

# Write-off procedures



## 1. Council tax, business rates and sundry debts

- 1.1 In accordance with the Council's constitution, the Director for Finance and Commissioning and the Cabinet member for Cabinet Member for Finance and Commissioning.
- 1.2 Write-off of a debt is only used where all available collection processes have been attempted or considered, or there are other circumstances. Other circumstances would be:
- Debtor deceased
  - Insolvency
  - Ceased trading with no assets
  - Absconded with no trace
  - Remitted by the courts
  - Statute barred
  - Uneconomical to pursue
  - Financial hardship
  - Age of debt
- 1.3 Where these circumstance change, such that it is possible to recover some or all the debt, then the debt will be written back on.
- 1.4 Write-offs can be split into two categories, mandatory write-offs and discretionary write-offs.
- 1.5 The recovery and write-off provisions for approval are as follows:

Mandatory write-off		
Insolvency		
Category	Action	
	Under £75,000	Over £75,000
Bankruptcy (Personal)	Complete and return proof of debt, submit for write-off	Complete and return proof of debt, submit to committee for write-off
Liquidation (Corporate)	Complete and return proof of debt, submit for write-off	Complete and return proof of debt, submit to committee for write-off
Voluntary Arrangement / Administration Order (personal)	Complete and return proof of debt, submit for write-off	Complete and return proof of debt, submit to committee for write-off
Company Voluntary Arrangement	Complete and return proof of debt, submit for write-off	Complete and return proof of debt, submit to committee for write-off
Administrative Receivership (Corporate)	Complete and return proof of debt, submit for write-off	Complete and return proof of debt, submit to committee for write-off
Ceased trading with no assets	Evidence gathered, submit for write-off	Evidence gathered, submit to committee for write-off

<b>Mandatory write-off</b>		
<b>Other circumstances</b>		
<b>Category</b>	<b>Action</b>	
Custodial Sentence served in respect of debt (Committal Local Taxation only)	Submit for write-off	Submit to committee for information purposes only and write-off as directed by court
Debtor deceased, estate insolvent (personal)	Obtain written confirmation from executor and submit for write-off	Obtain written confirmation from executor and submit to committee for write-off
Remitted by Courts (Committal Local Taxation only)	Submit for write-off as directed by court	Submit to committee for information purposes only and write-off as directed by court

<b>Discretionary write-off</b>		
<b>No known forwarding address</b>		
All debts up to £1.00	Submit for write-off	
£1.01 - £75,000	Apply trace procedures. Consider use of tracing agent, submit for write-off	
£75,001 +	Apply trace procedures. Consider use of tracing agent, submit for write-off. Submit to committee for write-off.	
<b>Known forwarding address</b>		
All debts up to £1.00	Prior to annual billing all debts submitted for write-off	
£1.01 - £50.00 Closed account	Recovery process to final notice, small balance letter sent. Submit for write-off	
£51 - £200 Closed account	Recovery process to enforcement agent action. Final letter sent. Apply trace procedures. Debt remains outstanding submit for write-off	
<b>Other circumstance</b>		
Inappropriate to continue enforcement due to persons known personal or financial circumstances	Prior to further recovery action consider each individual case regarding health, finances, age etc and submit for write-off	
Debt cannot be legally enforced	Submit for write-off	
Age of debt – over 6 years	Recovery process to committal stage. Apply trace procedures. Debt remains outstanding, submit for write-off.	

1.6 A closed account is where the person or business no longer occupies a property.

## 2. Tax-payer deceased

2.1 There are cases where the debtor has died leaving an amount of debt outstanding. Where the debt is joint and several with a surviving charge payer, the surviving charge payer will be pursued for the debt. In all other circumstances the debtor's estate will be billed, however, where there is no estate the debt will be submitted for write-off.

## 3. Insolvency

3.1 The Insolvency Act 1986 & 2000, further amended by the Enterprise Act 2000 governs the actions which can be taken against a debt once a debtor has become insolvent. Insolvency can include being made bankrupt, Liquidation, Administration, Individual Voluntary Arrangements and Company Voluntary Arrangements and Administration Orders. Where insolvency prevents further action the debt will be submitted for write-off. In all cases of Insolvency the debt will be submitted for write-off. If a dividend is paid, this will be written back on to the account.

## 4. Ceased trading with no assets

4.1 A company which has ceased trading as it no longer has the money to carry on business and has no assets is effectively insolvent. Once a company has been "struck off" by Companies House they have no legal identity and recovery action cannot be taken. In these cases the debtor will be treated as being insolvent and debts will be submitted for write-off.

## 5. Absconded with no trace

5.1 In cases where a debtor has vacated a property and failed to provide the council with a forwarding address, trace procedures will be applied. Tracing an absconder can be expensive and does not guarantee any income. Therefore the costs involved and recourses used should be considered at every point in the tracing process. Tracing methods will include checking all available council records, and searching external databases available to the council.

## 6. Remitted by the Courts

6.1 The Magistrates Courts have the power to remit a debt in full, where they feel it is appropriate, when the Council has made an application for a debtor to be committed to prison. These debts will be submitted for write-off.

## 7. Statute barred

7.1 Regulation 34 Council tax (Administration and Enforcement) Regulations 1992 stipulates that where the Council has failed to obtain a liability order within six years of a debt first becoming due, action cannot be taken to pursue the debt through the Magistrates Court. These cases are rare and will be submitted for write-off.

7.2 The Limitation Acts 1980 states: "*An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued*"

7.3 This statute can be interpreted to mean if the council have failed to take any recovery for a period of 6 years or more since its last contact with the debtor then the debt becomes "statute barred" and the Council should not pursue the debt. These cases are rare and will be submitted for write-off.

## 8. Uneconomical to pursue

8.1 Due to the costs involved in collecting debts, in some cases pursuing the debt is uneconomical. The point at which a debt becomes uneconomical to pursue will vary depending on the debtors ability to pay, the recovery options available, the length of time the debt has remained unpaid and the costs involved. After all options have been considered and all reasonable steps taken to collect the debt, debts will be deemed uneconomical to pursue and submitted for write-off.

## 9. Financial hardship

9.1 The council must acknowledge that there are instances where a debtor cannot reasonably be expected to pay their debts. Where a debtor can evidence that their income is sufficiently low and that there is little or no prospect of a change in circumstances; if after taking into consideration general living expenses, any repayment schedule would extend beyond five years, the debt will be considered beyond their means and submitted for write-off.

<b>Approved by:</b>	Leadership Team
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