

Write-off Procedure - Appendix Two



Debt Write Off Procedure

1. Introduction

1.1 This document sets out the procedures to be followed when writing off irrecoverable amounts (including credit balances) across the council for services such (but not exclusive) Housing Rent, Council Tax, National Non-Domestic Rates (Business Rates), Temporary Accommodation, Housing Benefit Overpayments (HBO), Sundry and Adult Social Care etc.

1.2 Under the Accounts and Audit Regulations 2003 (as amended), procedures are set out to ensure that uncollectable amounts, including bad debts, are not written off except with the approval of the responsible financial officer, or such member of staff as is nominated by the Chief Finance Officer for this purpose, and that the approval is shown in the accounting records. Nevertheless, these set out delegation on a sliding scale by financial value to ensure that write-off of smaller debts is not unnecessarily delayed to the detriment of the customer.

1.3 Both internal and external audit need to be satisfied any write off policy is both robust and transparent. At the same time, there needs to be a mechanism for reporting write offs internally within the Council and in accordance with its financial regulations which are included in the Council's constitution.

1.4 Staff are required to take action to collect all debts; however, in some cases, this might not be possible and debts do become irrecoverable. Where a debt is deemed to be non-recoverable (or a credit non-refundable), it needs to be identified at the earliest possible opportunity and properly dealt through the write off process.

1.5 Irrecoverable debts must also be identified and written off; if only because they are shown in the council's accounts as an asset. Writing off irrecoverable items represents good financial management. It allows staff to concentrate on recoverable debts and ensures that the level of customers' arrears within the accounts is accurate and represents a true and fair reflection of the Council's financial position.

2. Reasons for Write Off

2.1 Every effort will be made to recover a debt owing to the council before it is considered for write off. The amount of effort being proportionate to the level of debt owed. Action will include using tracing agents, visiting the property, contacting the occupants and/or owners as well as cross-referencing other internal databases (e.g. housing, customers, parking control, register of electors, etc.). Only where recovery action has failed, is a debt regarded as irrecoverable.

2.2 Some of circumstances where a debt may be written off have been categorised as follows:

- **Insolvency** - Customer is the subject of bankruptcy, individual voluntary arrangement, liquidation, company voluntary arrangement & administration order or administrative receivership proceedings or has ceased to trade or is subject to a Debt Relief Order.
- **Unenforceable** - Customer is overseas or the debt is over 6 years old. The statute limitations (6 year rule) provides time scales as to how long we (the creditor) can chase the customer for unpaid debt. This only applies when no acknowledgement of the debt has been made between the council and the customer for six years.
- **Abscond** – the customer cannot be found.

- **Uneconomical to Collect** - Balance is too small for further action
- **Uncollectable** - Custodial sentences / remitted debts / vulnerable people / hardship / local authority error / system roundings
- **Deceased** - No funds in an estate

2.3 Should a customer be subsequently traced, a debt will be re-instated if considered economically viable to recover and it is within the statute of limitations.

2.4 In cases where the customer is jointly and severally liable for the debt with another party, recovery action will continue against all liable individuals and only if this action fails, will monies be recommended for write off. Recommended procedures to follow are set out in appendix A. **Authority to write off**

3.1 The Council's Constitution Financial Regulation (part 2 section 8) sets out who has authority for writing off irrecoverable amounts as below:

"8.3 Income – Bad Debts and Write Offs

8.3.1 The Director of Finance will put in place arrangements for the collection and write off of bad debts

8.3.2 Strategic Directors must ensure adequate bad debt provision exists to cover debt within their service. They have delegated powers to authorise the write-off of debts only in relation to their own operational budgets up to the value of £1,000 a schedule of which must be submitted to the DOF in an approved format. Any debt above £20,000 is to be agreed individually in advance by the DOF. Those debts over £3,000 will be reported to the Cabinet bi-annually.

8.3.4 Finance Services will ensure that following approval to write-off debt the appropriate accounting and budgeting adjustments are made and the debt recovery team are informed."

3.2 As is required this procedure is written in accordance with the Financial Regulation.

3.3 At the officer level, only the Chief Finance Officer (or his or her nominated representatives) has the authority to write off a debt. All decisions for write offs need to be made by the individuals who have the authority to write off the corresponding level of debt.

3.4 Strategic Directors must ensure adequate bad debt provision exists to cover debt within their service.

3.3 In accordance with the Council's Financial Regulations the uncollectable debt write off authorisation levels are set by the Director of Finance as follows:

- For debts up to but not exceeding £200 (including aggregated debts for one customer)
 - Completed by service area officer dealing with debt recovery on behalf of the relevant Strategic Director
 - Approved by team leader on behalf of the relevant Strategic Director
 - Record provided to finance as in section 4 below
- For debts up to but not exceeding £1000 (including aggregated debts for one customer)

- Completed by service area officer dealing with debt recovery on behalf of the relevant Strategic Director
- Completed by team leader
- First review and sign off by Head of Revenue and Debt on behalf of relevant Strategic Director
- Record provided to finance as in section 4 below
- For debts greater than £1000 but not exceeding £20,000 (including aggregated debts for one customer) (and for all credit balances)
 - Completed by Service Area & reviewed by Head of Service
 - Approved by relevant Operational Director
 - First sign off by Strategic Director or relevant Head of Finance
 - All write-offs up to £20,000 are reported on a schedule to Director of Finance
- For debts greater than £20,000 (including aggregated debts for one customer), additional review and recommendation to Director of Finance
- Debts written off over £3,000 are reported to Cabinet
- It is required for debts to be written off in appropriate circumstances as set out above.

4. Write Off Reporting

4.1 All debts will be recorded as follows:-

- Listed to show the reference number, amount and year the debt was raised and supported by documentary evidence for each case which demonstrate the steps that have been taken to recover the debt and, if appropriate, the steps that have been made to trace the customer.
- The detail on the schedule will separately show any costs and VAT
- Sorted into the debt type and reason for the write off:
 - Insolvency -
 - Unenforceable
 - Abscond
 - Uneconomical to Collect
 - Uncollectable
 - Deceased
- Summarised on a front sheet detailing the number of cases and amount of debt.
- An annual summary report of all write offs across all income streams should be submitted to the Debt Board, and all write off records submitted to the Debt Board finance lead.
- Those debts over £3,000 will be reported to the Cabinet bi-annually.

5. Retention period

5.1 To comply with the requirements of the authority's standing orders, all documentation supporting write-offs of debts shall be retained in respect of the current year plus the previous 6 years.

6. Procedures to undertake prior to approval for write off

6.1 The procedures to be followed prior to the writing off of a debit / credit are set out below. Once the actions have been undertaken, only then will a debit / credit be included on a list of cases submitted for write off.

Insolvency

Bankruptcy

6.2 Upon notification of a bankruptcy, a proof of debt will be completed for the outstanding debt that is due at the date of the bankruptcy order and submitted as a claim to the trustee in bankruptcy. In the event of payment being received in full or part from the bankrupt's estate, this money will be credited back to the relevant account.

Individual voluntary arrangement

6.3 A voluntary arrangement is an alternative route available to an individual wishing to avoid the restrictions placed upon them by a bankruptcy order. It involves the customer making an offer to all creditors, which is less than the full amount of the debt outstanding, and agreeing that it be repaid over a period of time in full and final settlement. If 75% (in value) of creditors agree to the offer as an alternative to proceedings for bankruptcy, an insolvency practitioner will be appointed to administer the voluntary arrangement. In the event of payment being received in full or part, this money will be credited back to the relevant account.

Liquidation

6.4 Liquidation may either be compulsory (sometimes referred to as a creditors' liquidation) or voluntary (sometimes referred to as a shareholders' liquidation ... although some voluntary liquidations are controlled by the creditors). Upon notification of liquidation, a proof of debt will be completed for the outstanding debt that is due at the date of the winding-up order and submitted as a claim to the liquidator. In the event of payment being received in full or part, this money will be credited back to the relevant account.

Company voluntary arrangement / administration order

6.5 A company voluntary arrangement is an alternative route available to a company wishing to avoid the making of a winding up order. It involves the directors making an offer to all creditors, which is less than the full amount of the debt outstanding, and agreeing that it be repaid over a period of time in full and final settlement. If 75% (in value) of creditors agree to the offer as an alternative to liquidation, an insolvency practitioner will be appointed to administer the voluntary arrangement. In the event of payment being received in full or part, this money will be credited back to the relevant account.

Administrative receivership

6.6 This involves an individual being appointed by a lender, usually a bank, which holds a debenture as security over a floating charge on assets of the company, and usually takes effect where the company is in default of agreed lending terms. An insolvency practitioner will assume immediate control of the company in an attempt to sell it as a going concern. However, although remaining in occupation, no action can be taken against the receivers appointed to enforce payment of previous or on-

going rate charges. In the event of payment being received in full or part, this money will be credited back to the relevant account.

Company has ceased to trade leaving no assets

6.7 On occasions, limited companies will cease to trade on the grounds of having no assets to pay an outstanding and / or on-going debts. They do not go through the formal process of winding-up proceedings, which carry a cost and have legal implications. Where this occurs, the authority could take steps to put the company into compulsory liquidation although this action is costly and is highly unlikely to secure payment.

6.8 In these circumstances, if it is proven that an enforcement agent has failed to recover monies due, or identify assets on which to levy distress, a recommendation for write-off will be made.

Debt Relief Order

6.9 Debt Relief Orders are aimed at those that have £15K or less of debts, assets of less than £300, disposable income of less than £50 per month and really cannot afford to go bankrupt, but need relief from their debts and creditors. The debt will be written off the system but will be monitored periodically, as the customer's circumstances must remain the same for a period of 12 months in order for the DRO to remain in place.

Unenforceable

6.10 Certain debts will fall outside of legal jurisdiction either because the customer is overseas or six years may have passed since recovery action had been instigated against a customer and the debt was last acknowledged. If a customer is overseas and contact in writing has failed to result in payment or an arrangement to pay, a recommendation for write off will be made. Evidence supplied from external sources would be used to determine this. In cases where six years may have passed since recovery action had been instigated against a customer and the debt was last acknowledged, the whole debt will be submitted for write off. Evidence on what action, if any, has been taken will be used to determine this.

Abscond

6.11 Closed accounts where no forwarding address is known and the debt is under £100.

- For any finalised account with a balance of under £100, staff will make basic checks of the authority systems and known third parties, (i.e. solicitors and letting agents). If, after a three month period, a new address is not established, the debt will be submitted for write off.

6.12 Debts where no forwarding address is known and the debt is £100 or more

- Before the debt can be recommended for write off, the following enquiries may be undertaken by staff:-
 - i. Check Council Tax or NNDR database to identify if the person has re-registered at another address within the partnership area.
 - ii. Check with housing department, customers, parking control etc.
 - iii. Check electoral register.

- iv. Contact landlord or letting / estate agent.
- v. Contact other local authorities.
- vi. Undertake visits to property.
- vii. Conduct third party searches (i.e. through 'Experian' or similar companies).

6.13 If, after all enquiries have been completed, a forwarding address has not been established, the amount will be submitted for write-off.

Uneconomical to collect

6.14 Prior to billing, every debt of up to £1, on both live and finalised accounts will be submitted for write off to prevent bills being issued for small sums. These will automatically be written off.

6.15 Where a balance of £15.00 or less is outstanding, a reminder notice is not issued. A report will be run every quarter to identify these accounts. The Debt Recovery team will check the status of these cases in particular to ensure no other debts are owed by the customer, and, where appropriate, write off the debt. These debts will be subject to reporting under section 4 in the usual way.

Uncollectable

6.16 Debts where the customer has served a custodial sentence in respect of the debt

- If a customer is the subject of a means enquiry and has been imprisoned for non-payment of Council Tax or NNDR, whilst a debt is not legally remitted on imprisonment, an authority cannot enforce the debt again in the event of continued non-payment.
- Therefore, an authority has no option but to write off the debt.

6.17 Debts which are remitted by the court on the grounds of inability to pay

- If a customer is the subject of a means enquiry and the court has remitted Council Tax or NNDR on the grounds of inability to pay, an authority has no alternative but to treat the debt as being written off.

6.18 Debts that have arisen because of local authority error / system rounding

- If a debt has arisen as a result of a local authority error or system rounding, the possibility of recovering the debt would be considered in the first instance. If that proves impossible, i.e. legislation prevents recovery or the fault is not of a customer's doing the debt will be written off. Details of the events that gave rise to the debt being incurred will be stored to evidence this.

Deceased

6.19 Where a customer has died and the estate is insolvent, the debt will need to be written-off. A letter from the executor confirming there are no assets from which to discharge any outstanding liability will be taken to determine this.

Credits

6.10 There will be instances where an account is closed and a credit balance remains on an account. If it has not been possible to refund the money, for whatever

reason (e.g. forwarding address unknown), the credit will be written off after a period of one year.