

Suffolk County Council

Debt Recovery Policy

1. Framework

- 1.1 This policy document sets out the Debt Recovery Policy for Suffolk County Council to ensure that all sundry debts and income of the Authority are managed, administered and collected in an efficient and cost effective manner.

The effective management and collection of debt is an essential contributor to the Council's financial resource, and maximises income available to provide services.

- 1.2 The guidelines set down in this policy are discretionary and the Council shall be entitled to depart from them whenever the Council considers it justifiable, whether by reference to the Council's duty to the public purse or otherwise. This shall include (but shall not be limited to) the right to (without notice) set off any money owed to a debtor where the debtor owes money to the Council.

2. General

- 2.1 Debts older than 6 years generally cannot be recovered. Any debt older than 5 years and 9 months, which is not already subject to ongoing recovery action (e.g. negotiated instalments), should be referred immediately by the RM Income Team to the Council's legal representative in debt matters to advise on whether it can still be recovered. If the debt cannot legally be recovered, the debt will be referred back to RM Income Team to be written off in accordance with the procedure below.

- 2.2 Appointees are not liable for the debts of a person for whom they are appointee. Attorneys are not liable for the debts of a person for whom they are attorney. Deputies are not liable for the debts of a person for whom they are deputy. Any such debts should be enforced against the debtor in person, via a litigation friend if they lack mental capacity. Any further clarification can be obtained from the Head of Legal Services.

- 2.3 Where the debtor is deceased, the debt is against the debtor's estate. It should be paid from the deceased's estate by his or her personal representatives. Obtaining access to the assets in a deceased person's estate can take some time, so debts owed by deceased debtors need to be taken outside the timescales in this policy. In the case of a deceased debtor, an invoice should be raised to "The Personal Representatives of the late [name of deceased]". If within three months of this either the debt is not paid, or an update on the progress of the

administration is not received, the RM Income Team should refer the matter to the Council's legal representative in debt matters. The legal representatives will consider whether a standing search should be raised at the Probate Registry, or whether any other action is appropriate to safeguard the Council's position.

3. Documentation

- 3.1 All action taken under this Policy must be fully documented. Copies must be kept of all letters sent and received, and notes made of all telephone or other conversations. Notes must also be kept of all unsuccessful attempts to telephone debtors, including the date, time and telephone number called. When referring a matter to the Council's legal representatives, copies of all documentation should be forwarded.

4. Invoices

- 4.1 All invoices raised must be promptly issued and properly supported by documentary evidence that supports the debt.

5. Debt Chasing

- 5.1 In all cases where an invoice has been raised but has not been paid, the following steps should be taken:
- 5.1.1. If the invoice has not been paid by due date, the RM Income Team should issue a reminder letter.
 - 5.1.2. If no response or payment has been received within 21 days of the reminder letter, a final demand will be sent. This will advise the debtor of further enforcement action. It should also:
 - 5.1.2.1. provide details of how the debt can be paid;
 - 5.1.2.2. state that the debtor can contact RM Income to discuss payment options, and give contact details; and
 - 5.1.2.3. inform the debtor that free independent advice and assistance can be obtained from organisations including those listed in Appendix A.
 - 5.1.3. If no response is received to the final demand, the RM Income Team will attempt to make contact with the debtor, normally by phone. A record of any attempts to contact the debtor and of any resulting discussions will be maintained.
- 5.2 Once all of the steps at point 5.1 above have been completed, if the debt is not cleared and no communication is received from the debtor, RM Income Team should refer the matter to the Budget Manager responsible for the debt to consider the options available.

- 5.3 Where withdrawal of services will not cause undue hardship or breach a legal duty on the Council, the Budget Manager should decide whether it is appropriate to withdraw the provision of further services, where applicable, pending payment of any debt.
- 5.4 If the debtor makes contact to explain that they cannot pay the debt, instalment payments should be considered. The RM Income Team will seek agreement to payment by instalments on a monthly basis, where the instalment is at least 20% of the total outstanding debt. If the debtor indicates that this is a problem, the RM Income Team can agree a repayment period of a maximum of 12 months. If the debtor indicates that this still causes a problem, the matter will be referred to the Budget Manager to decide whether a longer payment period is acceptable in the circumstances. The Budget manager should then inform the RM Income Team of the agreed arrangements or of further action to be taken.
- 5.5 If an agreement is reached for payment by instalment, the RM Income Team should write to the debtor within 5 working days to confirm details of the instalment arrangements and that if any payments are missed then the Council will seek immediate repayment of the balance of the outstanding debt.
- 5.6 While payment by instalment is being considered, the debt chasing process should be put on hold. Where payment by instalment has been agreed, the debt chasing process should be terminated. If payment by instalment is agreed but the arrangement subsequently breaks down, the debt chasing process should be restarted.

6. Disputed Invoices

- 6.1 Where an invoice is disputed, it will be put on hold as not requiring further action until the dispute has been resolved. If the dispute is raised with the RM Income Team, the invoice should be put on hold and the matter should be referred to the Budget Manager. If the dispute is raised with the team who raised the initial invoice, the Budget Manager should inform RM Income Team and ask for the debt chasing process to be put on hold.
- 6.2 Where an invoice is disputed the budget manager should ensure:
- 6.2.1. the reason for the dispute should be clearly identified;
 - 6.2.2. every effort should be made to resolve the dispute at the earliest opportunity; and
 - 6.2.3. any obstacles to partial or full payment should be explored and resolved.

The aim should be to resolve disputes within 14 days. The dispute should be resolved between the debtor and the Budget Manager. Once the dispute has been resolved, or where no resolution is possible, the

Budget Manager should report the outcome to the RM Income Team. If the outcome is that the disputed point is not accepted, the invoice should be reinstated and the debt chasing process continued from the point at which it was put on hold. If the outcome is that the disputed point is accepted, a credit note should be raised in respect of the invoice, and if necessary a new invoice issued for the remaining part of the debt.

7. Credit Notes

- 7.1 Credit notes will be raised by the team which raised the initial invoice, and should be properly supported by documentary evidence that validates the reason for reducing or cancelling a previous amount invoiced. A credit note must be issued to cancel an incorrect invoice, before re-invoicing correctly. The appropriate Budget Manager or other suitably authorised officers must authorise all relevant paperwork or approve credit notes electronically.
- 7.2 A credit note must only be applied to, or reduce the balance of, the invoice it was raised against. A credit note must not be used as a method to write off debt, as it is primarily a means of adjusting the value of a debt for valid and agreed reasons e.g. the initial value of the debt raised was incorrect.

8. Returned Invoices

- 8.1 Where an invoice is returned by Royal Mail stating 'gone away', 'undelivered' or 'addressee not known', the RM Income Team should suspend any recovery action and refer the invoice to the appropriate budget manager who shall take the following steps:
 - 8.1.1. Attempt should be made to contact the debtor to obtain an up-to-date address and, having amended the debtors address details in the corporate financial system, re-issue the invoice to the correct address. The RM Income Team shall be notified of such action to enable recovery action to be instigated should the debt remain outstanding.
 - 8.1.2. Where contact cannot be made with the debtor the Budget Manager shall decide on the further action to be taken, e.g. write off of the debt or referral of the debt to the Council's legal representatives to attempt to locate the debtor. The Budget Managers cost centre will bear the cost of any charges incurred in locating the debtor.
 - 8.1.3. Where withdrawal of a future service will not cause undue hardship or breach a legal duty on the Council, the Budget Manager should decide whether it is appropriate to withdraw the provision of further services pending payment of the debt.

If the debtor has not been located following this process, the matter should be considered for writing off in accordance with paragraph 12 below.

9. Interest and Debt Recovery Costs

- 9.1 Where appropriate in relation to commercial debts, the Council will exercise its statutory entitlement to interest and compensation for debt recovery costs under the Late Payment of Commercial Debts Regulations 2002, if payment does not meet the agreed Terms and Conditions.

10. Recovery Action

- 10.1 When a debt has been referred to the Budget Manager under paragraph 5.2 above, the Budget Manager should provide any further information which may assist with recovering the debt. If no such further information is available for debts in excess of £250 the budget manager will, after having regard to the value of the debt, decide whether legal action should be pursued or recommend that the debt should be written off. The budget manager will be responsible for funding any legal costs/fees that result from any legal action taken which cannot be successfully recovered from the debtor.
- 10.2 If the legal representative returns the debt as unable to be collected, the RM Income Team should refer the matter back to the relevant Budget Manager for consideration of write off of the debt.
- 10.3 Where recovery is completed by the legal representative, RM Income Team should update the records to reflect this.
- 10.4 Where a case has been passed to the Council's legal representatives for collection and a payment is received directly from the debtor, RM Income Team should ensure that the legal representative is notified, and update the records accordingly. Where this payment partially settles the debt, RM Income Team should refer the matter to the relevant Budget Manager to consider whether to continue with enforcement action. Where this payment settles the debt in full, RM Income Team should inform the relevant Budget Manager.

11. Bad Debt Provision

- 11.1 The Director of Resource Management must ensure there is adequate provision for Bad Debts, in accordance with CIPFA Code of Practice on Local Authority Accounting in United Kingdom – A Statement of Recommended Practice.

12. Writing Debts Off

- 12.1 Where the value of a debt is not more than £250 and either

- 12.1.1. the debtor has absconded and cannot be traced;
- 12.1.2. the debtor is bankrupt
- 12.1.3. the debtor is in prison
- 12.1.4. the debtor is deceased and the full value of the debt cannot be recovered from the estate of the deceased;
- 12.1.5. the debtor is a company, and is in liquidation;
- 12.1.6. on the advice of the Council's legal representative or Counsel the debt is irrecoverable;
- 12.1.7. the cost of further debt recovery action is deemed not to be cost effective;

the RM Income Team may take action to write off the debt, provided they are satisfied that the procedures in this Policy have been followed. The Budget Manager will be notified of such action being taken.

- 12.2 Where the procedures in this Policy have been followed and either:
 - 12.2.1. the value of a debt is more than £250 but not more than £10,000;
 - 12.2.2. the debtor has absconded and cannot be traced;
 - 12.2.3. the debtor is bankrupt
 - 12.2.4. the debtor is in prison
 - 12.2.5. the debtor is deceased and the full value of the debt cannot be recovered from the estate of the deceased;
 - 12.2.6. the debtor is a company, and is in liquidation; or
 - 12.2.7. on the advice of the Council's legal representative or Counsel the debt is irrecoverable;the RM Income Team may, on receiving a recommendation from the Budget Manager, write off the debt.
- 12.3 Where a debt falls within section 12.2 above and no instructions have been received from the Budget Manager, the RM Income Team will notify the Budget Manager and request a recommendation for write off or new information or instructions which will enable debt recovery action to be resumed. Where no such recommendation, information or instructions are received within 21 days of the request being made, the debt will be written off, and the Budget Manager will be notified.
- 12.4 Where a debt does not fall within section 12.2 above, and the Budget Manager recommends to the RM Income Team that the debt be written off, the RM Income Team will refer the matter to the Director of Resource Management. The Director of Resource Management will, in consultation with the appropriate Director, report the debt to Cabinet to obtain approval for write off.
- 12.5 Where a debt does not fall within section 12.2 above and no instructions have been received from the Budget Manager the RM Income Team will notify the Budget Manager and request a recommendation for write off or new information or instructions which will enable debt recovery action to be resumed. Where no such recommendation, information or instructions are received within 21 days of the request being made, the RM Income Team will refer the matter to the Director of Resource

Management. The Director of Resource Management will, in consultation with the appropriate Director, report the debt to Cabinet to obtain approval for write off. Recommendations will be made by RM Income Team on a quarterly basis.

- 12.6 Where a debt is written off, the RM Income Team will carry out the appropriate action in the Council's corporate financial system to charge back any write off values to the General Ledger code which the debt was originally credited to unless otherwise agreed with the Director of Resource Management.
- 12.7 A record of all sums written off will be maintained by the RM Income Team, on behalf of the Director of Resource Management, along with supporting documentation.
- 12.8 The debtor remains liable to pay even after a debt has been written off. Therefore, if the debt has been written off and a further instalment is received, RM Income Team should reinstate the debt if any part of it remains unpaid. The debt should then be referred to the relevant Director for consideration of further enforcement action of the remainder.

APPENDIX A

Organisation	Telephone Number/website
National Debtline	FREEPHONE 0808 808 4000 www.nationaldebtline.co.uk
Consumer Credit Counselling Service (CCCS)	FREEPHONE 0800 138 1111 www.cccs.co.uk
Citizens Advice	Check your local Yellow Pages or Thomson local directory for telephone numbers www.citizensadvice.org.uk
Community Legal Advice (formerly Community Legal Services Direct)	0845 345 4345 www.clsdirect.org.uk