

Southend-on-Sea City Council

Debt Collection and Recovery Policy

January 2024

Covering the following areas for Southend City Council:

- **Council Tax**
- **Business Rates**
- **Housing Benefit**
- **Social Care**
- **Sundry Debts**
- **Parking management**

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1.0 Purpose of the Policy

- 1.1 The purpose of this document is to set out Southend on Sea City Councils strategic approach to the collection of public money across a varied sector of services.
- 1.2 All service providers within the council will need to understand the document and ensure their processes and procedures are suitable to deliver the required outcomes for both the council and residents within the City.
- 1.3 Whilst it is recognised the financial position of individuals and business owners alike are affected by the cost-of-living crisis, we are obligated to collect 100% of the revenue to ensure the local authority can operate within the current financial constraints, and to be able to continue to deliver critical services for all residents.
- 1.4 The document will also give clear guidance on the appropriate levels of credit checks and assessment required prior to service delivery. Clearly, we are and must continue to be ethical in our approach to delivering chargeable services. Although credit checks and assessments are a good indicator to someone's ability to pay back a debt it cannot be relied on totally. This is about mitigating the council's risk of exposure to bad debt and also supports our residents and businesses from falling into increased debt.
- 1.5 It will give clear instruction on "Payment in Advance" service areas where possible. Will collect monies in advance of service delivery, this will prevent debt and will ensure the service requester has the means to pay in advance of the service.
- 1.6 Whatever service is being delivered, the key to excellent collection is to ensure we collect the outstanding monies at the earliest possible stage. Therefore, the document will set out the required timescales to resolve queries and complaints, which have historically resulted in a loss of revenue when not dealt with appropriately.
- 1.7 In essence it will set out a corporate approach to debt collection and will ensure every available means will be used to collect outstanding monies.
- 1.8 Including: -
 - Payment in advance of service delivery
 - Revised reminder process to speed up collection in accordance with the relevant legislation

- Channel shift/ Promotion of Online Services
- Promotion of Direct Debit as the optimum method of payment
- Payment arrangements within a set criteria
- Legal framework
- Fraud initiative

2.0 Introduction

- 2.1 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, whilst 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.
- 2.2 Recovery of outstanding debts relating to Council Tax, NDR (Business Rates) are undertaken by the Revenues team, Housing Benefit Overpayments are recovered within the Benefits team. Recovery of outstanding debts relating to Sundry Debt is undertaken by the Accounts Receivable team who report directly to the Director of Financial Services.
- 2.3 Recovery of outstanding Social Care debt is undertaken by the finance team within the “Adults and Communities” directorate. It is widely recognised across local government due to the nature and complexity of this debt; it requires specialist knowledge. It is also recognised that when dealing with this sensitive area of collection, arrears will be pursued with care and specialist knowledge. See Annex 1 Social Debt Policy 2017 on specific collection processes regarding Social Care Debts.
- 2.4 - The key aim of this policy is as follows: -
- To maximise the level of income collected by the Council by;
- Reducing the level of debt
 - Accurate and timely billing with evidence to justify the Invoice/bill.
 - 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’:

3.0 Can't Pay

Our customers and businesses will receive appropriate assistance and support through debt management and benefit advice, our residents or businesses will be helped to make and adhere to payment arrangements and understand options to minimise costs in the future.

There could be several reasons where clients could fall into this category including but not limited to: -

- Unemployment
- Hardship due to personal illness
- Mental health issues
- Alcohol or drug dependence
- Imprisonment
- Difficult family issues

We have experienced staff within the authority who will support and work with our residents and businesses that experience debt, and will also sign post to the advice sector for further support including: -

- Available information on the Council website on support
- Citizen Advice,
- Step Change
- and other appropriate support organisations

4.0 Won't Pay

All available and appropriate methods of recovery will be considered depending on the nature of the debt and the individual or businesses circumstances including their assets and income.

General Principles

- That the citizens and businesses of Southend on Sea have a responsibility to pay for the services they receive and the charges for which they are liable.
- Council Tax revenue collected by the Council on behalf of taxpayers is recognised in legislation as priority debt, and debtors must give priority to the payment of these debts.
- Wherever possible and when appropriate, services will not be provided until payment has been made and cleared funds received.
- The cost of collection will be minimised by encouraging citizens to use the most cost-effective payment methods such as direct debit. Online and debit card payments will also be promoted in preference to other methods such as cash.
- The Council will advise our residents or businesses of any appropriate benefits, exemptions, discounts, or other reliefs which may reduce their debt.
- When the Council is made aware that debtors have multiple debts or require specific budgetary advice, staff will signpost debtors to external advice agencies. The council will endeavour to collect multiple debts at a single point of contact with the debtor whenever possible.
- Disputes in relation to the debt or recovery process will be resolved where possible within 30 days; Debtors will be kept fully informed of the ways in which they can contact the Council to discuss any dispute they may have. It will be the responsibility of the originating service area to resolve these disputes. Any disputes that run beyond the 30 days will be escalated to the relevant service manager.
- Where part of the debt is disputed, the Council will still continue to collect the undisputed amount within the legislation at the earliest possible opportunity whilst also dealing effectively with the disputed debt. It must be made clear at the initial contact with the client they must pay the undisputed part of the debt.
- 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 debt, they will be fully informed of the Council's Feedback/Complaints procedure and will be given assistance to register that complaint.

- The Council will encourage effective sharing of information between departments and will explore the most efficient and effective way of achieving this whilst taking full account of relevant legislation e.g. Data Protection Act (DPA). If any officer of the council is unclear of their responsibilities under the DPA they must ask for advice from the corporate data protection officer to ensure no breach of legislation occurs

5.0 Principles common to all debts

- Every invoice must be correctly addressed to the person or organisation liable to pay it. The name on the invoice will be that of a person or body possessing "legal personality" under the legislation hierarchy.
- Invoices will be issued on the day of production. Exceptions to this must be approved by the relevant manager.
- Where we are dealing with an organisation or Small Medium Enterprise (SME) or any other type of business a purchase order number or payment reference must be entered on the invoice.
- If you do not obtain a Purchase order at the first point of contact with the organisation you will have 14 days to obtain one and pass onto the accounts receivable team.
- Service areas are responsible to compile evidence in the event to secure recovery of the debt through the courts. This must be compiled when an invoice is raised. All documentation relating to the invoice will be kept by the originating department in electronic format for 6 years after the last recovery action adhering to the Corporate Retention Policy.
- In each case the Council will use the most appropriate and effective method of recovery in order to maximise income, working with our commercial partners where appropriate.
- All invoices, reminders and final notices will be issued using the most cost-effective means available.

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- Officers will employ flexibility and discretion when dealing with hardship, vulnerability, or dispute situations. This includes the ability to make deferred payment arrangements or suspend recovery action due to the debtor's individual circumstances.
 - Where appropriate a "Means Test or an Income & Expenditure" assessment will be required to ascertain an individual's ability to pay with appropriate evidence to support this. If this is refused, a payment arrangement may not be possible.

Note: - Arrangements to pay in instalments to clear the full outstanding amount are determined by individual departments, however the maximum period would be a 12-month period, any arrangement which is outside this period must be agreed with the relevant Manager.

- The council has a duty to monitor all payments arrangements and will ensure missed payments are actioned appropriately. The council will, dependent on circumstances hold the right to withdraw a payment arrangement making the full amount of debt due.
- 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 their manager. This includes, but is not limited to:
 1. Self, including any business interest i.e. director, accountant
 2. Family members
 3. Friends
- All notices issued by Southend-on-Sea City Council will comply with the corporate style and will be easily identifiable as being from Southend-on-Sea City Council.
- Prompt recovery action is key to managing debt and maximising income the Council will: -
 1. Set clear targets and timescales for the recovery of debt
 2. Regularly monitor the level and age of debt
 3. Have clear documented recovery procedures and processes
 4. Set and regularly review priorities for specific areas of debt and the recovery methods used to ensure maximum collection
 5. Regularly review irrecoverable debt and submit write-offs for consideration by the appropriate Officer.
All write off approvals will follow Southend-on-Sea City Councils constitution.
- Performance in relation to current and aged debt will be produced on a monthly basis and reported directly to the "Chief finance officer".

- Write off will only occur when all 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.
- Third party recovery agencies will be used when appropriate. Where a third-party agency is instructed to carry out activity on behalf of Southend-on-Sea City Council, information between the agency and the council will be in a secure electronic format.

6.0 Principles of Enforcement (All debt types)

- The Council will ensure that any enforcement action is:
 1. Proportional - a balance must be struck between the potential loss of income to the Council and the costs of the enforcement action.
 2. Consistent – That a similar approach to enforcement will be taken in similar circumstances to achieve consistency in the:
 - Advice given
 - Powers used
 - Recovery action taken
- At all times the following will be considered to inform the collection team of the severity of the action to be taken.
 - The debtor's payment history
 - The debtor's ability to pay
 - The social circumstances or vulnerability of the debtor
- Transparent – that reasons and clear explanations will be given for any enforcement action taken.
- If action is required, this should be within the guidance and should adhere to the Taking Control of Goods Regulations 2014 and should be clearly explained.
- Timescales for actions must be clearly stated and within the regulations.
- 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, this will be agreed with our commercial partners during the procurement process and awarding of any contract.

7.0 Collection specific to Sundry Debtors

- Sundry debtors are any other services the Council provides for which monies are due.
- Where practical payment must be received, and funds cleared before services are provided “Payment In Advance”.
- Where payment cannot be made before the service is provided invoices must be raised within 5 working days. It is recognised that there will be exceptions where a department is waiting for information from another source e.g. Social Care assessments and service packs.
- All invoices must be raised via the corporate debtors system Business World, the exception being Housing Benefit overpayments, Council Tax and Business Rates which are raised through the Northgate system. Staff responsible for raising invoices/bills must be properly trained in the use of the relevant system. In all other cases invoices will be raised by the accounts receivable (AR) team unless otherwise agreed with the AR Manager.
- Each Department will 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 as required.
- All staff responsible for providing chargeable services and/or raising invoices must attend a Training Session by the Accounts Receivable Team. 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” that completes the training, will be able to raise invoices on the system.
- Information provided on an invoice must include the following:-

What the bill or Liability is for

The Amount Due

How to make a payment

A contact point for all enquiries

The council will provide a choice of convenient methods of payments and details of these options will be advised on each Invoice.

- In accordance with accounting principles, the budgets of the originating service will be credited with the value of the invoice at the time the invoice is raised. Where a disputed debt remains unpaid after 3 months the amount will be written back to the budget of the originating department. The Department will remain responsible for resolution of the debt and once paid will receive the income. Exceptions to this must be agreed between the service manager and the Accounts Receivable manager.
- In line with the general principles of this strategy the originating department must show that payment in advance is considered before the service is provided. If this option is not practical the service should seek payment at the time the service is delivered, provided that robust income collection arrangements are established. Sundry debtor accounts should only be raised as a last resort where payment in advance is inappropriate.
- Before raising an invoice, services must consider whether it is cost effective to do so. As a general rule, services should not raise invoices for less than £10 unless they have a legal obligation to do so, for example, ground rent income.
- Ownership of all sundry debts will be with the originating departments Budget Holder, and it is only the originating departments that can:
 1. Issue an e-mailed/written instruction to cancel an invoice
 2. 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.
 3. Deal with complaints relating to the provision of the service or the raising of the invoice.
- Except for invoices payable by instalments or as otherwise contractually agreed, the settlement terms for all invoices will be 30 days.
- Recovery action will commence no later than 10 days after the settlement date has fallen due. All recovery action is the responsibility of the relevant collection team.
- Where initial recovery action has proved unsuccessful the debt will be referred back to the issuing department for further investigation to enable further recovery action to be taken. If proof of the debt cannot be provided upon request the debt will be considered for write off.

8.0 Collection specific to Housing Benefit Overpayments

A Housing Benefit Overpayment (HBOP) is any amount which has been paid but to which there was no entitlement.

An overpayment can occur after a claim is initially processed when the entitlement is reduced (sometimes to nil) following a supersession or revision assessment.

Decision Notice

An overpayment decision notice must be issued to anyone who the overpayment is legally recoverable from, even if the Local Authority (LA) has decided to recover the overpayment from someone else.

- The following information is the minimum that should be included in a decision notice, as stated in Housing Benefit Regulation Sch 9/(SPC) Sch 8.
- That there is a recoverable HB overpayment
- The reason there is a recoverable overpayment
- The amount of the recoverable overpayment
- How the amount was calculated
- The period of the overpayment
- Who the overpayment is legally recoverable from, and why
- Who the LA has decided to recover the overpayment from, and why
- The method of recovery
- When the recovery of an HB overpayment is to be made by deductions from future HB payments, the amount of the deduction
- The person's right to request a written statement
- The person's right to apply for a revision of the decision or appeal against it and the manner and time in which to do so

Methods of recovery

Depending on a person's circumstances at the time of recovery, there are several options available to the LA to use: -

- From arrears of HB that become payable while there is an outstanding overpayment
- By deduction from ongoing HB, which could be paid to the claimant, landlord, appointee, or agent (sometimes known as 'claw-back')
- By deduction from the partner's ongoing HB, if the claimant and partner were a couple at both the time of the overpayment and when deductions are being made.
- By transferring a Rent Rebate overpayment to the tenant's Rent Account
- By deduction from certain Department of Work and Pension (DWP) benefits

- By deduction from certain DWP benefits payable to the partner, if the claimant and partner were a couple at both the time of the overpayment and when deductions are being made
- By applying to another LA to ask them to deduct the overpayment from the claimant's ongoing HB entitlement
- By recovery from HB paid to a landlord/agent for another tenant (sometimes known as 'Blameless Tenant' recovery)
- By 'invoicing' the affected person for the amount outstanding
- By civil proceedings, which can lead to but not limited to County Court Bailiffs, 3rd party debt orders, charging orders.
- Debt collections services
- From the estate of a deceased person who had an overpayment prior to death
- By Direct Earnings Attachment (DEA)

If the debt can be collected at source from ongoing entitlement, then this will be the first method of recovery. Once benefit entitlement has ceased the council will issue an invoice, reminder, and final notice. If payment is not made in full or a suitable arrangement is not made, then further recovery action will commence.

County Court Action

If the debtor is a homeowner the Local Authority can apply for an application for a charging order to be made. This requires proceedings through the County Court, starting with obtaining a judgment against the debtor, however as the authority's local taxation team undertakes such action already when pursuing unpaid council tax, the process is understood, and is a remedy the County Court is familiar with the authority adopting.

The success of all enforcement action lies in the selectivity of the cases chosen, and for HBOP the intention is to target debts of a significant value and where the debtor has a clear history of either failing to engage with us or make a suitable arrangement to repay their debts. Cases progressed for charging orders would be selected with the utmost care after forensic review and evaluation as part of a concerted effort to secure the repayment of debts owed to the Authority where no other enforcement remedy has proved successful.

9.0 Authorisation limits for write offs

Debt Type: Accounts Receivable/Social Care/ Housing Benefit Overpayments

Designation	Amount
Assistant Manager	under £5,000
Manager	Up to £10,000
Executive Director (Finance & Resources)	Between £10,000 and £25,000
Cabinet	£25,000 and above

Debt Type: Council Tax and NNDR (Non-Domestic Rates)

Designation	Amount
Senior Officer	under £2,000
Team Leader	Up to £5,000
Manager	Up to £10,000
Executive Director (Finance & Resources)	Between £10,000 and £25,000
Cabinet	£25,000 and above

Debt Type: Parking

Designation	Amount
Team Leader	Up to £5,000
Head of Parking	Up to £10,000
Jointly – Head of Parking and Executive Director (Finance & Resources)	Between £10,000 and £25,000
Cabinet	£25,000 and above

The Recovery Manager will produce a report as required for the Executive Director and Cabinet members to inform of **All** write offs within each area.

10.0 Methods of Recovery Action

When proof of debt has been confirmed the debt will be referred to the Accounts Receivable Team who will take the necessary action which could include Enforcement.

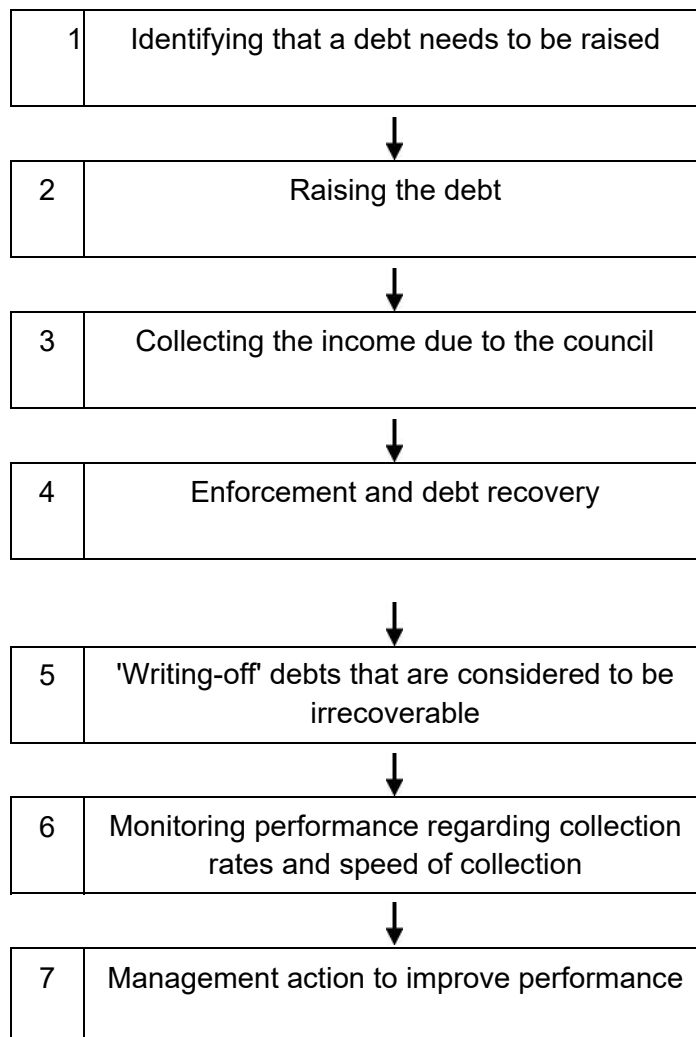
The first method of recovery will be to send cases for “Doorstep Recovery” Non-Enforcement action.

If the Council’s Collection Agents are not able to collect the debt, the statutory methods of enforcement will be considered as appropriate to each debt type. These methods include: -

1. Direct Earnings Attachment
 2. Warrants of execution
 3. High Court Enforcement Officer
 4. Insolvency
 5. Possession proceedings
 6. Third party Debt Orders
 7. Charging Order
 8. Enforced sale of assets
- These methods may only be used after a County Court Judgement is obtained. The methods will be used in accordance with the principles of Legal enforcement.
 - Further enforcement action will be taken where appropriate by converting the debt to a High Court Writ. The decision to convert the debt will be taken by the relevant service manager in agreement with the relevant department Director.
 - 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.
 - Where legally able to do so, services should suspend provision of future services to the debtor until outstanding debts are settled.
 - The Accounts Receivable Team will provide reports to business units on a regular basis usually Monthly/Quarterly, advising the amount of debt raised in the relevant period and the age and value of outstanding accounts.

- The business areas will receive reports detailing accounts which require a decision in relation to on-going recovery action. The reports will detail, but not be limited to, the following: -
 1. Accounts requiring county court action
 2. Accounts where recovery has been suspended by the originating unit
 3. Disputed accounts
 4. Accounts requiring other action
 5. Accounts suitable for write off
- Originating departments must review the reports and communicate their decisions regarding on-going recovery action to the relevant team within 10 working days of receipt of the report; any dispute must be resolved following the corporate complaints procedure timescales.
- The Accounts Receivable Manager will report the position of debts and any concerns regarding collection to the relevant Director as required.

11.0 Debt management process



12.0 Responsibilities to Directorates in the raising of invoices

Directorates responsible for raising invoices must note their responsibilities as part of the Debt recovery process.

Stage 1

Each department is responsible for ensuring services provided are correctly invoiced and agreed with the recipient of the service. Payment in advance must be the approach taken to minimise debt and maximise income whenever possible.

All reasonable efforts must be made to credit check clients in the event of Payment in Advance not being an appropriate method.

Stage 2

IF Payment in Advance is not appropriate:-

The raising of debts will be undertaken by the Accounts Receivable Team wherever possible and by exception will be undertaken by the directorates where agreed by the Chief Finance Officer (or deputy).

To aid debt collection, the Council will provide clear and prompt information about invoices and liabilities.

The information provided will show;

- What the Invoice or liability is for;
- The amount due;
- How to make payment
- Contact details for all enquiries.

When dealing with an organisation a Purchase Order must be obtained to quote on the invoice raised, as this is a commitment to pay from the organisation and should ensure prompt payment upon receipt.

All staff raising debt must have specific training and be made aware of their responsibilities before being authorised in the system to do so. Part of the process will be an assessment to determine if it would be more efficient to raise the debt centrally rather than devolved to a service.

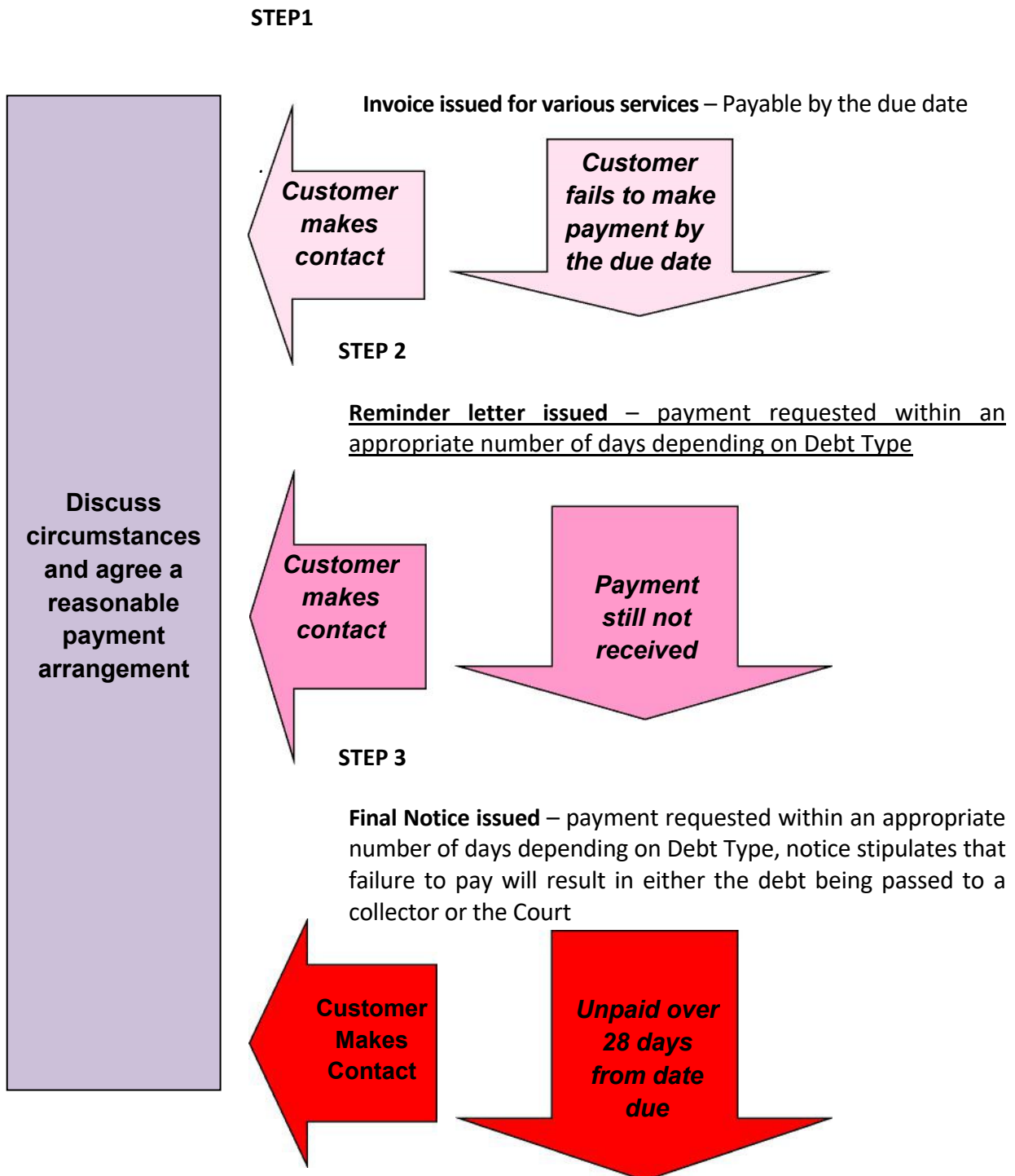
Stage 3

Debt will be collected and recovered through the relevant collection team

- a- Sundry Debtors - Accounts receivable
- b- Social Care - ACS Finance team (supplemented by Annex1 – Adult Social Care – Social Debt Policy)
- c- Parking Enforcement – APCOA third party contractor
- d- Council Tax – Council Tax Revenues Team
- e- Business Rates- Business Rates Revenues team
- f- Housing Benefit – HB Benefits Team

(Accounts receivable manager will support the ACS finance team and supply age debt reports on a monthly basis)

13.0 Stages of collection



Note: - Parking Enforcement follow the same principles, Legislation variances exist and are managed by the service area.

Social Care: - Follows the same principles, complex issues do exist with managing case work. A separate social care strategy document is available which covers the complex issues however where issues do not exist the debts follow the same route to collection.

It is the responsibility of the service area to resolve disputed invoices.

The debt manager will monitor invoices ensuring they are resolved within agreed corporate timescales as laid out within the Corporate Complaints Process.

It is the responsibility of the Debt Manager to:-

- To promote a corporate approach towards sharing debtor information and managing multiple debts owed to the Council
- To acknowledge the role of the recognised advice agencies and to work with such agencies whenever possible
- To treat individuals consistently and fairly regardless of age, race, religion, gender, disability and sexual orientation.

14.0 Payment Arrangements

It is the responsibility of the debt manager to manage payment arrangements

- All payment arrangements will be closely monitored;
- Prompt action will be taken to collect the debt in respect of missed payments;
- The individual should be reminded that the date on which instalments are to be paid is the final date on which money should reach the Council's account;
- The responsibility remains with the individual for making sure they allow sufficient time for the payment to reach the Council's account by the due date;
- Action may be taken, even where payment is received shortly after the due date.
- When payment arrangements are not maintained, it is important to ensure that prompt action is taken (by the individual) to try and bring the arrangement back up to date. Although the Council ideally will require the original agreement to be brought up to date within a short timescale, if there has been a significant change in circumstances it may be possible to negotiate a new arrangement.

It is the responsibility of the Debt Manager to apply charges as agreed by the organisation:-

- The first reminder letter will not carry a charge to the customer but will contain a notification that subsequent reminder letters may be subject to a charge.
- The Council maintains the right to charge for reminder letters and statements.
- The council maintains the right to charge interest on late payments of certain types of debt in accordance with the agreements in place.

Specifically in relation to:-

- a. Commercial rent agreements
- b. Social Care invoices where the payment is deferred until a client's asset is sold.

Stage 4

It is the responsibility of the service area to supply the relevant evidence/Documentation for the recovery process beyond the reminder stage is pursued.

It is the responsibility of the debt team to carry out all reasonable steps to collect income due to the council.

The debtor's team will manage and are responsible for the process of collection for those clients who **"Won't Pay"** and will use all reasonable action to collect outstanding debt for the service area.

The Debtor's team will manage the process for those clients that **"Can't Pay"** by making reasonable payment arrangements and sign posting for support on debt advice.

In the event of a service area dealing with a payment issue any decision outside of the corporate approach must be agreed by the debt manager.

Extra costs incurred in debt recovery (e.g. legal costs) will be charged to the originating department

Costs recovered through court activity will be credited back to the service area

Stage 5

Once all activity is exhausted and it is clear it is no longer cost effective to collect debts will be promptly written off against the business debt provision.

Budgetary provision is agreed each year to ensure it does not impact on current year services however the provision does impact on service budgets which makes it critical the earlier stages are strictly adhered to ensure service areas can continue to deliver services.

Where it is clear that a debt is uncollectable or is uneconomic to collect it will be promptly written off and the originating department will be charged

Stage 6

It is the responsibility of the debt manager to provide management information on current debtors by means of an Aged debt report

Debt outstanding for more than 30 days will be reported with a narrative of actions to collect subject to appropriate de-minimus levels as agreed by the chief finance officer.

Stage 7

Management action will be taken when necessary to improve performance regarding collection rates and speed of collection, this could include working with our commercial partners who have expertise in specific areas of recovery.

All debt will be invoiced and tracked on the corporate debtors system wherever possible. Where other systems are being used (e.g. PCN) these systems will be kept under review and the debts will be moved to the corporate system when practical. Where the use of the corporate debtors system is not appropriate the system used needs to be approved by the council's chief finance officer (or deputy) and the service area will be responsible for reporting the monthly debt position to ensure an accurate corporate debt position can be understood.

Ownership of the debt remains with the directorate originating the invoice

The directorate requesting the debt has a duty to assist and co-operate with the corporate function to ensure collection of debt

Annex 1

Adult Social Care – Social Debt Policy
November 2017

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Introduction

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Care Act 2014

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Safeguarding Concerns

Introduction

Southend-on-Sea City Council raises charges for a wide range of services across the organisation. All debts owed should be pursued according to the Corporate Debt Collection and Recovery Policy October 2017.

However it is acknowledged that within the role of the protection of vulnerable adults, there will be some debt that cannot be pursued in the same way. Within the strategy document these are referred to as social debts.

This document sets out the debt recovery process for social debts.

Scope

Adult Social Care within the Department for People makes charges for the following services

- Contributions to residential accommodation
- Charges for Home Care services
- Charges for Community Support services
- Charges for day services
- Charges for transport to services
- Charges to other local authorities
- Charges to Health Authority

Adult Social Care charges are raised within the Department for People by Finance Officers within the Adult Social Care Finance Team, using the corporate financial system Agresso. The Corporate Accounts Receivable Team (AR) authorise the invoices and they are sent by post. If the invoice is unpaid the Agresso system will send 2 reminders at seven day intervals. If the invoice remains unpaid, recovery will pass back to Adult Social Care for action.

The Care Act 2014 introduces a modern legal framework for the recovery of debts as a result of non- payment of care charges. This is covered in section 69 and 70 of the Care Act 2014. The key points are:

- Local authorities should clearly discuss with the person or their representative at the outset that care and support is a chargeable service. Provision of information and advice should cover the person's responsibility to pay for care and support
- Financial assessment – This should be carried out in a timely manner and the person/rep notified in writing of the outcome of the financial assessment, the frequency of invoice and payment methods. They should also be informed of their right to a review and what they should do if they disagree with their financial assessment.
- As part of the financial assessment process, LA's should find out if any person has an enduring Power of Attorney or Lasting Power of Attorney for property and financial affairs or a Court of Protection deputy for property and affairs or someone who has

been given appointee-ship¹ for the purpose of benefit payments who is responsible for payment of the care and support charges.

- All LA's should have a process for identifying when a sum becomes due and at what point it becomes overdue and falls into a recovery process.
- The recovery process should include issuing reminder notices and either contacting the debtor by telephone or visiting. Comprehensive notes of any discussions with persons/ reps should be kept. A solicitor's letter rather than a standard system generated reminder letter has proved very effective in getting a response from a debtor who has not engaged with the LA previously.
- If there is any doubt over the person's capacity or safeguarding concerns the case should immediately be referred back to social care staff.
- Within the Care Act is an obligation to have considered and evidenced well-being. This should be followed through within debt recovery processes.

All people receiving services are financially assessed to ascertain what they should pay towards services and therefore there should be no reason for invoices to be unpaid. However service users may be elderly, vulnerable, lack capacity to understand charges and every unpaid invoice needs to be investigated to understand the reason for non-payment. Invoices raised for grant re-charges, NHS re-charges and to other local authorities, should not be raised until agreement is received from the third party.

From the start of a period of care enquiries are made about whether an adult has someone to help with finances and could be their contact instead of the individual service user. Social workers will ask when assessing for care and our financial assessment form also asks the question.

If someone falls into arrears we will ask again, as the adults health may have declined since the care started.

If an adult is in a care home setting they will usually have someone dealing with their finances. If they haven't and we are invoicing the adult at the home, then we would be checking systems for any notes and also contacting the care home. They again may have deteriorated and could no longer manage their own finances or we may not have been made aware of an admission to hospital.

All charges are made following financial assessment and so should be able to be paid. However Finance staff are fully appreciative that the adults we serve are vulnerable, often elderly and confused and although debts to the authority have to be collected, we act with sensitivity and respect for the adult.

Residential Care and Non-Residential Care Services

Each month 3 reports are run, residential care debt, non-residential care debt and various debts. These detail all debts over 30 days old. The various debt report is interrogated by the Finance Manager.

Finance Officers will interrogate the residential and non-residential debt reports and try to find out why an amount is unpaid e.g. by phoning the person direct, contacting families. Often these steps are sufficient to pay the debt.

Further actions include:

Interrogation of all systems to ensure invoices are being sent to the person with payment responsibility

Look at the financial assessment to ensure it is correct

Liaison with DWP if benefits are not in payment/suspended etc

Social workers made aware of the debt – to ensure there are no safeguarding/financial abuse issues

Refer to Legal Section for advice

Refer to independent advocacy service for assistance with debt issues

Follow Safeguarding procedure

Investigate settlement of estates, who is next of kin, executor

Gather further information that may cause the financial assessment to be revised and debts adjusted

All cases will be looked at individually and actions will vary from case to case.

In order to get to a level of consistency the following process will be followed:

- 1) Officer runs report
- 2) New debt is identified and report sheet is opened in Civica
- 3) Telephone contact- resolution or issue identified

Dispute/Complaint

Decide who needs to resolve/investigate dispute, initiate on Civica

A 14 day reminder will be sent to officers work tray to ensure follow up action

Will result in payment, charge adjusted and paid or charge written off or waived.

Billing Issue

Invoice may be unpaid as being sent to incorrect address or should be sent to a care-of address. Make correction resulting in payment. No further action.

No Telephone Contact or Unsuccessful

Standard letter 1 asks for contact to be made

If no contact standard letter 2

Still no contact, refer to social worker via Civica for contact at home

May be resolved during a yearly review

A recurring reminder will be sent to officers work tray to ensure follow up action

If no resolution initiate safeguarding referral

Escalation Of Debt Issue

If no resolution following safeguarding, a further Civica process is started sending an email to Finance Manager to consider legal action. The Local Authority should be seen to have taken all actions possible to negotiate following any dispute. Full chronology would be required by County Court.

The Finance Manager and Group manager will discuss how to resolve the debt.

Executors Accounts

When the authority is advised of the death of an adult, invoices should be raised for services up to date of death and produce a balancing invoice. The officer will start a CIVICA process to ensure prompt debt recovery. The process will ask who is dealing with the estate and enquire at intervals about how the probate process is progressing.

Instalment Plans

As charges are made following a financial assessment, all charges should be affordable.

Instalments to clear arrears can be negotiated, however as ongoing charges need to be paid, regard needs to be made to that when setting an instalment plan.

The instalment plan should be made by ACS Finance Team as they are aware of what ongoing payments will need to be made and how much someone could afford as an additional instalment

Deferred Payment Debt

For people in residential care who own a property but have capital under £23,250.00, a Deferred Payment Agreement may be the option chosen.

Where a Legal Charge can be registered against the property land title, the accruing debt is secured. However there are occasions where it is not possible to secure with a land charge from the start of the placement. The land title may need to be corrected or capacity issues resolved. In this circumstance the resident or family member will be asked to sign a Letter of Agreement. This together with a chronology of evidence would be put to County Court in cases of dispute over payments.

Differing codes will be used to identify secured or un-secured debts for accountancy purposes.

Unrecoverable Debt

It should be considered whether a debt is uneconomic to pursue. All debt should follow the action timetable but following the 2nd letter it may be written off as uneconomic to collect. In general this would be for invoices under £50.00.

If all actions have been taken it may be that the debt is considered unrecoverable.

- 1) An estate may not have sufficient funds to pay invoices after death. The payment of funeral charges has first call on an estate. A request should be requested from family advising that the estate was spent on funeral .
- 2) Safeguarding investigation results in referral to the SBC Court of Protection Team for protection of finances. Once access has been gained to benefits/pensions/capital then there may be sufficient to pay all outstanding invoices. However it could also be that COP Team can pay future invoices once access has been gained to funds but that previous debt is written off. Although we refer to Police for investigation into financial abuse, very often they are unable to substantiate allegations and funds are not recovered. In this instance debt prior to SBC gaining access to funds is identified and written off.
- 3) Legal advice that cost of legal action would mean it uneconomical to pursue.

Distinction needs to be made between a waiver and a write-off.

- Waiver, charge should be made for a service but circumstances dictate that it is not reasonable to apply a charge
- Write-off, a charge has been correctly applied but has not been able to be collected

Write-Off Process

Once all recovery actions have been exhausted and it is the agreement of the Finance Officer and Finance Team Manager that a debt will not be pursued:

- 1) Debt memo completed, signed as seen by Finance Team Manager and approved by Group Manager Customer Services and Finance. Copy of CIVICA action report to evidence actions taken.
- 2) Under £5k no further authority is required
- 3) Over £5k the papers will be signed as seen by Finance Team Manager and Group Manager and passed to AR Team for Director of Financial Services approval.
- 4) Write off documentation forwarded to AR Team and copy kept on client file on CIVICA system

Corporate authority levels for write-off:

Up to £5k Assistant Manager
Up to £10,000 Manager
Between £10,000 and £25,000 Director
£25, 000 and above Cabinet

Waiver of Charges

An invoice is raised following financial assessment. There are occasions when it is not reasonable to apply a charge

- 1) Service user/family not advise about charges at the start of care
- 2) Contradictory advice given regarding health funding and social care charges
- 3) Death prior to completion of the form, dependant on records kept.

The Finance Officer will email the relevant Team Manager with circumstances of the individual care. If Team Manager agrees the waiver, the response email will be filed on CIVICA If a charge is waived then no charge should be made. Any invoice raised should be cancelled and records kept on CIVICA.

Exempt from Charges

All service users are financially assessed to ascertain what they should pay for services. There may be rare occasions where the social worker will ask the Operational Team Manager for someone to be made exempt from charges. This may be if someone is threatening harm to themselves or others by applying a charge. Other examples could be waiting for application of benefits, family appropriating income and capital and awaiting safeguarding outcome.

A form is sent to the Finance Team; it should hold details of exemption and be time limited.

Charges to Health Authority

Following formal notification of eligibility for health funding, if a recharge needs to be made an invoice is raised by the Senior Payments Officer.

Invoices are raised monthly and any non-payment will be picked up by the Senior Payments Officer and resolved in conjunction with the Group Manager

Charges to Other Local Authorities

If another Local Authority places residents in Southend-on-Sea City Council establishment's invoices are raised at the full cost of care.

The other Local Authority will be responsible for collection of their own client contributions.

Collection of income will be the responsibility of the Finance Manager. Before placement a copy agreement should be made available to the Finance Manager in case of any query.

There should be no debt recovery necessary, at times there may be adjustments necessary in the event of service adjustment.

Residential Care Home Debt

If a care home owes money to the authority due to an overpayment of fees, it will generally be deducted from payments to providers. There may be occasion when the care home has closed or changed ownership and an invoice needs to be raised. Usual debt recovery action will be followed.

Recording

- Monthly report is kept electronically
- Report is noted with actions taken
- Officer will note Civica system with actions taken and initiate a Civica record sheet
- Monthly meeting with Debt Officers, Finance Manager and Group Manager
- Monthly summary of outstanding debt, identifies real debt not amounts involved in direct debits.

Credit Notes

An invoice may need to be credited, either in part or wholly, if information is made known to the Department after an invoice has been raised. For example:

- Reassessment of finances results in lower charge, invoice to be reduced. Financial assessment on CIVICA
- Home care visits/ day services charged for that did not take place. Provider information saved on CIVICA
- Date of death not made known to Finance Team, care charges made after death. Ensure date of death recorded on Carefirst

The Finance Officer will raise the credit on Agresso, ensuring documentary evidence is recorded on the EDRMS system or on Carefirst, or noted on the Access database. A Finance Manager will approve the credit on the Agresso system, ensuring separation of duties.

Parked Debt

The recovery process can be halted if a debt is parked. If an invoice is parked then the reminder cycle will not be applied. Invoices should only be parked as a last resort and the Finance Officer needs to keep the parked item as a task to follow up. No invoice should be parked indefinitely. The Finance Officer should use the notes field to record why the invoice is being suspended

For example: service user deceased and with solicitor for probate.

: With Safeguarding and no contact to be made at this time

All parked invoices are reported on monthly by the AR Manager and sent to ACS Finance Manager for action.

The Complaint Date - Holding Reminders

The reminder cycle can be changed by inputting a complaint date against the invoice. Once the date arrives then the reminder cycle will again be activated.

The complaint date should be used in cases where the officer wishes the reminder cycle to be reinstated as opposed to be parked, in which case no reminders will be produced at any point. For example:

- Family member going on holiday, hold for 2 weeks.
- Application made for benefit

Managing Safeguarding Concerns

Unpaid invoices may be the first sign of financial abuse.

If contact is not made or reasons for non-payment are not acceptable, within the workflow the matter will be referred to allocated social worker. If there is no allocated worker the referral is made to the Access Team. A form SETSAF1 is completed and the circumstances of the debt, contact attempted, responses received all noted on the form.

The following investigation may result in referral to Police and family meetings.

It is possible that the adult freely gave away monies and there is no fraud case to answer.

In some cases the adult may have given money away when they retained capacity to manage their own money , but now having lost capacity nothing can be proven.

Application may be made by family or Southend Council for court appointed deputy. Once access to money has been arranged , it will be looked at to ascertain how much money is available to pay outstanding invoices. At that point early invoices may need writing off if the financial abuse happened at that time.

Every safeguarding case will be looked at on an individual basis.

Debt Process Flowchart

