicated clearly.
4. The Council will adopt best practice payment approaches to facilitate, authenticate and, where possible, automate payments from the customer to the relevant Council account.
5. This Policy aims to:
 - promote a range of payment methods that are relevant to the customer;
 - allow customers to make payments outside of office hours;
 - standardise payment methods; and
 - enable efficiency savings through rationalisation and process improvement.

Write-off Policy

Overview

1. An integral part of debt recovery is the effective management of outstanding debts. The Council will normally consider debts owed as being recoverable, however, it is good accounting practice to identify and write-off irrecoverable debts. This ensures the Council uses its resources in an efficient manner and supports strategic financial planning.
2. Debts will only be considered for write-off when every possible recovery process has been exhausted and the debt remains outstanding. Debts will also 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
3. The Council will also consider the specific circumstances of the debt and the debtor to ensure the Council's financial position is balanced against relevant factors such as anti-poverty issues.
4. It is not possible to list every scenario that may make a debt suitable for write-off, however, Appendix A shows the main reasons why debts become irrecoverable. Not all categories will be relevant to all debt types, and the specific reasons for write-off will be determined by the nature of the debt e.g. sequestration is *generally* not considered to be an appropriate action in relation to miscellaneous and sundry debt.
5. This Policy applies to all Council debt types, including service debts such as statutory notices, care charges, parking charges, premises hire, etc. All write-offs will be carried out in accordance with the principles outlined within the Council's Financial Regulations as supplemented by the Finance Rules. A record will be kept of all relevant decisions and the reasons for them.
6. Authority to write off debts will be carried out in accordance with the Council's Scheme of Delegation to Officers. Where a Director or senior officer has the authority to delegate powers to other relevant officers then any such delegation must be formally recorded with the Head of Finance.

Write-off Practices – Specific Debts

7. The following sections consider write-off levels and responsible officers for specific debt types. If a debt category is not specifically referenced then it will be governed by the write-off arrangements for service/sundry debt, as detailed below.
8. Officers' write-off levels are determined by the nature of the debt. For example higher write-off values are applied to Non Domestic Rates debt due to the value of the bills involved. Write-off values for debts such as Council Tax and service and miscellaneous debts are considerably lower, and this again reflects the debt levels involved. These values enable services to run in an efficient manner, whilst also ensuring write-offs are subject to appropriate senior management and councillor scrutiny.
9. The Director of Corporate Governance, Head of Finance, Head of Corporate and Transactional Services and Council Income Manager can write off service debts and Housing/Council Tax Benefit/Reduction overpayments of up to £3,000 in any case where all reasonable means of recovery have been exhausted. In addition the identified officers can

write off any amount where the debtor is in liquidation, and a suitable claim has been made, the debtor cannot be traced or the debtor is deceased and there are no funds in the estate.

10. With regard to Non-Domestic Rates, Community Charge and Council Tax debts, the Director of Corporate Governance, the Head of Finance, Head of Corporate and Transactional Services and Council Income Manager (and any other officer so designated in writing) can write off:

- any balances claimed in liquidation or sequestrations where a suitable claim has been made, where the debtor cannot be traced or where the debtor is deceased and there are no funds in the estate;
- other Rates and Council Tax debts up to £3,000; and
- Community Charge debts up to £2,000.

Debt write-offs in excess of these amounts, and other write-off types, will be reported to Finance and Budget Committee for approval twice a year.

11. Bulk write-offs will only be used to process accounts that are subject to sequestration and the Council has made the relevant claim.
12. The Director of Corporate Governance and Head of Finance may also authorise other senior officers to write off debt in the above categories up to a level not exceeding the identified maximum. The most common authorisations are detailed in Appendix B.
13. The Director of Services for Communities is responsible for the collection of rents for Council housing, and accounting thereafter to the Director of Corporate Governance. The Director of Services for Communities can write off arrears balances of former tenants of Council housing of up to £1,000. Write-offs over £1,000 are reported to the Finance and Budget Committee for approval on a regular basis.
14. The Director of Children and Families, and authorised officers, have delegated power to authorise write-offs of up to £250 on social grounds or exceptional circumstances e.g. mental health issues etc. Debts that exceed £250 will be subject to consultation with the appropriate service convener or vice-convener. A record of write-offs will be kept by the service and reported on an annual basis as part of normal performance reporting to the Finance and Budget Committee.

Inhibitions and Charges – Write-offs

15. Debts secured through inhibitions and charges are subject to a write-off process that is consistent with recognised accounting practices. When the inhibition or charge is discharged the debt is written-on and the account settled. The Council will maintain detailed records of all outstanding inhibitions and charges, and will review these on a periodic basis.

Monitoring and Reporting

16. Write-off activity will be monitored on a regular basis by the Council's Income Manager, liaising as appropriate with relevant service managers, to ensure that delegated powers are used appropriately.
17. Monthly write-off reports will be produced for sundry and miscellaneous debt and passed to service areas for review.
18. Proposals to write off sums in excess of the identified delegated powers will be reported to the Finance and Budget Committee twice yearly for approval and scrutiny.

19. All identified values are inclusive of VAT.

20. An annual report will be also produced for the Finance and Budget Committee at the financial year end detailing write-off activity for key debt categories. This report will include summary details of existing Inhibitions and Charges held by the Council and any bulk write-offs.

Write-offs Prior to Billing

21. The provisions set out within this write-off policy apply in the first instance to sums subsequently assessed to be irrecoverable once physical billing has taken place. In exceptional circumstances and taking account of the enforceability of the debt, however, a recommendation may be made not to bill for services provided. In such cases, the write-off provisions outlined in the preceding sections will apply.

22. In the case of debts apportioned amongst a number of parties, the total value of these multiple shares will be used to determine appropriate delegated authority and reporting. In the case of sundry debts (including statutory notices), for example, where billing of sums otherwise due would otherwise exceed £3,000, approval by the Finance and Budget Committee is required.

REASONS FOR RECOMMENDING WRITE-OFF

1	Collection Agent Report	No available funds or assets to attach
2	Inhibition Registered	Debtor prevented from free disposal of assets, full recovery probable on asset realisation
3	Charging Order	Deferred payment of statutory repairs or residential care fees as charges recorded on debtor's property
4	Unemployed	No Attachable Assets, uneconomic to proceed
5	Legal Services advice	Debt unenforceable in Sheriff Court
6	Legal Services advice	Debt prescribed/time barred to pursue
7	Property repossessed	Shortfall in funds
8	Debt Unenforceable	Statutory Notice not served on Property/Owner
9	Irrevocable Mandate Held	No free funds on sale
10	Director of Health and Social Care advice	Enforcement would cause undue financial hardship
11	In prison	Debts not enforceable
12	Full and Final Settlement	Balance irrecoverable
13	Trust Deed	Debtor has multiple debts and affairs now handled by Trustee, dividend expected
14	Absconded/No Trace	All reasonable attempts to find the debtor have failed.
15	Deceased	Insufficient or no funds in the Deceased's estate to pay the amount outstanding.
16	Uneconomical to pursue / pursue further	When all recovery processes have been tried or considered or the cost of proceeding would be prohibitive.
17	Sequestration/Liquidation/ Administration	Suitable claim has been made

Delegated Write-off Powers – Key Debt Types

Debt Type	Council Officer	Value
Council Tax	Income Manager	£3,000*
	Benefits Manager	£3,000*
	Debt Recovery/Team Manager	£3,000
Community Charge	Income Manager	£2,000*
	Benefits Manager	£2,000*
	Debt Recovery/Team Manager	£2,000
Non Domestic Rates	Income Manager	£100,000+*
	Benefits Manager	£100,000+*
	Non Domestic Rates Manager	£100,000**
	Non Domestic Rates Technical	£50,000**
	Non Domestic Rates Officer	£20,000**
Housing/Council Tax Benefit/Reduction overpayment	Benefits Manager	£3,000
	Income Manager	£3,000
	Team Manager	£2,000
All other debts	Income Manager	£3,000
	Benefits Manager	£3,000
	Debt Recovery/Team Manager	£1,500

* Unlimited where debtor in liquidation or sequestrations where a suitable claim has been made, where the debtor cannot be traced or where the debtor is deceased and there are no funds in the estate

**Higher limits apply to the categories detailed above

Whilst for operational reasons, these powers of write-off are delegated to the named officers shown in the table above, the Director of Corporate Governance, Head of Finance and Head of Corporate and Transactional Services also retain the power of write-off up to the highest value indicated for each debt category.

Specific Service Debt

Debt Type	Council Officer	Value
Arrears balances for former tenants of Council houses	Director of Services for Communities (and authorised officers)	£1,000
Service and Care Charges	Director of Children and Families (and authorised officers)	£250

Bankruptcy Policy

Purpose of document

1. 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 sequestration (the process whereby an individual is made bankrupt) is consistent and complies with the relevant legislation and best practice.

Legislation and Prerequisites to Bankruptcy

2. The Bankruptcy (Scotland) Act 1985 provides that qualified creditors can commence bankruptcy proceedings if a debtor is apparently insolvent, but only if the creditor has presented the debtor with a debt advice and information package under the Debt Arrangement and Attachment (Scotland) Act 2002.
3. The consequences of sequestration can be severe and can involve the loss of the debtor's home or business, and considerable legal and trustee costs. The level of costs will reflect the complexity of the matters involved, and the extent to which the debtor co-operates with the trustee administering the bankruptcy estate.
4. Bankruptcy action takes place in the debtor's local Sheriff Court with bankruptcy jurisdiction.

Administration

5. The Corporate Debt Team will manage the administration of sequestration cases and proceedings, including legal advice as appropriate.

When Bankruptcy Action may be taken

6. Insolvency proceedings may arise in the following circumstances (the list is not exhaustive):
 - 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; and
 - 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.

Decision Making

7. Prior to commencing bankruptcy proceedings enquiries will be made of the Income and Benefits Teams 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.

- iv) Ascertain if the debtor is known to them as a result of adult care service provision and therefore may be vulnerable.
- v) If records held and enquiries do not indicate that the debtor may be vulnerable then enquiries may be made with a credit reference agency and the Land Registry to establish information about the debtor's financial standing and ownership of property.
- vi) In order to assist with the decision as to the appropriateness of bankruptcy a visit will be made to the debtor's home address (and/or business address if known) to serve a written request on the debtor to pay in full, advising that bankruptcy proceedings are being considered, outlining the effect and likely high costs of bankruptcy and advising the debtor to seek independent advice. A debt advice and information package will be given to the debtor in accordance with the Debt Arrangement and Attachment (Scotland) Act 2002.
- vii) 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. If an officer is unable to speak to the debtor in person the written request will be left at their home address, together with details of how to contact the Council.
- viii) In the event that the visit 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, 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.
- ix) 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.

Petition for Sequestration

8. The Council may present a Creditor's Petition for Sequestration to the Sheriff Court within three months of the date of presentation to the debtor of the debt advice and information package. Prior to presentation of the Petition further enquiries will be made concerning adult care to establish whether the debtor has become known to them during the process, in which case the action will be reconsidered.
9. 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 an award of sequestration. The Sheriff will cite the debtor to appear at the hearing of the Petition to show cause why sequestration should not be granted. The Council will not object to a short continuation 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.
10. 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 a continuation of the proceedings to enable both the debtor and the Council to obtain further advice.

Trustees in Sequestration

11. When the Council is the petitioning creditor in a bankruptcy they will nominate a trustee in the sequestration that is local and easily accessible by the debtor. The appointment of a local or easily accessible trustee will enable Officers to attend meetings of creditors when necessary. However, the ultimate decision to appoint the trustee in the sequestration is that of the sheriff, rather than the Council.