

North East Lincolnshire Council Debt Management Strategy

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North East Lincolnshire Council - Corporate Debt Management Strategy

1. Introduction

- 1.1 The Council has a duty to recover outstanding debt and in doing so seeks to ensure all monies due are collected in a timely and efficient way, ensuring that its processes are fair to everyone. To this end, all debts are administered in line with corporate policy, national legislation and Financial Procedure Rules. Overall responsibility relating to the management and recovery of debt rests with the Section 151 Officer.
- 1.2 Recovery of outstanding debts relating to Council Tax, NNDR (Business Rates) and Housing Benefit Overpayments are undertaken by the Debt Management team, sitting within the Local Taxation and Benefits Shared Service. Recovery of outstanding debts relating to Sundry Debts is undertaken by the Accountancy Service Desk Team in the Accountancy Section.
- 1.3 The key aim of this strategy is as follows:
- To maximise the level of income collected by the Council by;
 - Reducing the level of debt arising
 - Accurate and timely billing with evidence to justify the debt
 - Effective and timely recovery processes
 - Utilising the appropriate recovery method by debt type
 - Recognising that causes of debt vary and recovery methods should be focused accordingly. Debt will be categorised and methods of recovery focused by type, with debtors identified either as *'Can't Pay'* or *'Won't Pay'*:
- 1.4 *'Can't Pay'* – will receive appropriate assistance and support through debt management and benefit advice, helped to make and adhere to payment arrangements and understand options to minimise costs in the future.
- 1.5 *'Won't Pay'* – *appropriate tools of recovery will be focused on debt collection depending on individuals circumstances and their assets or income.*

2. General Principles

- 2.1 That the citizens and businesses of North East Lincolnshire have a responsibility to pay for the services they receive and the charges for which they are liable.
- 2.2 Council Tax sums collected by the Council on behalf of tax payers are recognised in legislation as priority debt, and citizens must give priority to the payment of these debts.
- 2.3 Wherever possible, services will not be provided until payment has been made and cleared funds received.
- 2.4 The cost of collection will be minimised by encouraging citizens to use the most cost effective payment methods such as direct debit. Internet and debit card payments will also be promoted in preference to other methods.
- 2.5 The Council will notify the citizen of the availability of relevant benefits, exemptions, discounts or other reliefs which may reduce the level of the debt or increase the income of the citizen.
- 2.6 Where the Council is made aware that debtors have multiple debts or require budgetary advice, staff will signpost debtors to external advice agencies.
- 2.7 Disputes in relation to the invoice, bill or debt recovery processes will be resolved at the earliest possible opportunity; with debtors being kept fully informed of the ways in which they can contact the Council to discuss any dispute they may have.
- 2.8 Where part of the debt is disputed the Council will still continue to collect the undisputed amount at the earliest possible opportunity whilst also dealing effectively with the disputed debt.
- 2.9 When correspondence between the citizen/business and the responsible department fails to rectify any grievance or dispute and the citizen wishes to make a complaint regarding the way in which the Council has attempted to collect a debt, they will be fully informed of the Council's Feedback/Complaints procedure and will be given assistance to register that complaint if required.
- 2.10 The Council will encourage effective sharing of information between departments and will explore the most efficient and effective way of achieving this whilst at all times taking full account of relevant legislation e.g. General Data Protection Regulations.

3. Principles Common to All Debts

- 3.1 Every bill or invoice will be correctly addressed to the person or organisation liable to pay it. The name on the invoice or bill will be that of a person or body possessing “legal personality”.
- 3.2 Bills and invoices will, as a general rule, be issued on the day of production.
- 3.3 Sufficient evidence to secure recovery of the debt in the courts must be compiled when an invoice is raised. All documentation relating to the bill or invoice will be kept by the originating department, preferably in electronic format, for 6 years after the last recovery action.
- 3.4 In each case the Council will use the most appropriate and effective method of recovery in order to maximise income.
- 3.5 All bills, invoices, reminders and final notices will be issued using the most cost-effective means available.
- 3.6 Officers will employ flexibility when intervening in the recovery cycle to deal with hardship or dispute situations. This includes the ability to make deferred payment arrangements or suspend recovery action due to the debtor’s lack of means.
- 3.7 Any member of staff, who has an interest in any debt must not participate in any form of monitoring/management of that debt and must declare their interest to the Debt Management Manager. This includes, but is not limited to:
 - Self, including any business interest i.e. director, accountant, bookkeeper
 - Family members
 - Friends
- 3.8 All notices issued by the Council will comply with the corporate style and will be easily identifiable as being from the Council.
- 3.9 As prompt recovery action is key to managing debt and maximising income the Council will:
 - Set clear targets for the recovery of debt
 - Regularly monitor the level and age of debt
 - Have clear documented recovery procedures and processes
 - Set and regularly review priorities for specific areas of debt and the recovery methods used to ensure maximum collection
 - Regularly review irrecoverable debt and submit write-offs for consideration by the appropriate Officer or Cabinet

- 3.10 Performance in relation to aged debt will be produced on a monthly basis and reported in the quarterly resources report.
- 3.11 Write offs will only occur when all reasonable recovery action has been exhausted. All debts that are written off will be written off against the income code against which it is held. In cases where the debt was originally shown as a balance sheet liability (for example car loans issued prior to the cessation of the scheme), the debt will be written back to the relevant department.
- 3.12 Third party recovery agencies may be used where appropriate. Where a third party agency is commissioned the information flow between the agency and the council will be in a secure electronic format.

4. Principles of Enforcement

- 4.1 The Council will ensure that any enforcement action is:
- 4.2 **Proportional** - a balance will be struck between the potential loss of income to the Council and the costs of the enforcement action.
- 4.3 **Consistent** – that a similar approach to enforcement will be taken in similar circumstances. The aim is to achieve consistency in the:
- Advice given
 - Powers used
 - Recovery action taken

Whilst taking account of:

- The debtors payment history
 - The debtors ability to pay
 - The social circumstances or vulnerability of the debtor
- 4.4 **Transparent** – that reasons and clear explanations will be given for any enforcement action taken:
- If action is required the reasons for the action should be clearly explained, in writing if required
 - Timescales for actions must be clearly stated
 - A written explanation must be given of any rights of appeal the debtor may have against the enforcement action either before or at the time the action is taken
 - Communications should be in plain English unless the detailed wording is specified in regulations or legislation
- 4.5 **Financial Hardship** – it is acknowledged that there are customers and families who have low incomes, in this instance the council will take a sensitive approach to their individual circumstances.
- 4.6 When a customer makes the authority aware that they are unable to pay, the Council will offer advice and assistance with regards to reducing their outgoings and maximising their income. Staff involved with the recovery of debts will:
- Inform customers to their entitlement to any local Benefits / Discounts / Exemptions they may be entitled to i.e. Housing Benefit / Council Tax Reduction.
 - Inform customers of the general availability of other income related state benefits, such as Universal Credit or Tax Credits.

- Inform the customer of other Council departments who may be able to help .i.e. Housing Advice Team.
- Refer customers to independent financial advice agencies, such as the Citizens Advice Bureau, Christians against Poverty or the Money Advice Service.

4.7 **Vulnerability** – If a customer is considered vulnerable and it is affecting their ability to pay then the council will work with them to find an amicable solution to making payment to their debt. We will talk to them about their circumstances in an attempt to further understand how the vulnerability affects them and their ability to manage their finances. We will ask if they receive any help from third parties to help in dealing with their day to day affairs. Vulnerability can be a fluid state; however by talking to the customer we are then able to work with them to find an amicable solution for all parties involved.

5. Strategy Specific to Sundry Debts

- 5.1 Wherever possible, payment should be received and funds cleared before services are provided.
- 5.2 Where payment cannot be made before the service is provided departments must raise invoices within 5 working days. It is recognised that there may occasionally be exceptions, for example, where a department is waiting for information from another source e.g. Social Care assessments.
- 5.3 All invoices must be raised via the corporate debtors system, the exception being Housing Benefit overpayments, which are raised through a specific Housing Benefit debtors system. When raising the invoice checks should be made to ensure we hold full contact information for the debtor, inclusive of phone numbers and email accounts. Staff who are responsible for raising invoices must be properly trained in the use of the system.
- 5.4 Each Department must ensure all invoices are supported by sufficient evidence of the liability to secure recovery through the courts. Such evidence is to be retained and may be requested for any future recovery process required.
- 5.5 All staff responsible for providing chargeable services and/or raising invoices must be able to evidence that they have undertaken appropriate training. This ensures that they understand the principles of the corporate debt strategy and the implications arising from uncollectable debts. System access will be restricted so that only staff who have completed awareness training are able to raise invoices on the system.
- 5.6 Before raising an invoice services should consider whether it is cost effective to do so. *As per the 'Freedom of Information Act 2000 Section 43(2) Commercial interests' this part has been classed as exempt.*
- 5.7 Ownership of all sundry debts rest with the originating departments and it is only the originating departments that may:
 - Issue an instruction (in writing) to cancel an invoice
 - Correspond with or discuss with the debtor issues relating to the validity of the debt, which must be in line with the Council's charging and income policy.
 - Deal with complaints relating to the provision of the service or the raising of the invoice.
- 5.8 Except for invoices payable by instalments or as otherwise contractually agreed, the settlement terms for all invoices will be 14 days.
- 5.9 Recovery action will commence no later than 16 days after the settlement date has fallen due. All recovery action is the responsibility of the Accountancy Service Desk Team.

5.10 Where initial recovery action has proved unsuccessful the debt will be referred back to the issuing department to produce proof of the debt to enable further recovery action to be taken. If proof of the debt cannot be provided upon request then the debt is subject to write off.

5.11 Authorisation limits for authorisation for Sundry Debtor write offs are as follows:-

Budget Holder	maximum £1,000
Service Manager	maximum £5,000
Assistant Director	maximum £10,000
Section 151 Officer/Deputy S151	up to £50,000
Cabinet Approval	over £50,000

5.12 When proof of debt has been provided the debt will be referred to the Debt Management Teams Court Enforcement Officers.

5.13 The first method of recovery will be to send the cases to Enforcement Agents in a collection only capacity.

5.14 If the Council's Enforcement Agents are not able to collect the debt the statutory methods of enforcement will be considered as appropriate to each debtor. These methods include:-

- Attachment of Earnings
- Warrants of execution
- High Court Enforcement Officer
- Insolvency
- Possession proceedings
- Third party Debt Orders
- Charging Order
- Enforced sale of assets

5.15 These methods may only be used after a County Court Judgement is obtained. The methods will be used in accordance with the principles of enforcement.

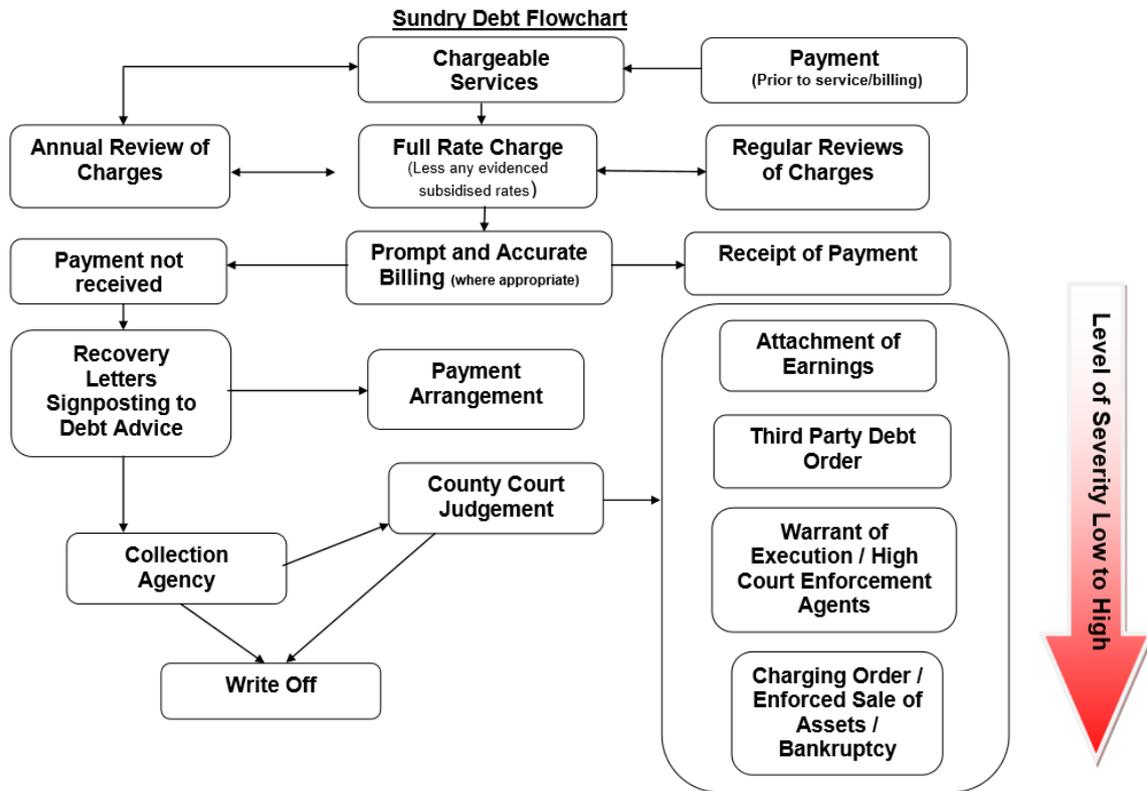
5.16 Further enforcement action will be taken where appropriate by converting the debt to a High Court Judgement. The decision to convert a debt will be taken by the Court Enforcement Officers / Debt Management Manager in agreement with the relevant department.

5.17 The costs of any enforcement action to recover sundry debts will be charged against the budget of the service raising the invoice and any costs recovered from the debtor will be credited against these budgets.

5.18 Where legally able to do so services should suspend provision of future services

to the debtor until outstanding debts are settled.

- 5.19 The Accountancy Service Desk Team will provide reports to services or business units on a monthly basis advising the amount of debt raised in the relevant period and the age and value of outstanding accounts.
- 5.20 The Service Teams will receive reports on a quarterly basis, detailing accounts which require a decision in relation to on-going recovery action. The reports will detail, but not be limited to, the following:
- Accounts ready for county court action
 - Accounts where recovery has been suspended by the originating unit
 - Disputed accounts
 - Accounts suitable for write off
- 5.21 Originating departments must review the reports and communicate their decisions regarding on-going recovery action to the Accountancy Service Desk Team within 10 working days of receipt of the report, any dispute should be resolved within a time limit of 30 days.
- 5.22 The Accountancy Service Desk Team Manager will report the position of debts and any concerns regarding inaction or failure to collect to the authorities Section 151 Officer on a quarterly basis.

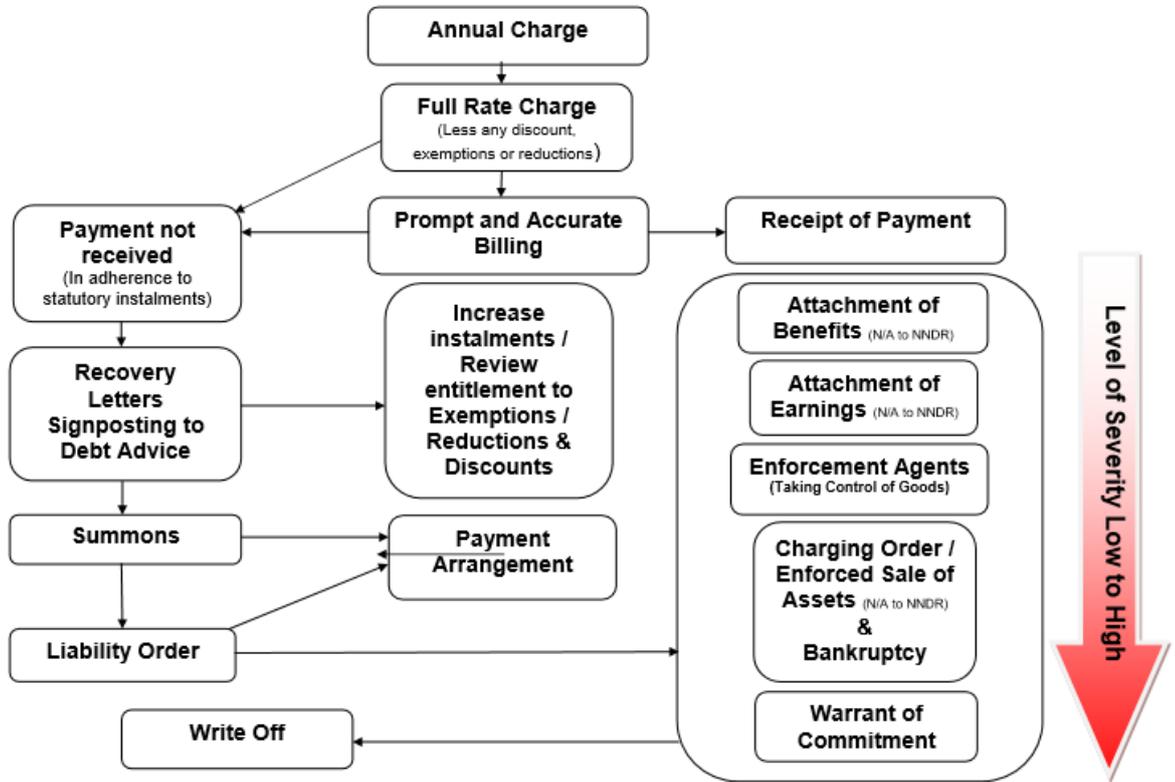


6. Strategy Specific to Council Tax and Business Rates

- 6.1 Council Tax and Non Domestic rate bills will be issued as soon as practicable after the Council has set its Budget for the new financial year. They will be issued in time to ensure the statutory 14 days' notice is given between the issue of the bill and the 1st instalment date of 1 April.
- 6.2 Ad hoc bills issued during the year will be issued as soon as practicable after the amount of liability has been calculated. The instalments will commence on the earliest date permitted by the legislation.
- 6.3 Reminders and final notices will, as far as is practicable, be issued 14 days after the due date for payment, in accordance with the recovery timetable which is agreed prior to the start of each financial year.
- 6.4 Summonses will be issued as soon as practicable after the default to which they relate.
- 6.5 Liability order courts will be held each month and a yearly timetable for the courts will be agreed with the Magistrates Clerk in November each year.
- 6.6 Once a liability order has been obtained all appropriate methods of enforcement will be used. These include:
- Attachment of Earnings – Council Tax only
 - Enforcement Agent action (Taking Control of Goods)
 - Deductions from benefits – Council Tax only
 - Attachment of Members' Allowances – Council Tax only
 - Insolvency
 - Charging Orders – Council Tax only
 - Application for committal to prison – Individuals only
 - Prosecution of employers for failing to implement Attachment of Earnings Orders – Council Tax only
- 6.7 When recovery action has commenced payment arrangements will only be entered into when the debt is secured by a liability order or the debtor agrees to make payment by direct debit. Arrangements will only be agreed by authorised staff and will generally adhere to the following guidelines:
- The debt will be cleared by the end of the financial year
 - The debtor demonstrates a clear intention to maintain the arrangement
 - The arrangement is reasonable in comparison with payments that could be secured by taking alternative action
- 6.8 In exceptional circumstances special payment arrangements may be made by

authorised staff prior to a liability order being obtained and without the debtor agreeing to pay by direct debit.

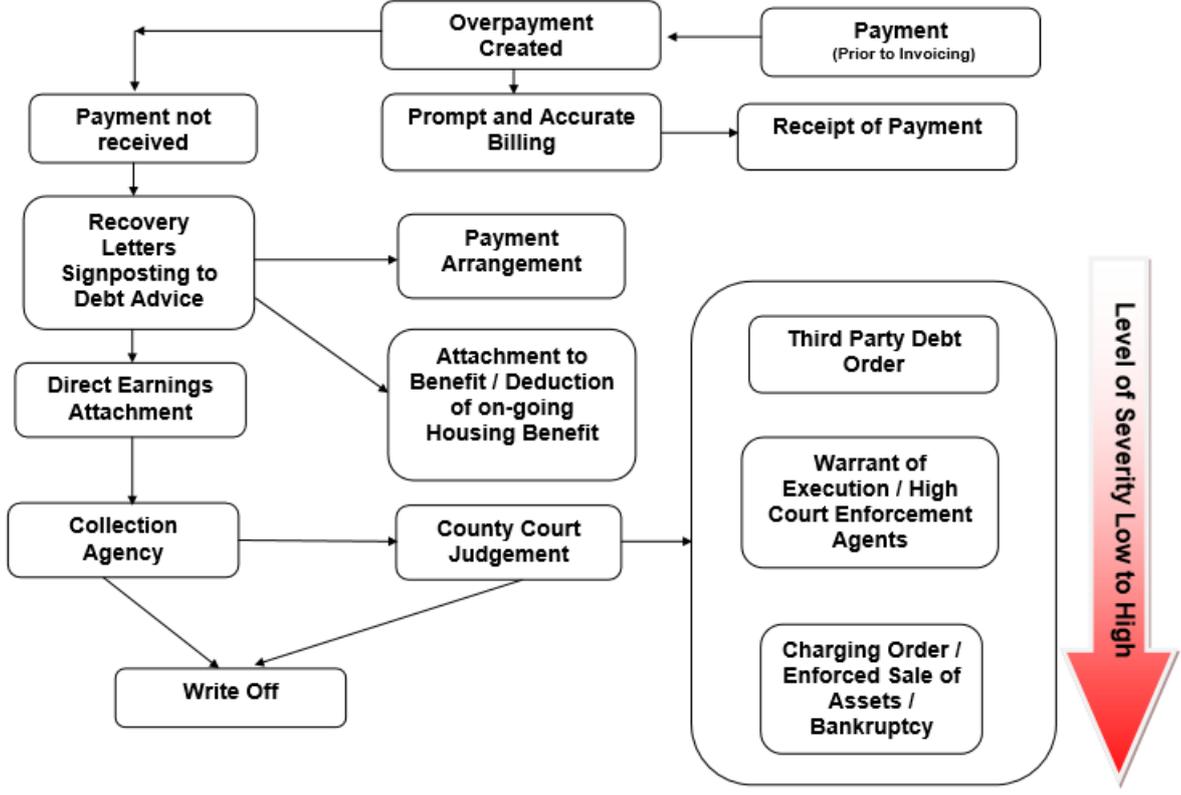
Council Tax / Non Domestic Rates (NNDR) Flowchart



7. Strategy Specific to Recovery of Benefit Overpayments

- 7.1 Invoices will only be issued when a recoverable housing benefit overpayment cannot be recovered by any other prescribed action.
- 7.2 Where there is a recoverable housing benefit overpayment recovery actions will commence using the following recovery methods in the order of preference as shown in the list:
- From arrears of housing benefit
 - From on-going housing benefit entitlement, including direct payments to landlords even if the claimant has moved address and/or landlord. Recovery rates will be based on the DWP guidelines in force at the time of recovery and the maximum recovery rate allowed will be applied in the first instance. Authorised officers will, however, be able to consider applications to reduce the rate of recovery where applying the maximum rate is causing demonstrable hardship to the debtor
 - Council Tax Reduction overpayments will, apart from very exceptional circumstances, be debited to the relevant Council Tax account.
 - If there is no continuing Housing Benefit entitlement or underlying entitlement an invoice will be raised on the Housing Benefit debtors system
 - Where an invoice is raised the Council will seek to recover the amount outstanding in a single payment. Where this is not possible due to the debtors financial circumstances the Council may agree to a payment plan by instalments
 - By deductions from other prescribed benefits as defined in the Housing Benefit Regulations
 - By Direct Earning Attachment as prescribed in The Social Security (Overpayments and Recovery) Regulations 2013
 - Cases will be sent to Enforcement Agents in a collection only capacity
- 7.3 Where an invoice has been raised and payment is not received after the issue of reminders the Council will issue a claim against the debtor in the County Court. This should lead to obtaining immediate payment or failing that to obtain a judgement against the debtor.
- 7.4 The Council will, in appropriate circumstances reduce payments to landlords for current tenants in order to recover arrears for former tenants. It will take this action where the original tenant has no continuing entitlement and there was a misrepresentation or failure to disclose a material fact.

Housing Benefit Overpayment Flowchart



8. Debts Owed by Council Members and Employees

- 8.1 It is not acceptable for Council Members or employees to fall into arrears with money they owe to the Council. The Council will use the information it holds on staff to assist with debt recovery and to make arrangements to clear the debt by salary deduction or Direct Debit.
- 8.2 Overpayments of Wages/Salary will be recovered from pay as permitted under Section 14 of the Employment Rights Act. The amount to be deducted and the length of the repayment period will be assessed on an individual basis, depending on the level of the overpayment.
- 8.3 The exception to this is when an employee has left North East Lincolnshire Council, at which time the debt will be raised as an invoice in the corporate debtors system. Ownership of the debt remains with the originating department; however, should the invoice remain unpaid the normal recovery process will be implemented.

9. Treatment of costs

- 9.1 Where legislation permits the Council will seek to recover from the debtor all the costs or fees raised as a result of the recovery action taken.
- 9.2 In exceptional cases, where it would not be in the public interest to pursue the costs or fees, authorised officer(s) within the Debt Management team may agree to waive costs or fees. The decision to waive costs or fees will be in line with general guidelines approved by the Debt Management Manager, taking into account the individual circumstances of the debtor.

10. Enforcement Agents & Enforcement Agent Management

- 10.1 The ability to refer debt to an Enforcement Agent is an important tool in the recovery process.
- 10.2 The Council appreciates the sensitivity surrounding any Enforcement Agent action, therefore:
- Enforcement Agents will only be used where it is deemed to be the most effective method of collection.
 - Enforcement Agents will be selected with regard to their performance and customer service standards and capabilities. A key factor taken into account in the selection process will be in relation to the Enforcement Agents' policies relating to the treatment of potentially vulnerable customers. The council will balance the requirement for effective debt collection with the reasonable and lawful behaviour of its Enforcement Agent functions and contractors.
 - Enforcement Agents performance and contract management is in place to ensure compliance with codes of conduct and good practice.
- 10.3 Enforcement Agent tendering is to be reviewed as part of the procurement process to align performance to council objectives, maximise income and minimise cost to the council and the citizen.

11. Write-offs

- 11.1 Every effort will be made to minimise the cost of write-offs to the Council by utilising all available recovery action and all debts will be subject to the full collection, recovery and legal procedures outlined in this strategy.
- 11.2 Debts may be referred for write-off in the following circumstances:
- Debts remitted by the magistrates court
 - The Council is unable to trace the debtor
 - The debt is a small balance and it is not cost effective to pursue further
 - The debtor has died and there are no or insufficient funds in the estate to settle the debt
 - The debtor is subject to insolvency proceedings and there is little likelihood of a dividend payment for unsecured creditors
 - The debt is not cost effective to pursue due to the likelihood of payment in relation to the cost of proceedings
 - The Council has evidence to confirm the debtor is suffering severe mental or physical illness which makes the enforcement action inappropriate
 - The Debt is Statute Barred
- 11.3 The limitations for authorisation of write-off of debt are those specified in the Council's Financial Regulations.
- 11.4 Debts Remitted by the Magistrates Court are written off in adherence to The Council Tax (Administration and Enforcement) Regulations 1992 Part 6 Regulation 48 (2).
- 11.5 The Debt Management Manager and Team Manager for the Accountancy Service Desk are responsible for recommending debts for write-off to Cabinet or the Section 151 Officer as appropriate, once appropriate enforcement methods have been exhausted. This will be undertaken at quarterly intervals for sundry debts, otherwise annually and in an agreed format.
- 11.6 In the event of a disagreement between the originating department and the Team Manager for the Accountancy Service Desk regarding recommended write off action, the Section 151 Officer will decide on the appropriate action.
- 11.7 Any member of staff, Member or Contractor who has an interest in any debt must not participate in the decision making process regarding the write off of the debt and must declare their interest.

12. Review of this Strategy

- 12.1 The Council is committed to continuous improvement and it is essential that new approaches and ways of working will be introduced. This strategy will be reviewed regularly to allow it to be updated and to take any service improvements or changes into account.