

# Corporate Debt Policy

**Implementation date: 30 November 2021**

## Control schedule

<b>Approved by</b>	Policy and Sustainability Committee
<b>Approval date</b>	30 November 2021
<b>Senior Responsible Officer</b>	Stephen S. Moir, Executive Director of Corporate Services
<b>Author</b>	Cheryl Hynd, Customer Manager - Transactions
<b>Scheduled for review</b>	November 2022

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# Corporate Debt Policy

## 1. Policy statement

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This Policy aims to strike a fair balance between the financial needs of the Council and the wellbeing needs of our customers, recognising that failure to recover monies due impacts on the Council's ability to provide key services. We are committed to treating customers fairly and equitable, and with understanding, dignity and respect. We will provide suitable support including signposting those customers owing money to the Council to appropriate services, ensuring they are maximising reliefs, discounts or benefit entitlements. This support includes the Advice Shop and external agencies providing money management advice. We aim to ensure that customers circumstances are considered when determining appropriate recovery action, including potential emerging costs for ongoing support and care. Within the stakeholder section of this policy, there are more details of how we support people.

Early engagement is actively promoted when a customer does not pay. In certain circumstances and depending on the debt type, if a customer does not engage or have a repayment plan in place, the Council's debt partners (Sheriff Officer) will progress this. They will use a range of collection strategies, only resorting to the most serious with sequestration (taking legal possession of assets) and inhibitions (registered against property owned), when necessary, as reflected in the small number of instances of their use.

The Council coordinates income collection, recovery and debt management activities, applying best-practice debt collection methods e.g. timely and accurate billing, offering a range of cost-effective payment methods. We also adopt a debt hierarchy for multiple debts.

## 2. Scope

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This Policy applies to the collection of:

- Rental income for Council properties;
- Council Tax;
- Sundry debt and service charges e.g. Trade Waste and including statutory notices;

- Non-Domestic Rates;
- Housing Benefit and Council Tax Benefit/Reduction overpayments;
- Parking Charge Notices; and
- Overpaid Council salaries and wages.

### 3. Definitions

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None.

### 4. Policy content

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#### Debt Recovery Principles

The Council's debt recovery principles are outlined below.

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

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

#### Hierarchy of Debt

Customers, citizens and businesses within the City of Edinburgh have a responsibility to pay for the services they receive and the charges and rents they are liable for. In some instances, customers will owe more than one debt to the

Council. The Council will adopt a co-ordinated approach when dealing with multiple debts, taking into account the person's circumstances, legislation, the level of debt and the potential for financial hardship.

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

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

Priority debts have then been ranked as follows:

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

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

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

### **Methods of Payment**

The Council will not call customers directly to make payment for any of the services it provides or administers. The Council recognises that the easier it is to pay, the more likely that payment will be made and the less likely that debts will accrue. The Council's preference is for low-cost payment options that provide a high degree of accuracy and certainty, such as Direct Debit. However, to provide our customers with the greatest flexibility a range of payment types appropriate to the debt type and size is offered. Customers currently use a mixture of payment methods and channels for different services, cheque, debit cards, standing orders and other electronic banking methods, such as online internet banking and touch tone telephone payments. Specific services may also be paid by credit card.

### **Write-offs**

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

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

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

All write-offs will be carried out in accordance with the relevant provisions contained within the Council's Financial Regulations, as supplemented by the Finance Rules. A summary of write-offs will be reported on an annual basis, including where appropriate reporting to Committee for approval and scrutiny. The exception to this is former tenant debt, for which the Executive Director of Place has delegated write-off authority under the scheme of delegation.

## Stakeholders

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

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

The Council is also responsible for the administration of various benefits and support funds for the citizens of Edinburgh. This includes the Scottish Welfare Fund, a discretionary scheme that provides two types of grant, Community Care Grants and Crisis Grants. The Scottish Welfare Fund team can be contacted on 0131 529 5299 or by emailing [welfarefundteam@edinburgh.gov.uk](mailto:welfarefundteam@edinburgh.gov.uk) More information can be found on the scheme on the Council's [website](#).

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

### **Confidentiality**

The Council will ensure that all information about a customer's personal and/or financial circumstances is dealt with in the strictest confidence and in accordance with the Data Protection Act 2018 and any other statutory functions duties and responsibilities of the Council.

## **5. Implementation**

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This policy is used by Council officers as guidance for administering and managing debt recovery. The policy, and subsequent updates following committee approval, are shared with relevant senior officers of each directorate.

### **Performance Monitoring**

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

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

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

- Average debtor days
- Aged debt profile (28, 60, 180 and 365 days plus – proportion and value)
- Value of debt more than 90 days old
- Sundry debt invoices outstanding (value/number)

- In-year collection targets
- Long-term collection rate – rolling trend
- Legal/recovery costs as proportion of direct debt recovered
- Outstanding inhibitions (number/value)
- In year write-off as proportion of total debt
- Summary warrant accounts on hold/suspense (proportion and value)
- Summary warrant accounts withdrawn (proportion and value)
- Related social and welfare outcomes

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

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

## **6. Roles and Responsibilities**

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### **Segregation of Duties**

The Council will ensure that income and debt recovery transactions are governed by robust controls, with clear segregation of duties. Financial decisions will be made by

identified officers and reviewed by appropriate managers. These arrangements will be clearly detailed in relevant service operation manuals and the Finance Rules.

## 7. Related documents

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### [Finance Rules](#)

- Appendix (i) Rent Collection Policy
- Appendix (ii) Council Tax and NNDR Recovery Policy
- Appendix (iii) Council Tax and NNDR Court Costs and Fees Policy
- Appendix (iv) Sundry Debt Policy (including statutory repairs)
- Appendix (v) Housing and Council Tax Benefit Overpayments Policy
- Appendix (vi) Parking Charges and Bus Lane Charges Recovery
- Appendix (vii) new [pay policy](#) agreed at committee Feb 2020
- Appendix (viii) Methods of Payment Policy
- Appendix (ix) Write-off Policy
- Appendix (x) Bankruptcy Policy
- Appendix (xi) Covid-19

## 8. Integrated impact assessment

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A review of the Corporate Debt Policy was undertaken in 2020 by officers and members of the Poverty Commission Group. This review resulted in some minor changes regarding language and tone and clarified the support channels in place for citizens who face indebtedness.

For further information: [Customer Annual Policy Assurance – The City of Edinburgh Council](#)

## 9. Risk assessment

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The risks associated with policy non-compliance are in the main linked to the annual review and update. This policy is used as guidance to inform officers and citizens on the Corporate Debt Policy. Failure to maintain amendments or follow guidance may lead to financial loss or reputational damage.

## 10. Review

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The Corporate Debt Policy will be reviewed on an annually in November by the Policy and Sustainability Committee. This review will take account of changes in legislation, service improvements, regulations and wider policy initiatives. Any

proposed changes will be discussed with appropriate stakeholders and updated in line with related policies. These include:

- [A Framework to Advance Equality and Rights 2017-21](#)
  - [Customer Access Strategy](#)
  - Customer Care Charter
  - [Financial Regulations](#)
  - Rent Collection Policy
  - Rent Collection Strategy
  - Scottish Welfare Fund
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## **Appendix (i) Rent Collection Policy**

### **Overview**

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

### **Recovery of Former Tenancy Arrears (FTA)**

4. The Council also aims to minimise the amount of rent arrears owed by former council tenants and to ensure the collection of outstanding debt is maximised. Involvement commences when a notice to terminate a tenancy is received and ends when the former tenancy arrears are cleared.
5. The aim of policy is to:
  - Minimise the amount of rent arrears owed by former council tenants

- Ensure the collection of outstanding debt is maximised which in turn contributes to the provision of services which tenants need
  - Ensure through training and learning that staff are well-equipped, and the service is well organised to deliver ambitious targets.
  - Support continuous improvement in FTA service and performance.
6. The Council will pursue former tenants' arrears when a tenancy comes to an end. The initial attempt to recover debt is pursued by staff within Place (Place Development Division). The Council will:
- Ensure tenants with arrears are contacted before and after their tenancy is terminated;
  - Provide advice and assistance on repayment of debt. Former tenants may be referred to other debt and advice agencies where appropriate; and
  - Accurately calculate the former arrears outstanding, taking into account the individual circumstances in each case such as Housing Benefit entitlements, contested tenancy termination dates and any rent abatements applicable.

7. Repayment of arrears will be sought in full where possible but reasonable arrangements will be agreed to enable former tenants to meet their obligation to reduce and then clear debts without them incurring undue financial hardship.
8. Where internal checks have been exhausted, the case will be referred to the Council's contracted external Debt Collection Agencies. Cases will be referred for both trace and collect and trace and/or collection only. Further action will only be taken as long as recovery remains viable.

### **Write-Off**

9. The Council recognises that a proportion of income from former tenancy arrears may not be collectable due to matters out with its control. The Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due and every effort is made to trace former tenants to collect debt prior to making the decision to write off. Where a debt is irrecoverable it will be subject to a write-off process that is consistent with recognised accounting practices. The write-off relates to any accounts with outstanding arrears where all attempts to trace the tenant and collect have been exhausted. If the whereabouts later become known after a debt is written off in line with accounting practice the debt will still be pursued for payment.
10. Authority to write-off former tenant debt is a delegated power to the Executive Director of Place under the scheme of delegation applied from 22 November 2019 (Appendix 5 section 143).

### **Performance Management**

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

## **Appendix (ii) Council Tax and Non-Domestic Rates Recovery**

1. Council Tax is levied on all eligible domestic dwellings. Non-Domestic Rates are levied on eligible business properties. The amount of Council Tax levied is

dependent on the Council Tax band that the property falls into and the amount of tax to be raised. The amount of Non- Domestic Rates is dependent on the rateable value of the property and the rates poundage.

2. The full rate of tax is liable to be paid unless the property, owner or occupier is eligible for a reduction, relief or exemption. The main reasons for reductions include empty property discounts, benefits for residents on low income, disregards, single occupancy discounts and charitable relief.
3. Council Tax and Non-Domestic Rates are payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council and its Officers to collect outstanding debts in accordance with the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 and the Local Government (Scotland) Act 1947.
4. The Council will ensure that all billing, collection and recovery action is undertaken in an economic, effective and efficient manner in accordance with legislation and best practice.
  - Demand notices and adjustment notices will be issued in accordance with regulations.
  - A recovery timetable will be drawn up before the beginning of each financial year.
  - Council Tax reminders will be issued no earlier than 10 days after an instalment has fallen due.
  - Non-Domestic Rates reminders/final notices will be issued in accordance with statute.
  - A summary warrant will be granted by the Sheriff Court if full payment has not been made in accordance with the previously issued notice.
5. Following the granting of a summary warrant the debtor will be given an opportunity to make a suitable payment arrangement. Should the debtor not make, or keep to, a payment arrangement then recovery action(s) may be taken. The recovery action(s) will be dependent on the circumstances of each individual case. Where a Charge for Payment is served the customer has 14 days to pay. If payment is not made the following diligences may apply
  - **Attachment of Earnings** - Deductions are made from the debtor's wages at a rate determined by legislation.
  - **Funds Attachment** - Attachment placed on the debtor's bank account of any funds in excess of £400.
  - **Ordinary/Exceptional Attachments** - Allows for Officers to enter a property (exceptional attachment requires prior application to Sheriff) and list items of value for possible removal and sale.
  - **Money Attachment (NDR only)** - Allows seizure of money belonging to the debtor (at business premises) in satisfaction of debt.
  - **Deductions from Income Support, Job Seeker's Allowance and Employment Support Allowance (Council Tax only)** - Deductions are made from the debtor's benefits at a rate determined by legislation.

- **Bankruptcy/Liquidation** - If sufficient assets exist to meet the outstanding debt the Council may petition for Bankruptcy/Liquidation.
  - **Inhibition Order** - Prevents debtor from selling any property prior to payment of outstanding debt.
6. All taxpayers and ratepayers will be treated fairly and equitable, and with understanding, dignity and respect, and any activity will be consistent with the Council's equalities policy.

### Appendix (iii) Council Tax and NNDR Court Costs and Fees Policy

1. Considerable costs are incurred to recover sums due from defaulting Council Taxpayers and Non-Domestic ratepayers. The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 and the Local Government (Scotland) Act 1947 empower the Council to recover reasonable costs from defaulters with the approval of the Courts. The Council has no discretion in the level of Court costs which are governed by legislation.

2. The following scale of costs is applicable with effect from 30 June 2021.

#### Sheriff Officer Recovery

Sheriff Officer Recovery Stage Costs	£
Summary Warrant	74.00
Charge for Payment	86.03
Additional Copy	19.41
Bank Arrestment	88.28
Earning Arrestment (inc Postage outlay)	64.57

#### Bankruptcy Proceedings

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

Fixed Costs (in accordance with statutory scale of fees and charges currently in force)	£
Court Fee – payable on filing of petition (non-refundable)	120.00
A.I.B. fee	150.00
Additional A.I.B. fee, where no I.P. has been appointed	300.00

Service fee	81.16
Solicitor's fee – presenting petition	195.00
<b>Variable Costs</b> (to be claimed in the bankruptcy)	
Actual costs incurred for additional matters e.g. Counsel's opinion, additional legal representation, etc.	variable

All costs may be claimed in the bankruptcy.

## **Appendix (iv) Sundry Debt Policy**

### **Overview**

1. This Policy covers the collection of customer accounts and sundry debt due to The City of Edinburgh Council. It is the Council's aim to recover all collectable debt owed to it and this Policy aims to:
  - maximise the collection of the Council's income;
  - reduce the time taken to collect charges;
  - reduce the level of debt owed to the Council and its provision for bad debts;
  - reduce the incidence of debt that cannot be collected;
  - raise service awareness of the importance of prompt debt recovery; and
  - tackle any non-payment culture amongst customers.
  
2. This Policy supports these aims by:
  - making recovery activity more efficient by prioritising debt collection;
  - ensuring invoicing procedures are carried out on an accurate and timely basis; and
  - encouraging debtors to pay promptly.

### **Key Principles of Fees and Charges**

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

### **Billing and Invoicing**

4. The Service responsible for raising the invoice must ensure that the evidence of the service provided is fully validated and that the invoice is accurate and contains sufficient detail for both billing and recovery purposes. It is the responsibility of the originating Service to ensure that the correct billing details are collected. Any invoice discrepancies must be treated as a service priority to prevent unnecessary delays in payment.

5. Services are responsible for the raising of invoices in respect of the goods and/or services they supply on credit. Information for the invoice will be determined by the service provided but will potentially include:

- Customer's full name(s)
- Customer's full address(es), including postcode(s)
- Customer's contact telephone number(s)
- Date of supply
- The Council's VAT registration number
- Purchase order number (where applicable)
- Full description of the service/goods provided
- Amount due
- VAT amount
- Total due
- Financial code
- Originating Service
- Certification

6. All invoices must be raised timeously and to a correctly named legal entity. In the event of non-payment, legal action cannot be taken against a non-legal entity. Legal entities are:

- Individuals (over 18 and with sufficient capacity to contract)
- Sole Traders
- Partnerships (including those with Limited Liability)
- Limited companies
- Charities limited by guarantee
- Incorporated Scottish Charities
- Clubs run by a committee
- Trustees
- Executors or Personal Representatives

7. An invoice should not be raised:

- where the charge is not known in advance;
- when it cannot be proven that the goods and/or services have been supplied;
- when the amount due has previously been paid; and
- where an invoice for the same goods or service has already been raised.

**Payment Terms – applies to all categories of sundry debt (including Edinburgh Shared Repairs Service but excluding legacy Statutory Notice-related debt and Mixed Tenure Improvement Service)**

8. The Council will collect monies owing to it fully and promptly. Where invoices are raised payment will typically become due after 28 days. Payment terms will only

be considered where the customer is not able to settle the debt in full in one payment.

9. The Council will consider an interest-free instalment plan if the debt is settled within three months of becoming due. Any instalment plan longer than three months will attract interest at the court approved rate. The Council's maximum instalment term is 48 months. Where the Council secures a court decree interest will immediately be applied to the principal debt at the court approved rate.
  
10. The Accounts Receivable Team will set up and monitor all payment arrangements. Payment terms will be withdrawn if a debtor fails to honour the agreement.

### **Payment terms – legacy Statutory Notice-related debt**

11. While the above terms relate to all other categories of sundry debt, it is recognised that the often-substantial sums relating to legacy statutory notice works (i.e. those initiated prior to April 2011) require particular attention. In order to spread the cost over a more manageable period and set the interest rate at such a level as to maximise overall collection rates, the following terms will apply:
  - (i) A three-month interest-free instalment plan will be offered to all property owners in receipt of a legacy statutory notice-related invoice as defined above;
  - (ii) Payment plans in respect of statutory notice-related works will be based on the combined debts outstanding for individual property owners as follows:
    - owners with total debts of up to £5,000 will be offered a payment plan of a maximum of four years;
    - owners with total debts of between £5,000 and £10,000 will be offered a payment plan of no longer than seven years and
    - owners with total debts of more than £10,000 will be offered a payment plan of a maximum of ten years.
  
12. In accordance with the Scheme of Delegation, the Head of Finance will review all relevant factors in determining the interest rate to be applied to legacy statutory notice-related debt; in order to provide greater certainty, this rate will remain fixed for the full period of repayment.
  
13. In exceptional circumstances the Council may consider offering a legacy Statutory Notice- related debtor the option of being made subject to a voluntary inhibition. At

the time any offer is made, the Council will advise the debtor that legal advice should be sought in this regard.

### **Payment terms – Mixed Tenure Improvement Service**

14. New Mixed Tenure Service - While the above terms relate to all other categories of sundry debt, except for legacy Statutory Notice-related debt, it is recognised that the new service will increase support to customers by extending debt repayment terms.

The scale of essential mixed tenure repairs and investment required to common areas of mixed tenure blocks is substantial. The Council's Mixed Tenure Improvement Service (MTIS) will use the Tenement Management Scheme (TMS) to reach majority decisions so that repairs can be carried out to shared areas of mixed tenure blocks. The aim is to engage with owners to help them to meet their responsibilities to carry out and pay for repairs and investment in their homes. The potential option to spread the cost of debt over a more manageable period and will support this. This option will not be available to private landlords. To do this, the following terms will apply:

- (i) A three-month interest-free instalment plan will be offered to all property owners participating in the HRA Capital Programme essential mixed tenure repairwork;
- (ii) Payment plans in respect of HRA-led Capital Programme essential mixed tenure repair work will be based on the total combined MTIS debts outstanding for individual property owners as follows:
  - owners with total MTIS debts of up to £5,000 will be offered a payment plan of a maximum of four years;
  - owners with total MTIS debts between £5,000 and £7,000 will be offered a payment plan of no longer than seven years; and
  - owners with total MTIS debts of more than £7,000 will be offered a payment plan of a maximum of fifteen years.

15. In accordance with the Scheme of Delegation, the Head of Finance will review all relevant factors in determining the interest rate to be applied to HRA-led Capital Programme essential mixed tenure repair-related debt. In order to provide greater certainty, this rate will remain fixed for the full period of repayment.

16. In exceptional circumstances the Council may consider offering an HRA-led Capital Programme essential mixed tenure repair-related debtor the option of being made subject to a voluntary inhibition. The Council will advise the debtor that financial and legal advice should be sought in this regard.

### **Accounting Arrangements**

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

### **Recovery**

19. The revised recovery process for the majority of sundry debts is outlined below:
- A **final notice** will be sent for all invoices unpaid usually after one day past the due date (15 days from date of invoice)
  - If after a further 14 days the invoice is unpaid, a **pre legal letter** (letter before claim) will be issued (30 days from date of invoice)
  - After a further seven days, if the invoice is still unpaid, the Accounts Receivable Team may commence **legal action to recover the debt** (37 days from date of invoice)
20. At any time after the issue of a final notice the Accounts Receivable Team may refer the debt to a debt collection agency. Payment arrangements will then be made directly with that agency.
21. A number of other debt types such as supported accommodation and care in the home charges have an extended recovery process. This reflects the nature of the debt:
- A **final notice** will be sent for all invoices unpaid usually after one day past the due date (day 43 from date of invoice)
  - If after a further 21 days the invoice is unpaid, a **pre legal letter** (letter

before claim) will be issued (65 days from date of invoice)

- After a further 21 days if the invoice is still unpaid, the Accounts Receivable Team may commence **legal action to recover the debt** (86 days from date of invoice)

22. At any time after the issue of a final notice the Accounts Receivable Team may refer the debt to a debt collection agency and further action will be agreed with the service.
23. The Accounts Receivable Team must attempt to trace any debtors who have absconded and where appropriate use external agents to do so.
24. Recovery action may be halted at any part of the process if the debtor enters into suitable payment terms with the Accounts Receivable Team to clear the debt by instalments within a reasonable timeframe.
25. Recovery action may be halted at any time if the originating Service decides that it is not in the best interests of the Council e.g. for at-risk service users. When this happens the Accounts Receivable Team will arrange to raise a credit note to cancel the charge.
26. Further requests for goods or services should be reviewed by services where outstanding or repeat debts exist. This will be for each Service to determine e.g. school lets service withdrawn following non-payment of three invoices.

### **Queries and Disputes**

27. If a charge is disputed the Service must notify the Accounts Receivable Team immediately to prevent the recovery process continuing. All disputes must be resolved by the Service within 90 days of the invoice being raised and the Accounts Receivable Team notified of the outcome.
28. Where disputes are not resolved within this timeframe the Accounts Receivable Team will place the invoice on suspend or hold. The Service is then responsible for resolving the issue and updating the Accounts Receivable Team.

### **Legal action**

29. Legal action will be taken where a debt collection agency fails to collect the amount due or where a decision is made to pursue the debt in the Sheriff Court.
30. Single or multiple recoverable debts up to £5,000 will be considered for action through the small claims court by the Accounts Receivable Team. All recoverable debts over £5,000 will be considered for Sheriff Court action by the Accounts Receivable Team.

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

### **Credit Notes**

32. A credit note to cancel or reduce a debt must only be issued to:

- correct a factual inaccuracy;
- correct an administrative error;
- cancel an invoice where a dispute has not been resolved in the specified time; or
- adjust the amount of debt due

## **Write-offs**

33. A review will be undertaken to assess the recoverability of debt outstanding on a monthly basis. The following factors will be considered in the review:

- the type of debt;
- how long it has been unpaid; and
- the history of the debt since it was raised.

34. Where these factors suggest that the debt may not be recovered, a provision will be raised against the balance and a charge will be made against the service to more accurately reflect the financial position of the Council. In the event that the income is collected at a future date, an adjustment will be made to the service to reflect the recovery. Write-offs will be charged to individual service budgets.

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

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

## **Monitoring**

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

## **Appendix (v) Housing Benefit and Council Tax Benefit/Reduction Overpayment Policy**

### **Overview**

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

### **Calculation and Classification**

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

- maximise accuracy;
- ensure that uncashed Rent Allowance cheques are stopped to reduce the overall overpayment; and
- reduce the total overpayment through application of the underlying entitlement provision.

## Notification

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

## Recovery

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

that was available to any person affected and from whom recovery may be sought; and

- whether the overpayment was caused by fraudulent activity.

8. When considering the maximum amount that shall be deducted from ongoing entitlement, the amount shall be determined in accordance with the Housing Benefit and Council Tax regulations and any specific earnings or income disregards.

## **Write-Offs**

9. In certain circumstances the Council will give consideration to the non-recovery of overpayments and the subsequent write-off of the debt. The circumstances in which this consideration will be applied are as follows:

- where the recovery of the overpayment will cause undue hardship; and
- where the recovery process has been exhausted and/or there are no realistic prospects for recovery.

10. In considering a debt for write-off the following stipulations will be applied:

- each case will be considered on the merits of the individual's circumstances;
- each request will be supported by relevant documentation;
- each case will receive authorisation from the appropriate authorised officer;
- financial authorisation limits will be set for authorised officers by the Customer Manager;
- appropriate records of all authorised write-offs will be maintained; and
- relevant Financial Regulations, operational procedure and guidance will be followed in all cases.

## **Monitoring**

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

## Appendix (vi) Parking Charges and Bus Lane Charges Recovery

1. In the case of parking and bus lane charges a Notice to Owner is sent to the registered keeper advising that payment is due within 28 days. Should payment not be received within this timescale the debt is increased by £30.00 and a Charge Certificate is issued.
2. Following the issue of a Charge Certificate the customer has 14 days to settle the debt before it can be passed to the Sheriff Officer for collection. The Charge Certificate has the same status as an extract registered decree and contains authority for immediate enforcement by officers of the court.
3. The council works proactively with relevant agencies to recover penalties from overseas drivers.
4. The Sheriff Officer has the authority under legislation to collect debt by:
  - **Attachment and auction of effects** (usually vehicle) owned by debtor.
  - **Attachment of Earnings** – deductions are made from the debtor's salary at a rate determined by legislation.
  - **Attachment of Bank Account** – Funds may be attached from Debtor's bank account.
  - **Money Attachment** – Allows seizure of money belonging to debtor at business premises.
  - **Bankruptcy/Liquidation** – The Council may petition for bankruptcy/liquidation to meet the outstanding debt.
  - **Inhibition Order** – Prevents debtor from selling any property prior to payment of outstanding debt.
5. If, at any stage the charge is disputed the case will be put on hold until the matter is resolved. The target for resolution is within 15 working days.

### Monitoring and Write-off of Parking and Bus Lane Charges

6. All actions regarding debt recovery for Parking and Bus Lane Charges are recorded on the Parking system. The system produces reports of monies collected by type, reason, payment date and amount. Reports can also be produced to verify write-off and cancellation reasons. These reports are used for monitoring and audit purposes.
7. The Parking Operations Manager, Head of Place Development and Planning and Transport Specialist Service Manager – Roads Network have delegated authority to write off any debt related to unenforceable cases.

8. The Parking Services Team have authority to write off debt in the following circumstances:

- Bailiff Activity Ceased
- SO - Gone Away
- SO - No Money No Assets
- SO – Unenforceable
- SO – Out with Jurisdiction
- SO – Unable to Trace
- Foreign Debt - Uncollectable
- Foreign Vehicle
- Foreign Driver
- Overseas Hirer
- Company Liquidated
- Deceased
- Diplomatic Vehicle
- No Trace DVLA
- Time Expired
- Unable to Trace
- Vehicle Driven Away
- Vehicle Released from Pound
- Vehicle Disclaimed at Pound
- Reduced Amount Accepted (Part Payments)
- Small Balance Write Off

## **Appendix (vii) Pay Policy**

### **Appropriate practices and controls**

1. This policy sets out our practices and controls for pay transactions. It is critical for these to be in place in order for employees to receive the correct pay within the timescales outlined. To achieve this our approach is preventative by taking steps to reduce the possibility of errors occurring in the first instance.
2. The main reason for pay errors is late, incorrect or incomplete submission of information. It is therefore critical that correct information is submitted to payroll by the cut-off dates, which are clearly communicated and are available on the Orb. It's the responsibility of both employees and line managers to make sure this happens accurately and on time.

### **Roles and responsibilities**

3. The following outlines the key roles and responsibilities of those involved in making sure employee pay is correct and paid on time:

#### **Employees are responsible for:**

- Checking their payslip each month to ensure the salary is correct. Any anomalies should be brought to the attention of the line manager immediately.
- Ensuring any claims for additional payments (e.g. overtime or travel expenses) are correctly submitted in the month they're due to be paid. Claims cannot be banked and saved for a later date; they must be submitted in the month they are due to be paid. Where these have been banked, out with exceptional circumstances, this will be investigated, payment may be delayed, and it may trigger performance improvement or disciplinary action.
- We expect all employees to act in good faith where they identify an overpayment, by reporting it and working with us to resolve the issue. Failure to act in good faith is a serious matter that could lead to disciplinary action.

#### **Line Managers are responsible for:**

- Ensuring that any information relating to a change in an employee's salary is submitted to HR before the payroll deadlines stated on the Orb.
- Contacting AskHr immediately should an urgent change occur at short notice

after the pay deadline.

- Monthly monitoring of their budget, paying particular attention to starters, leavers and employees who have changed their working hours or pay. Any changes should be visible in salary payments. If not, this should be investigated as a priority.
- Where a pay error is deemed to have come about because of a service area's failure to meet deadlines (when they could have reasonably done so) a re-charge of £150 will be levied against the service area for each instance.

## Human Resources are responsible for:

- Correctly actioning changes that affect pay in line with legislative changes, nationally or locally agreed changes and payroll deadlines and contacting line managers where an error in pay has been identified.

## Principles of recovering an overpayment

4. Where an overpayment has been made in error, regardless of how this occurred, the amount will be recovered. The employee must not spend the overpayment and should contact AskHr immediately to arrange the return of the overpaid amount. We do recognise that there are some occasions where the recovery of a salary overpayment can be distressing, and this will be taken into consideration when arranging to recover the overpayment if the employee has already unknowingly spent the money.
5. To ensure there's a fair and consistent approach to the recovery of salary overpayments, we will apply the following principles:
  - Normally there will be one pay period at "normal" pay between discovery and correction of the overpayment. This will give our employee an indication of their correct pay entitlement and enable Payroll to ensure that the correct adjustments have been made.
  - Where there's a single overpayment of a large amount, and it's obvious and reasonable to expect that the employee was aware of the overpayment, recovery will normally be immediate and in full.
  - Where an overpayment is discovered as an employee is about to leave the organisation, the overpayment will be recovered in full immediately. Where there remains an outstanding balance the repayment schedule set out below will be followed. Where an employee has already left and fails to follow the repayment schedule, the Corporate Debt Policy recovery procedure will be triggered.
  - Out with the above exceptions, the following repayment schedule will typically be applied:

Overpayment amount as a % of basic contractual monthly salary*	Repayment period (following the one "normal" pay period)
0 to 20%	1 month
20 to 30%	2 months
30 to 40%	3 months
40 to 50%	4 months
50 to 60%	5 months
60 to 70%	6 months
70 to 80%	7 months
80 to 90%	8 months
90 to 100%	9 months
Over 100%	10 months

\*Currently gross for existing employees and net for those who have left our employment.

- In exceptional circumstances, it may be determined as part of the debt recovery process that recovery of overpayments might not be pursued. Such situations will be approved, on a case by case basis, in line with our scheme of delegation. This decision will consider:
  - Whether genuine financial hardship, as opposed to inconvenience, will be caused if the debt has to be repaid within the normal timescale;
  - Whether the employee acted in good faith; and
  - Any additional information provided by the employee to support their case.

## **Underpayment**

**s**

**Contractual**

**pay**

6. If an underpayment is identified, employees and line managers must log the query via AskHr as soon as the issue is identified.
7. Where an employee has received no pay, or less than their contractual pay, then normal practice will be to resolve underpayments within 1-2 working days. This includes cases that have been identified and evidenced as unlawful deduction of wages. There may be occasions where small amounts are scheduled in the next pay run in agreement with the employee.

**Non-**

**contractual**

**pay**

8. Where a line manager or employee fails to submit a non-contractual claim (such as expenses or overtime) by the required deadline, or the information submitted is incorrect or incomplete, this will be paid in the next scheduled pay run.

## **Taxation**

9. HM Revenue and Customs accept that, for current employees, overpayments that occurred in the previous tax year can be dealt with as if they arose in the current tax year, provided any payments are in accordance with current tax and National Insurance legislation.

10. There could be losses or gains for employees, depending on any

changes in income tax, National Insurance, pension regimes or the tax coding from year to year. The value of these losses or gains is, however, unlikely to be significant in most cases.

11. Overpayments that have taken place wholly or partly in a previous financial year or years will be treated as if they occurred in the current year.
12. Employees need to contact HM Revenue & Customs for information relating to their own personal circumstances, as HR are not able to offer advice on such matters. Tax codes can only be amended when the Council is informed to do so by HMRC.

## **Appendix (viii) Methods of Payment**

1. The Council is committed to providing a wide range of payment methods for its customers. These methods will offer flexibility through online, contact centre and face to face engagements while also promoting the Council's objective to operate accurately, consistently and efficiently.
2. In order to minimise the cost of collection the Council will actively promote low cost payment options such as Direct Debit. The following main methods of payment will, however, be offered/accepted:
  - Direct Debit (the preferred method)
  - Debit card/Credit Card (for specific services)
  - Online
  - Touchtone telephone using a debit or credit card.
  - Standing Order
  - BACS/CHAPS
  - Cheque
  - "Allpay" facilities at shops and outlets across Edinburgh
3. Invoices raised by the Council will be clear and wherever possible include a barcode to facilitate easy payment. Instalment plans, payment dates and any relevant interest will be communicated clearly.
4. The Council will adopt best practice payment approaches to facilitate, authenticate and, where possible, automate payments from the customer to the relevant Council account. The Council will not make outbound payment calls for any Council services.

5. This Policy aims to:

- promote a range of payment methods that are relevant to the customer;
- allow customers to make payments outside of office hours;
- standardise payment methods; and
- enable efficiency savings through rationalisation and process improvement.

## Appendix (ix) Write-off Policy

### Overview

1. An integral part of debt recovery is the effective management of outstanding debts. The Council will normally consider debts owed as being recoverable, however, it is good accounting practice to identify and write-off irrecoverable debts. This ensures the Council uses its resources in an efficient manner and supports strategic financial planning.
2. Debts will only be considered for write-off when every possible recovery process has been exhausted and the debt remains outstanding. Debts will also normally only be considered for write-off where the account is “closed” (i.e. no recurring debt). Only in exceptional circumstances will amounts on “live” (i.e. on-going accruing debt) accounts be considered. Such cases must demonstrate that further recovery action will not achieve collection of the debt
3. The Council will also consider the specific circumstances of the debt and the debtor to ensure the Council’s financial position is balanced against relevant factors such as anti- poverty issues, economic considerations and official error. This review will ensure that debt recovery actions are in the public interest.
4. It is not possible to list every scenario that may make a debt suitable for write-off, however, Appendix 9A shows the main reasons why debts become irrecoverable. Not all categories will be relevant to all debt types, and the specific reasons for write-off will be determined by the nature of the debt e.g. sequestration is *generally* not considered to be an appropriate action in relation to miscellaneous and sundry debt.
5. This Policy applies to all Council debt types, including service debts such as statutory notices, care charges, premises hire, etc. All write-offs will be carried out in accordance with the principles outlined within the Council’s Financial Regulations as supplemented by the Finance Rules. A record will be kept of all relevant decisions and the reasons for them.
6. Certain officers have authority to write off debts as set out in the Scheme of Delegation. Where a Director or senior officer has authority to sub-delegate the power to write-off debts to other relevant officers under the Scheme of Delegation, any such sub-delegation that relates to the write-off of debt must be formally recorded with the Head of Finance.

## **Write-off Practices – Specific Debts**

7. The following sections consider write-off levels and responsible officers for specific debt types. If a debt category is not specifically referenced then it will be governed by the write-off arrangements for service/sundry debt, as detailed below.
  
8. Officers' write-off levels are determined by the nature of the debt. For example, higher write-off values are applied to Non-Domestic Rates debt due to the value of the bills involved. Write-off values for debts such as Council Tax and service and miscellaneous

debts are considerably lower, and this again reflects the debt levels involved. These values enable services to run in an efficient manner, whilst also ensuring write-offs are subject to appropriate senior management and councillor scrutiny.

9. The Executive Director of Resources and the Head of Finance may write-off Housing/Council Tax Benefit/Reduction overpayments of up to £3,000 in any case where all possible recovery has been attempted and recovery is not in the Council's best interests. In addition, the identified officers can write off any amount where the debtor is in liquidation, and a suitable claim has been made, the debtor cannot be traced, or the debtor is deceased and there are no funds in the estate. The Executive Director of Resources and Head of Finance may furthermore write off service debts of up to £3,000 in cases where all possible recovery action has been attempted.
10. With regard to Non-Domestic Rates, Community Charge, Council Tax and sundry debts, the Executive Director of Resources and the Head of Finance may write off:
  - any balances claimed in liquidation or sequestrations where a suitable claim has been made, where the debtor cannot be traced or where the debtor is deceased and there are no funds in the estate;
  - other debts up to £3,000; and
  - all Community Charge debts in line with national legislation.

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

11. Bulk write-offs will only be used to process accounts that have are subject to sequestration and the Council has made the relevant claim.
12. The Executive Director of Resources and the Head of Finance may authorise other senior officers to write off the debts set out in paragraphs 10 and 11 above in accordance with the Scheme of Delegation to Officers. Examples of the officers to whom the Executive Director of Resources and the Head of Finance may delegate authority are as set out in Appendix 9B. This list is not exhaustive.
13. The Executive Director of Place is responsible for the collection of rents for Council housing and accounting thereafter to the Executive Director of Resources. The Executive Director of Place may write off arrears balances of former tenants of Council housing of up to £1,000. The Executive Director of Place may sub-delegate this power to other senior officers in accordance with the Scheme of Delegation. Write-offs over £1,000 are reported to the Finance and Resources Committee for approval on a regular basis.

14. The Chief Officer of the Edinburgh Health and Social Care Partnership, and officers to whom they sub-delegated authority in accordance with the Scheme of Delegation, may authorise the following write-offs:

- incorrect assessment brought to light at a later date (the power to write-off debts in these circumstances where the debt is in excess of £5,000 must not be sub-delegated to any officer other than the Chief Performance and Strategy Officer or Chief Social Work Officer);
- service user has died and there is no money in the estate (the power to write-off debts in these circumstances where the debt is in excess of £5,000 must not be sub- delegated to any officer other than the Chief Performance and Strategy Officer or Chief Social Worker);
- service user cannot be traced (the power to write-off debts in these circumstances where the debt is in excess of £5,000 must not be sub-delegated to any officer other than the Chief Performance and Strategy Officer or Chief Social Worker);
- service dispute where a complaint has been upheld (the power to write-off debts in these circumstances where the debt is in excess of £5,000 must not be sub-delegated to any officer other than the Chief performance and Strategy Officer or Chief Social Worker); and
- social reasons e.g. service user has spent money due to mental health issues and has no funds to pay bills (the power to write-off debts in these circumstances where the debt is in excess of £3,000 must not be sub-delegated to any officer other than a Locality Manager.

The write-off of debts in excess of £5,000 will be made in consultation with the relevant convener or vice convener. A record of any charges written off will be kept by the service and reported to the Finance and Resources Committee on an annual basis as part of normal performance reporting.

15. The Executive Director of Communities and Families, and officers to whom (s)he has sub- delegated authority in accordance with the Scheme of Delegation, may authorise write-offs on social grounds or exceptional circumstances e.g. mental health issues. The write-off of debts that exceed £5,000 will be subject to consultation with the appropriate service convener or vice-convener. A record of write-offs will be kept by the service and reported on an annual basis as part of normal performance reporting to the Finance and Resources Committee.

### **Inhibitions and Charges – Write-offs**

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

### **Monitoring and Reporting**

17. Write-off activity will be monitored on a regular basis to ensure that delegated powers are used appropriately.

18. Monthly write-off reports will be produced for sundry and miscellaneous debt and

passed to service areas for review.

19. Proposals to write off sums in excess of the identified delegated powers will be reported to the Finance and Resources Committee twice yearly for approval and scrutiny.

20. All identified values are inclusive of VAT.

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

### **Write-offs Prior to Billing**

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

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

Appendix (ix – A)

**REASONS FOR RECOMMENDING WRITE-OFF**

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

## Appendix (ix – B)

### Delegated Write-off Powers – Key Debt Types

Debt Type	Council Officer	Value
Council Tax	Senior Customer Manager/Customer Manager – Transactions (and other designated officers approved by the Director in writing)	£3,000*
Community Charge	Senior Customer Manager/Customer Manager – Transactions (and other designated officers approved by the Director in writing)	In line with national legislation
Non-Domestic Rates	Senior Customer Manager/Customer Manager – Transactions (and other designated officers approved by the Director in writing)	£100,000*
	Transactions Team Leader – Non-Domestic Rates (Revenue, Applications and People Support)	£50,000**
Housing/Council Tax Benefit/Reduction overpayment	Senior Customer Manager	£3,000
	Customer Manager	£2,000
	Head of Finance	£3,000
Miscellaneous and Sundry Debt	Corporate Finance Manager	£3,000
	Customer Manager	£3,000
	Transactions Team Manager	£1,500

\* Unlimited where debtor in liquidation or sequestrations where a suitable claim has been made, where the debtor cannot be traced or where the debtor is deceased and there are no funds in the estate. Team Managers may write off Council Tax debts of up to £10,000 in these circumstances.

\*\*Higher limits apply to the categories detailed above

### Specific Service Debt

Debt Type	Council Officer	Value
Arrears balances for former tenants of Council houses	Executive Director of Place (and authorised officers)	£1,000
Service and Care Charges	Executive Director of Communities and Families (and authorised officers)	£5,000 (in consultation with convener or vice-convener)

## Appendix (x)

### Bankruptcy Policy

#### Purpose of document

1. The Council is committed to using the most effective recovery methods available to it, and this Policy will ensure that the Council's use of sequestration (the process whereby an individual is made bankrupt) is consistent and complies with the relevant legislation and best practice.

#### Legislation and Prerequisites to Bankruptcy

2. The **Bankruptcy and Debt Advice (Scotland) Act 2014** amends and adds additional sections to the Bankruptcy (Scotland) Act 1985 to ensure access to fair and just processes of debt advice, debt relief and debt management. Qualified creditors can commence bankruptcy proceedings if a debtor is apparently insolvent, but only if the creditor has presented the debtor with a debt advice and information package under the Debt Arrangement and Attachment (Scotland) Act 2002.
3. The consequences of sequestration can be severe and can involve the loss of the debtor's home or business, and considerable legal and trustee costs. The level of costs will reflect the complexity of the matters involved, and the extent to which the debtor co-operates with the trustee administering the bankruptcy estate.
4. Bankruptcy action takes place in the debtor's local Sheriff Court with bankruptcy jurisdiction.

#### Administration

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

#### When Bankruptcy Action may be taken

6. Insolvency proceedings may arise in the following circumstances (the list is not exhaustive):
  - where the debtor is not making regular and mutually agreed payments that are sufficient to clear accruing debt and arrears within a reasonable and acceptable timescale;
  - where other methods of recovery are considered inappropriate or have failed and bankruptcy action appears to be a fair and proportionate course of action to recover from a particular debtor;

- where the debt has arisen as a result of fraud; and
- where bankruptcy action may elicit payment from specific groups of debtors, for example company directors, those for whom a bankruptcy order may affect their employment, professional status or ability to practice, self-employed people and those people needing finance.

## Decision Making

7. Prior to commencing bankruptcy proceedings enquiries will be made of the Income and Benefits Teams to:
  - i) Establish a debt history and whether any previous debts have been collected within a reasonable period by other means.
  - ii) Ensure that all known benefits, discounts and exemptions have been granted based on the information held.
  - iii) Based on information held, establish whether the debtor may be vulnerable or unable to deal with their day to day financial matters.
  - iv) Ascertain if the debtor is known to them as a result of adult care service provision and therefore may be vulnerable.
  - v) If records held and enquiries do not indicate that the debtor may be vulnerable, then enquiries may be made with a credit reference agency and the Land Registry to establish information about the debtor's financial standing and ownership of property.
  - vi) In order to assist with the decision as to the appropriateness of bankruptcy a visit will be made to the debtor's home address (and/or business address if known) to serve a written request on the debtor to pay in full, advising that bankruptcy proceedings are being considered, outlining the effect and likely high costs of bankruptcy and advising the debtor to seek independent advice. A debt advice and information package will be given to the debtor in accordance with the Debt Arrangement and Attachment (Scotland) Act 2002.
  - vii) Where payment in full cannot be made, financial information and a proposal for repayment will be requested. If payment in full is not made but financial information is provided it may result in either acceptance of a proposal for repayment, an alternative course of action being taken, or pursuing bankruptcy proceedings. The reasons for the decision will be recorded. If an officer is unable to speak to the debtor in person the written request will be left at their home address, together with details of how to contact the Council.
  - viii) In the event that the visit establishes that the debtor may be vulnerable then details of the perceived vulnerability will be recorded. Further enquiries will be made to check that council tax benefit, discounts and exemptions have been applied for, for possible referral to other agencies, and to determine an appropriate method of recovery. The debtor will be notified in writing of any decisions taken.

- ix) Where a decision is taken to commence bankruptcy proceedings a letter will be sent to the debtor setting out the decision, warning them again of the consequences and high costs of bankruptcy, advising them to seek independent advice.

### **Petition for Sequestration**

8. The Council may present a Creditor's Petition for Sequestration to the Sheriff Court within three months of the date of presentation to the debtor of the debt advice and information package. Prior to presentation of the Petition further enquiries will be made concerning adult care to establish whether the debtor has become known to them during the process, in which case the action will be reconsidered.
9. At this stage the debtor is required to pay the debt in full before the hearing of the Petition at Court otherwise the Court will be asked to make an award of sequestration. The Sheriff will cite the debtor to appear at the hearing of the Petition to show cause why sequestration should not be granted. The Council will not object to a short continuation of the proceedings if the debtor provides the Court with evidence that they will be able to pay in full within a very short period.
10. If, between the Petition being presented to the Court and the hearing of the Petition, it becomes known that the debtor does not have the capacity to deal with the matter, then full consideration will be given to seeking a continuation of the proceedings to enable both the debtor and the Council to obtain further advice.

### **Trustees in Sequestration**

11. When the Council is the petitioning creditor in a bankruptcy, they will nominate a trustee in the sequestration that is local and easily accessible by the debtor. The appointment of a local or easily accessible trustee will enable Officers to attend meetings of creditors when necessary. If a Trustee is not nominated or declines the nomination, the Court will appoint the Accountant in Bankruptcy as Interim Trustee.

## **Appendix (xi) Covid – 19 Recovery**

1. The Council appreciates that this is a difficult time for many of our residents and that the Covid-19 virus is having a significant impact on the economy.
2. The Council deferred any recovery action from March 2020 until July 2020.
3. When collection begins debts will be reprofiled and the Council will consider payments due over an appropriate period, specific to individual circumstances.
4. As a result of Covid-19 the Council has stopped receiving cash payments and has moved to contactless payments mirroring best practice of other organisations.

### **Council Tax**

5. The Council will align its recovery/re-engagement date with all Scottish Local Authorities. This will allow a consistent approach across Scotland. Recovery will commence in July 2020 and the Council will be mindful of the impact to vulnerable citizens and those still suffering the effects of Covid19.
6. Recovery options will include reprofiling the debt over a 9 month or 2-year period. Collection from July 2020 will then reprofile to either March 2021 (9 months) or March 2022 (2 years).

### **NDR Billing and Recovery**

7. Billing will commence from July 2020 for 2020/21. Recovery remains the same in line with legislation, which will commence October/November 2020. The Council will engage directly with Businesses who have not paid directly after the first direct debit run.

### **All other Debt Streams**

8. Recovery on hold and when activity recommences in October 2020, debts will be reprofiled and the council will consider payments due over an appropriate period, specific to individual circumstances.