
DEBT RECOVERY POLICY

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1. Introduction

This policy applies to the collection and recovery of billed charges.

This document sets out how Herefordshire Council will collect and recover income due to the council. It identifies the principles to be applied to debt management across the council and aims to ensure that all monies due are collected and that debt owed to the council is kept to a minimum. This is because the council has both a legal duty and a responsibility to its citizens to ensure that income due is paid promptly.

The council is committed to using the most effective recovery methods available and this policy ensures that the council complies with relevant legislation, official guidance and best practice in meeting the following objectives:

- all debtors, taxpayers and ratepayers are treated fairly
- use of best practice is adopted
- a coordinated approach to managing debt is followed
- to identify appropriate support which may be required and ensure circumstances are taken into consideration
- action taken is fair and open, and that no debtor receives less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, gender, marital status, sexual orientation, age or disability

2. Background

The council will ensure that when recovering debt it will take account of the guidance issued by the Local Government Ombudsman, <http://www.lgo.org.uk/news/2011/oct/focus-report-bankruptcy/>. Recommendations from the Children's Society 'collecting council tax debt responsibly' have been taken into consideration and where appropriate incorporated into this document.

3. Income Collection Principles

Different types of debt attract different collection treatment, this is detailed in Appendix A. Every bill and invoice issued must be correctly addressed to the person who is liable to pay it and should wherever possible include a title, fore name or initial.

All bills will be issued as soon as practicable taking into account any legislative requirements.

Invoices for services delivered by or on behalf of the council will be raised prior to the service being received or as soon as possible thereafter. Where feasible, payment in advance of the service will be obtained. Recurring charges invoices will be issued in a timely manner to enable payment to be made ahead of the due date.

For all monies owed the council will use the most appropriate and effective method of debt recovery in order to maximise cash collection and minimise costs.

Where the potential for a statutory benefit or discount exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities and they will be assisted and encouraged to apply for these.

The council will seek to work with welfare organisations where the debtor recognises the benefits that these organisations can offer both the debtor and the council in prioritising repayments to creditors and in maximising the income available to the debtor.

The council uses every opportunity to engage with debtors and make 'bespoke' payment arrangements with individual customers based on the circumstances and debt outstanding. Dependent upon their overall financial position customers may be signposted to an independent debt advice service.

The council recognises that prompt recovery action is a key element for managing debt and maximising income and will:

- regularly monitor the level and age of debt
- set clear targets for the recovery of debt
- follow the recovery procedures in this policy
- set priorities for specific areas of debt and assess recovery methods to ensure maximum recovery
- review irrecoverable and debts over six months old on a monthly basis

Where an external enforcement agency is used to deal with the recovery of debt the flow of information between the council and the agency will be in a secure electronic format. Enforcement agents will make contact with debtors as part of a legal collection process.

Where legislation permits, the council will seek to levy and recover from the debtor any costs and/or fees that are legitimately due from the debtor to the council or its agents. Only in exceptional cases, where it would not be in the public interest to pursue costs and/or fees, will they be waived.

The council's Write-off Policy (Appendix B) aligns to the council's financial procedure rules and formalises the procedure for writing off debts that are irrecoverable. Examples include being unable to trace the debtor, if the debtor has deceased without assets or further action is not deemed appropriate.

4. Summary of debt collection process

Debt type	Number of reminders	Service area involvement	Summons	Enforcement Agency	Notes
Council tax	3	n/a	Yes	Yes	Hardship Policy to be considered, Appendix C
Business rates	2	n/a	Yes	Yes	Discretionary Rate Relief Policy to be considered, Appendix D
Overpaid housing benefit	3	n/a	Yes	Yes	Dependent on error type and ability to levy deductions from on-going benefits
Recurring charges	1	Passed back following reminders	Yes	Passed to debt collector	Dependent on what the service is and if it is still ongoing
Penalty charge notices	3 legislative letters	None	Obtain order from traffic enforcement centre	Yes	Issued and recovered in line with legislation
Rent	2	Passed back following reminders	Yes	Yes	Property Services could start repossession of the premises
Trade waste	2	Passed back following reminders	Yes	Yes	Quarterly reporting provided to service area
Adults wellbeing, charges to individuals	2	Passed back following reminders	Service instruction	No	Would check with Service that they have documentation to support the charge before issuing a Summons
Sundry	1	Passed back following reminders	Yes	No, passed to debt collector	Would check with Service that they have documentation to support the charge before issuing a Summons

If a debt becomes over six months old it will be written back to the originating cost centre in recognition of the risk of collection and a bad debt provision will be made. This does not affect the chasing of payment process summarised in the table above.

The final recovery option is a committal proceedings, the Council will consider this on a case by case basis.

Debt Types

Council Tax

1. Pre-summons

Council tax is charged on domestic properties and the amount of council tax payable is dependent on the council tax band. Some taxpayers will be eligible for a reduction in the amount payable through discount, exemption or support. The statutory guidance for the collection and recovery of council tax is the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992.

Payment is due annually and a taxpayer has a statutory right to pay by ten (April to January) or, on the taxpayer request, twelve instalments (April to March). The instalments are due on a date specified by the Council. Reminders and final notices will be issued in accordance with statutory timescales.

No more than three reminders are issued in a financial year, a maximum of two instalment reminders and one final notice. Following the issue of a final notice the council will consider a non-statutory instalment agreement based on individual circumstances.

If payments are not then made in accordance with the instalment reminder or any non-statutory instalment agreement, the council tax for the full year falls due and the right to pay by instalments is lost. A summons will be issued and costs being added at this stage, being the summons issue fee payable to the Magistrates Court and the council costs.

Where the summonsed amount has not been cleared in full, the Magistrates Court will be asked to grant a Liability Order in order to allow the council to recover the debt or, in those cases where an arrangement is in place to protect the rights of the council and to expedite recovery in case of default.

The revised Hardship Policy is included at Appendix C and access to the fund will be made in accordance with the policy. It is intended as short term assistance for those taxpayers facing exceptional and temporary hardship with no access to other funds and/or assets that could be used to meet their council tax liability as identified during the application process.

2. Post summons

When the Liability Order has been obtained, and where no arrangement is in place, the Recovery Team will look at each account and make a decision as to the appropriate recovery action. These are:

- attachment of earnings

- attachment of Social Security Benefit (Universal Credit, Income Support, Job Seekers Allowance, Pension Credit or Employment Support Allowance) at a weekly rate set annually by legislation. Only one attachment request can be in place at a time, multiple requests are not permitted. Council tax is not deemed a priority debt so deductions are not guaranteed if an attachment is already in place for priority debts.

If neither of the above can be done due to lack of information, then the Recovery Team will attempt contact via telephone and/or email to make a suitable arrangement to pay. If a debtor visits a customer services centre they can use the facilities to telephone the Recovery Team or the member of staff will liaise with the team on the debtor's behalf. Customer service staff are not permitted to make an arrangement for a summonsed debt without that arrangement being approved by a Recovery Team member.

When contact is made the Recovery Team will always use the information provided to ensure any discounts and support through Council Tax Reduction Support are properly claimed.

If contact cannot be made because there are no contact details available or they are incorrect or unobtainable, then a letter will be sent detailing the debt and advising that contact should be made, otherwise a referral will be made to the enforcement agency. This letter provides details of the fees incurred if a referral is made, compliance fee on referral with an enforcement fee if a visit has to be made.

For clarification, the compliance fee is added to each Liability Order referred so if three orders are sent at the same time three compliance fees are incurred. There is, however, only one enforcement fee.

In the absence of a response to this letter the account will be referred to the Enforcement Agency, or if not economically viable to do so the account will be referred to a Debt Collection Agency.

Notwithstanding any of the above any notes on an account indicating particular individual circumstances that may mean the standard recovery process is not appropriate will be taken into consideration.

Arrangements made for repayment of the summonsed debt are monitored weekly and defaulters pursued by telephone. Continued missed or non-payment will see the arrangement cancelled and recovery action continued as detailed above.

3. Enforcement agency returns – further actions

If the enforcement agents are unable to recover the debt in full, cannot identify sufficient goods to clear the debt or cannot gain lawful entry to the property, they will return the case to the council to confirm that no, or insufficient goods could be found. The council will then consider one of the other remedies detailed below based on the individual debtor circumstances:

- Charging Order – only when the debtor owns their property
- committal to prison proceedings

- insolvency proceedings i.e. bankruptcy and liquidation

Business Rates

1. Pre summons

Non-domestic rates are charged on non-domestic properties entered in the rating list and the amount of rates payable is dependent on the rateable value. The council's updated Discretionary Rate Relief Policy, attached at Appendix D, entitles some ratepayers to a reduction in the amount payable. The policy includes hardship relief where it is in the interest of council taxpayers for rate relief to be given. Reductions can also be granted for statutory exemptions.

The statutory authority for collection and recovery are The Local Government Finance Act 1988 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended).

Business rates are due annually and the ratepayer has a statutory right to pay over ten months (April to January) or, on the ratepayer request, twelve instalments (April to March). The instalments are due on a date specified by the council. Reminders and final notices will be issued in accordance with statutory timescales.

No more than two reminders are issued in a financial year, one instalment reminder and one final notice. Following the issue of a final notice the council will consider a non-statutory instalment agreement based on individual circumstances.

If payments are not then made in accordance with the instalment reminder or any non-statutory instalment agreement the rates for the full year falls due and the right to pay by instalments is lost. A summons will be issued with costs being added at this stage, these are the summons issue fee payable to the Magistrates Court and the council costs.

Where the summonsed amount has not been cleared in full the Magistrates Court will be asked to grant a Liability Order in order to allow the council to recover the debt or, in those cases where an arrangement is in place, to protect the rights of the council and to expedite recovery in case of default.

2. Post summons

Following the granting of a Liability Order the debtor will be given an opportunity to make a suitable payment arrangement. If this payment arrangement is not maintained, or one cannot be made, a letter will be sent detailing the debt and advising that should contact not be made the matter will be referred to the enforcement agency. This letter provides details of the fees incurred if a referral is made, a compliance fee on referral and an enforcement fee if a visit has to be made.

For clarification the compliance fee is added to each Liability Order referred so if three are sent at the same time three fees are incurred. There is, however, only one enforcement fee.

In the absence of a response to this letter, unless uneconomical to pursue, the account will be referred to the enforcement agency or, alternatively, the account will be referred to a debt collection agency.

3. Enforcement agency returns – further actions

If the enforcement agents are unable to recover the debt in full, cannot identify sufficient goods to clear the debt or cannot gain lawful entry to the property they will return the case to the council to confirm that no, or insufficient, goods could be found. The council will then consider one of the other remedies detailed below:

- committal to prison proceedings (individuals only)
- insolvency proceedings i.e. bankruptcy or liquidation.

Overpayments of Housing Benefit

1. Overpayments arise through changes in benefit entitlement. The council have processes to minimise overpayment and to ensure that where they do occur they are identified promptly and if recoverable this is done using the most appropriate method of recovery.

In all cases where an overpayment has arisen the council will consider whether an official error has caused or contributed towards the overpayment.

Where the council has identified an overpayment, which was caused or contributed to by an official error, it must decide whether recovery of the overpayment is appropriate under the guidance issued by the Department for Work and Pensions.

Official error overpayments are only recoverable if the claimant or the person from whom recovery of the overpayment is sought could reasonably have known that an overpayment was occurring at the time the overpayments were being made.

Recovery will be from the following:

- the claimant
- the person to whom the payment of benefit was made
- the person who misrepresented or failed to disclose the material fact
- the partner of the claimant if the partner was living with the claimant at the time of the overpayment and at the time the decision to recover was made

In all cases where recovery of an overpayment is sought the council will have regard to its' statutory duty to protect the loss from public funds but in doing so have regard to:

- the length of time the recovery of the overpayment may take
- the effect of recovery on the affected person
- the ability of the affected person to repay the debt

When an overpayment has been identified the person from whom the overpayment is recoverable will be sent a determination letter and an invoice. If the claimant remains in receipt of housing benefit then deductions will be set and advised in the determination letter. Where the claimant is not in receipt of housing benefit and neither response nor payment is made, three reminders will be sent and if still no contact has been made then the most appropriate recovery action will be considered.

If the claimant makes contact a repayment arrangement will be made with the minimum being the level at which deductions can be made from local or state benefit. If this is not possible an income and expenditure form must be completed and the arrangement reviewed after 12 months. For lower value debts a smaller arrangement can be made without the need for the form to be completed.

The methods of recovery for housing benefit overpayments are:

- on-going deductions from further payments of housing benefit
- deductions from other Department for Works and Pensions benefits

- recovery from another local authority (where the debtor is in receipt of housing benefit from that authority)
- issuing a Direct Earnings Attachment (DEA)
- referral to an external debt collection agency (if unpaid after using the above options)
- apply to the County Court for a County Court Judgement (CCJ). With a County Court Judgement further recovery actions can be taken by way of issuing a Questioning Order to obtain personal information as to employer so as to attach the debtor's earnings
- where the overpayment is recoverable from a landlord deduction from current benefit payments

In cases where recovery from on-going benefit is sought the standard maximum rate of deduction, as laid down by regulation, will be applied. If a claimant requests a reduction they are required to complete the relevant review form and a decision will be made by the Recovery Team. The request will be considered and a written response sent to the claimant. If the request is refused then full reasons must be given. If the request is agreed then where the overpayment will take more than 12 months to clear then this is subject to annual review or earlier if it is anticipated the claimant's financial situation will change within that 12 month period.

Where the claimant is deceased an invoice will be sent to their executors or representatives to seek recovery from their estate.

Adults and Wellbeing, Social Care and Support Service

1. Purpose

- 1.1 To provide clarity on income collection and debt recovery in relation to adult social care and support service charges in Herefordshire. It should be read in conjunction with Herefordshire Council's Care and Support Charging Policy, and Deferred Payment Agreements Policy.

2. Policy Statement

- 2.1 The Care Act 2014, which came into effect on 1 April 2015, introduces a modern legal framework for the recovery of debt, alongside the Department of Health's Implementation Toolkit for Debt, both of which have been used as the legal framework in drafting this document.

3. Guiding Principles

- The council's statutory duty of care towards people assessed as needing care and support services remains.
- Good management of the Care and Support Charging Policy is a priority and income must be collected efficiently and effectively, whilst balancing the needs and implications for individuals.
- If there are doubts about a person's capacity or safeguarding concerns the matter will be referred to social care professionals.
- Individuals are charged for a range of care and support services. The care and support charging policy provides information about services that are chargeable and those that are provided free of charge.
- Where a Deferred Payment Agreement (DPA) could be offered i.e. a person meets the eligibility criteria for a DPA, the debt recovery process – in the County Court – does not apply unless the person has been offered a DPA as a means to recover sums owed in the first instance. *"Eligibility criteria" includes both the national criteria (i.e. criteria set in legislation) and any local criteria used in deciding whether to offer DPAs where the national criteria is not met.* Only where a person is not eligible or has refused, will the council proceed to recover the debt through other means.
- If an individual, or the person acting as their representative, fails to pay the contribution within the timeframe specified by the council and does not make contact with the council by either disputing the charge, reporting a change in circumstances, or requesting a review of the financial assessment, the council will assume that the individual, or the person acting as their representative is withholding payment without just cause.
- The time period to recover debt which accrued prior to the Care Act 2014 is three years pursuant to section 56 of the National Assistance Act 1948 and section 69(3) of the Care Act 2014.
- The time period to recover debt accrued after the commencement of the Care Act 2014 is six years from the date the sum became due to the council.

4. Legal and Policy Framework

- 4.1 Sections 14, 17 and 69-70 of the Care Act 2014, provides a framework that enables a council to charge a person when it is arranging to meet care and support needs.
- 4.2 The council must only use the debt recovery powers under section 69 of the Care Act in order to recover debts from the date the Act came into force, including debts that were incurred before that date.
- 4.3 Section 4 of the Care Act 2014 places a duty on the council to provide information and advice that is accessible, including financial information.
- 4.4 The Care and Support (Charging and Assessment of Resources) Regulations 2014; and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 set out the legal framework and the councils' responsibilities in greater detail.
- 4.5 The Care and Support Statutory Guidance (October 2014) issued by the Department of Health, provides councils with guidance on the application of the law.
- 4.6 Section 70 of the Care Act provides the council with powers to recover charge from a third party where a person has transferred assets to them in order to avoid paying charges. Section 423 of the Insolvency Act 1986 provides additional routes to recover debts where a person may have transferred or sold their assets to a third party.

5. Roles and Responsibilities

- 5.1 The Recovery Team will issue invoices for charges and raise credit notes, upon receipt of invoice/credit information received by the Welfare and Financial Assessment Team in accordance with the council's charging schedule. They will also provide the Adults and Wellbeing Directorate with management information in relation to the level and type of arrears each month, and recovery action being taken, including recommendations for write-off where appropriate.
- 5.2 The Welfare and Financial Assessment Team Manager will be responsible for providing charging information required to raise invoices and credit notes to the Recovery Team in a timely manner in accordance with the council's charging schedules.

6. Disputed Service Charges

- 6.1 A dispute may arise due to service not being received or the person being dissatisfied with the standard of service. Where a person refuses to pay for the service this must be communicated to the Recovery Team by the individual or their representative. The request will be sent to the brokerage manager to investigate the issue under dispute, involving operational budget managers where appropriate. Following investigation the budget holder for the service will be asked to consider whether the charge should stand or be written off in full or part. Recovery action will be suspended pending the response. The person must be notified of the outcome of any investigation into their dispute before any recovery action re-commences.

- 6.2 If a response is not received from the brokerage team manager within the month this will be escalated to the Head of Service.

7. Suspending Recovery of a Debt (Reviews)

- 7.1 An individual has the right to ask the council to review the financial assessment that has been used to establish charges if they cannot afford to pay. The council must be satisfied that the individual's means are insufficient to pay the amount they would otherwise be charged, before deciding to reduce or waive a charge.
- 7.2 If the individual has requested such a review any debt recovery action relating to the charge will be suspended, although the council will continue to raise charges and send invoices until a decision regarding the charge in question has been made.
- 7.3 If following the review the charge remains due then appropriate debt recovery action will be reinitiated. If the charge is changed upon review, the sum due will be recalculated and the account re-issued.

8. Suspending Recovery of a Debt (Appeals)

- 8.1 An individual has the right to appeal a charge which they consider they cannot afford to pay. The council must be satisfied that the individual's means are insufficient to pay the amount they would otherwise be charged, before deciding to reduce or waive a charge.
- 8.2 If a person has had a charge reviewed and they still do not agree with the charge, they are entitled to appeal. Any debt recovery action relating to the charge in question will be suspended whilst the appeal process takes place, although the council will continue to raise charges and send invoices until a decision regarding the charge in question has been made.
- 8.3 If an appeal is not upheld (i.e. the charge is ruled to be correct) appropriate debt recovery action will be reinitiated. If an appeal is upheld the charge in question will be recalculated and the account re-issued.
- 8.4 Appeals are conducted in accordance with the appeals process which can be found in Herefordshire Council's Care and Support Charging Policy Guidelines.

9. Recovery of Charges

- 9.1 The type of action taken when a debt arises will depend upon whether the charge has been raised directly to the individual, or to a third party who has agreed to pay the client contribution during the financial assessment process. A summary flowchart to explain the process is shown at Annex A1.
- 9.2 Where the invoice has been raised to a third party the Senior Revenues Team Leader will make the necessary decision whether to involve a debt collection agency or take court action.

- 9.3 Where the invoice has been raised directly to the individual and the debt cannot be secured through a deferred payment agreement (legal charge on a property) the Senior Revenues Team Leader will refer to the relevant budget manager in Adults and Wellbeing for a decision on how to proceed.
- 9.4 Where an individual is unable to pay invoices for care and support charges, either in full or in part, they must notify the council as soon as they can so that the council can discuss any issues with them and find a solution. The Welfare and Financial Assessment Team will be notified about the issue and may carry out a review of the individual's financial assessment, conduct a benefit check, or signpost for debt management advice as appropriate.
- 9.5 In some cases a debt may have accrued which raises safeguarding concerns, for example it may become apparent that non-payment has occurred due to the person having been the victim of financial abuse. Where there are safeguarding concerns a referral should be made to the Adult Safeguarding Team.
- 9.6 If a person believes they are entitled to continuing health care (CHC) funded by the NHS, and is awaiting the outcome of an assessment, invoices for any social care funded service should continue to be sent as applications for CHC are not always successful or backdated.
- 9.7 When an invoice is not paid by the due date, three letters will be sent as reminders. After the issue of the third letter and in the absence of payment or query regarding the charge the matter will be referred to the Welfare and Financial Assessment Team. They will make contact by telephone and decide on what further action is appropriate. No further action, except for monthly monitoring, will be taken by the Recovery Team unless requested to do so by the Welfare and Financial Assessment Team.
- 9.8 The council will consider the full range of options available to recover debt, and recognises the greater a person's need, the more effort will need to be made to resolve the issue positively. The actions that can be taken by the council are detailed in Appendix D of the Department of Health Care and Support Statutory Guidance, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf.
- 9.9 Where a person has mental capacity to make financial decisions, the council may proceed to recover debts owed through the County Court, this action will be taken as a last resort, after all reasonable alternative avenues have been taken to recover the debt and it is economically viable to do so. The council will have regard to *Practice Direction-Pre-Action Conduct* guidance provided by the Ministry of Justice when doing so.
- 10. Where a person has diminishing or lack of mental capacity**
- 10.1 Where a debt may have accrued as a result of diminishing or lack of mental capacity, for example where the person is no longer able to understand financial obligations, the matter will be referred to the individual's social worker to make arrangements for the person to have an appointed attorney or deputy to be involved in financial decision making.

10.2 Where a person lacking capacity has no attorney or deputy and has substantial debts then an application for a deputy is required, and an application to the Court of Protection made.

11. Write-Offs

11.1 A debt may be uncollectable in the following circumstances:

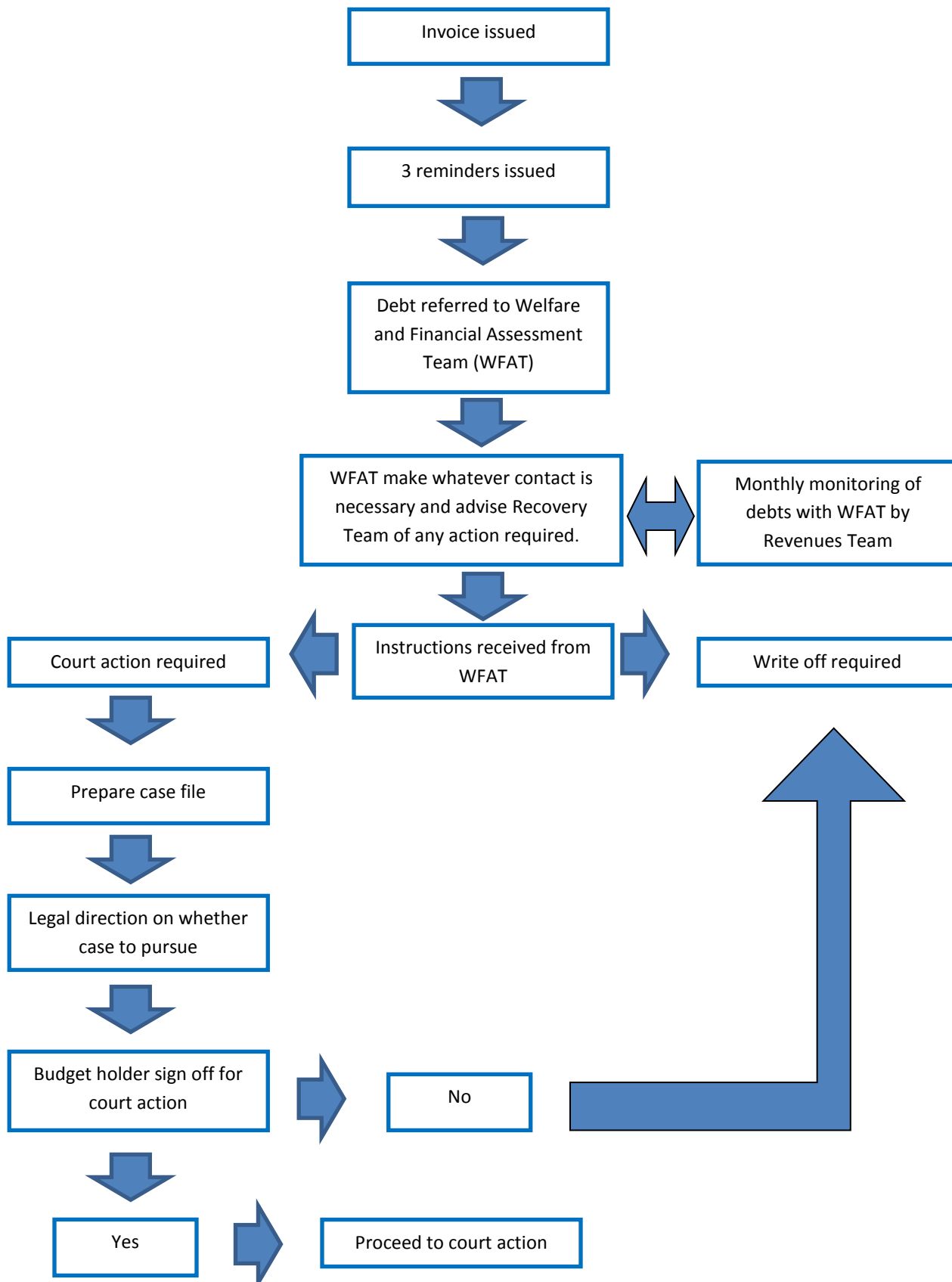
- all available actions have been taken and further pursuit of the debt will cost more than the amount owing (uneconomic to collect). This will be determined by the Director of Resources
- the person is deceased and the estate is insolvent
- the person has moved and cannot be traced
- the person is declared bankrupt or the subject of a debt relief order
- recovery of the debt may cause reputational damage to the council to an extent which outweighs the potential monetary gain

11.2 In the circumstances above the decision to write-off will be taken in accordance with the councils' Financial Regulations.

11.3 A monthly report will be produced for Adults and Wellbeing Management to ensure awareness and ongoing appropriate dialogue and review of the situation.

11.4 Invoicing can recommence if the AWB directorate makes alternative arrangements for the invoices to be paid, such as an advocate or appointee being appointed to manage repayments.

Annex A1 – Adults Wellbeing Debt Process Flowchart



- 1.1 If a person is assessed as having to contribute to their care costs an invoice will be issued.
- 1.2 A financial assessment will be undertaken except where a person does not wish to undergo a full financial assessment, but wishes to access the council's support in meeting their needs. In these circumstances a "light touch" financial assessment may be undertaken. Further information about "light touch" assessments can be found in the care and support charging policy. After the financial assessment is completed, this will be confirmed in writing to the person. A breakdown of the financial assessment will also be sent to the person.
- 1.3 When an invoice is not paid following three reminders the case will be referred to operational staff for them to contact the person, or complete a visit. Depending on the outcome, it may be that the person disputes the amount, or that they had the service. This should be investigated. If the person is found to have correctly disputed the amount, either an amended invoice will be sent or the debt written off.
- 1.4 If no response is received it will be necessary to consider whether to pursue the debt. If all reasonable routes have been followed but the person will not pay, court action is to be considered. It is essential that a full and accurate case file is compiled, including timelines, correspondence and notes on telephone calls, or case file notes.
- 1.5 Advice from the legal section should be sought as to the effectiveness of taking legal action on each case and prior to signing off the legal process agreement will be received from the budget holder.
- 1.6 At each stage consideration should be given as to whether there is merit to write off the debt.

Recurring Charges

1. For all services that are payable regularly through a contract, tenancy agreement or similar, invoices will be issued 21 days prior to the due date. One reminder will be issued where payment is not made by the due date. Where payment is not made following the issue of a reminder a final notice will be issued and recovery action will be taken in liaison with the service areas.

Recurring charges reminder and monitoring schedule

2. Car park season discs and rented spaces
 - One reminder sent the day after the due date, then a further reminder and if not paid within 10 days of due date the account is cancelled.
3. Commercial rents and leases
 - One reminder issued after 7 days, a second 14 days after due date followed up with personal contact.
 - Every month end a report is sent to Property Services, broken down by location, of all accounts more than one month overdue.
 - Where arrears are increasing with no formal repayment arrangement in place instructions/guidance must be sought from Property Services. Recovery actions are:
 - For continuing tenancies a warrant can be issued, without a court order, to the Enforcement Agency. This should not become a standard action as the debtor will just wait for that to happen each time. Issuing a warrant could mean the contents of the property being removed which could mean trading ceases so this must be taken into consideration.
 - Property Services can consider termination of the tenancy.
 - A court summons will be considered if there are arrears after the tenancy has been terminated.
4. Trade Waste Disposal Charges
 - One reminder issued starting 14 days after due date.
 - A list of those invoices remaining outstanding is sent to Waste Management for consideration of the service being stopped.
 - Daily updates of subsequent payments will be provided to Waste Management.
5. Musical Instrument Hire
 - All charges are payable by direct debit and no reminders are issued.
 - When the customer has a direct debit rejection or cancels the mandate the account is to be referred to Encore for instructions.
 - No recovery action is taken by the Debtor Team unless requested to do so by Encore.
6. School transport fees
 - All charges are payable by direct debit and no reminders are issued.
 - When the customer has a direct debit rejection or cancels the mandate the account is to be referred to the School Transport Team for instructions.
 - No recovery action is taken by the Debtor Team unless requested to do so by School Transport.

7. Others

- One reminder will be issued starting the day after the due date. Where payment is not made following the issue of a reminder a final notice will be issued and recovery action will be taken in liaison with the service areas.

Sundry Invoices

1. Invoices for services provided by the council or monies due to them for other reasons will be raised in a timely manner.

Payment terms are 21 days unless otherwise required by the service area. One reminder will be issued where payment is not made by the due date. Where payment is not made following the issue of a reminder a final notice will be issued and recovery action will be taken in liaison with the service areas.

Where invoices are queried/disputed email contact will be made with the service area to facilitate a response to the customer. The expectation is that the service area will respond within 10 working days; if this is not possible they will advise, within that period, when a reply can be expected.

If nothing is heard then a reminder to the service area will be sent and if no response within a further 5 working days then the email string will be sent to the budget holder asking them to arrange a response within 5 working days. They are also to be advised that the absence of a response will result in a detailed update escalated to the Director of Resources.

At the end of every month a report will be distributed to all service managers showing all outstanding invoices over 60 days by cost centre, this will be in addition to any specific reporting requirements requested by service managers. This report is for information only and if the service manager wishes to make contact with any debtor they must firstly liaise with the Debtor Team so as not to compromise any action being taken by them.

Sundry invoice recovery and monitoring process

2. Debts overdue and over deminimus
 - pursue by phone and if neither full payment nor arrangement made:
 - for invoices issued to an individual pass to Debt Collection Agency (nil cost)
 - for invoices issued to a business or organisation refer to manager.
3. Debts returned from Debt Collection Agency
 - The only remaining options are issuing a court summons if economically viable.
4. Monitoring and reporting of outstanding invoices
 - This will be done on a monthly basis in accordance with the requirements of the Head of Corporate Finance.

Debt Write-Off Policy

1. Purpose of the Write-off Policy

- 1.1 Herefordshire Council aims to collect all income due but in some circumstances this will not be achievable because it is uneconomic or is not in the interests of the council or the debtor to take action to recover the debt.
- 1.2 This policy details the circumstances where debts may be written off and the procedures that must be followed to comply with the Financial Procedure Rules and to accurately record the write-off.
- 1.3 Staff preparing accounts for write-off must review all types of debt owed by a customer and prepare a write-off pro-forma for authorisation covering all outstanding debts.

2. Financial Regulations

- 2.1 The authority for writing off debt is replicated in the Council's Financial Procedure Rules. Deminimus value debts will be written off after following the reminder process.

3. Council Tax and Business Rates

- 3.1 Debts above the deminimus will be referred for write-off in the following situations:

a) Bankruptcy and/or Liquidation

Upon receipt of the notification, a claim should be lodged with the receiver for the amounts due at the date of bankruptcy and/or liquidation. All or part of the debt may be reinstated if the Receiver subsequently recovers any monies. (Separate guidance notes are available for calculating the debt due at the date of bankruptcy and/or liquidation.)

b) Individual Voluntary Arrangements, Administration Orders and Debt Relief Orders

Where debts have been included in a County Court decision, the full debt will be passed for write-off. The debt (or part) will be reinstated if any monies are recovered or if the Orders are later revoked.

c) Absconders

In cases where debtors move leaving debts, comprehensive checks will be made including the use of third party organisations and local sources. Where these checks fail to locate the debtor's current whereabouts the debt will be written off. If the debtor reappears then the write off will be reversed and recovery reinstated.

d) Costs

In all cases where a summons is issued, court costs, are added to the amount owed. If the costs exceed the amount of the debt staff have the discretion to reduce the amount of costs to the court's element of the charge only providing the summons debt is paid in full before the court hearing date.

e) Vulnerable Debtors

In exceptional cases, debts are incurred by vulnerable debtors such as the elderly, frail, disabled and terminally ill. Consideration should be given to writing off these debts if there is evidence of reduced mental capacity or an inability to deal with their own financial affairs and there is no-one either able or appointed to act on their behalf.

f) Extreme Hardship

Where a debtor is paying the maximum they can afford based on an assessment of their income and expenditure, and a large amount of arrears remains outstanding, some of the arrears may be considered for write-off on the grounds of hardship. (Note: Consideration of use of the Hardship Policy at Appendix C and any entitlement to benefit must have been investigated before write off).

The debtor will be requested to complete an income and expenditure enquiry form annually and if their circumstances remain largely the same a full report will be prepared with a view to writing off all or part of the debt.

g) Old Debts

Debts over three years old, where no payments have been received for 12 months, will be reviewed and may be written off providing a liability order has been granted and all recovery options have been exhausted.

- 3.2 Credit balances with no forwarding address, generally arise where an account has been closed and a credit balance remains. If the forwarding address is not known and the credit cannot be refunded via BACS direct into the taxpayer's bank account, the credit balance will be written back.

4. Invoiced Income and Overpaid Housing Benefit

- 4.1 Authority to write off debt for invoiced income must be sought from the directorate that raised the invoice before being passed to the authorising manager (Annex B1).

a) Bankruptcy and/or Liquidation

Upon receipt of the notification, a claim should be lodged with the receiver for the amounts due at the date of bankruptcy and/or liquidation. All or part of the debt may be reinstated if the receiver subsequently recovers any monies. (Separate guidance notes are available for calculating the debt due at the date of bankruptcy and/or liquidation.)

b) Individual Voluntary Arrangements, Administration Orders and Debt Relief Orders

Where debts have been included in County Court decision, the full debt will be passed for write-off. The debt (or part) will be reinstated if any monies are recovered or if the Orders are later revoked.

c) Absconders

Where the debtor has absconded, internal checks will be made. If these checks fail to locate the debtor's current whereabouts the debt will be passed to a tracing agency. Cases returned untraced and uncollected will be written off.

d) County Court judgement debts

Where a County Court judgment has been made but there is no remedy to enforce the judgment, debts will be passed to Enforcement Agents. Where they are subsequently returned uncollected they will be written off.

4.2 Debts may also be written off where the debtor's circumstances are such that court action would not be appropriate due to:

- a) Being in receipt of long-term state benefit and for housing benefit overpayments no state or local benefit is being received.
- b) Vulnerability – such as the elderly, frail, disabled, and terminally ill and where evidence exists of the debtor's reduced mental capacity or inability to deal with their own financial affairs, and there is no-one either able or appointed to act on their behalf.
- c) Hardship – the debtor's financial circumstances which will have been ascertained through the completion of an income and expenditure form.

Annex B1 - Write-Off Authorisation

- 1.1 All write-offs must be approved by a duly authorised officer as shown in the updated Council's Financial Procedure Rules which are reproduced below. For write-offs exceeding the de-minimus value a write-off form must be retained with details of the debt(s) written off and the appropriate authorisation obtained.
- 1.2 For debts under the de-minimus and after following the reminder process a monthly write off schedule from a system report will be produced and retained for audit purposes.
- 1.3 The staff authorised to write off debts along with their authorisation limits are listed below:

Amount	Job Title
Up to £150	Senior Revenues Team Leader and Senior Development Team Leader (Hoople Ltd)
Between £151 and £500	Revenues and Development Operational Manager and Benefits Operational Manager (Hoople Ltd)
Between £501 and £2,000	Revenues and Benefits Service Manager (Hoople Ltd)
Between £2,001 & £20,000	Head of Corporate Finance and Deputy Section 151 Officer
Above £20,001	Director of Resources

- 1.4 Debts above £2,000, other than Council Tax, Business Rates and Overpaid Housing Benefit, require the recommendation of the relevant Director.
- 1.5 Where the write-off's exceeds £20,001, the Director of Resources shall seek approval from the responsible cabinet member where not council tax or business rate debtors.
- 1.6 The Director of Resources is required to report annually to Cabinet details of all debts exceeding £10,000 written off in the year. The report will provide the total number and value of debts written off split by reason for write off.

Council Tax Discretionary Hardship Policy

Background

1. Section 13A of the Local Government Finance Act 1992 allows billing authorities to reduce the amount of council tax payable by taxpayers because of hardship, through access to a central support fund. This provision was originally inserted by the Local Government Act 2003 and was further updated by the Local Government Finance Act 2012 to include Council Tax Reduction Schemes.
2. When considering applications under this policy Herefordshire Council will take into account any eligibility for council tax support, discount, exemption and national benefits.

Eligibility

3. Access to the fund will be applied to a defined class or to an individual taxpayer and made in accordance with this policy. It is intended as short term assistance rather than a way of reducing council tax liability on a long term basis. Awards will normally be payable for a maximum of six months only.
4. The Council have set the criteria which will be applied to all applications requesting a funding contribution towards the amount of council tax payable under these provisions where there is compelling evidence of exceptional circumstances that justify granting relief.
5. All applications will be evaluated based on their individual merit and taking into account the following criteria:
 - 1) The taxpayer is facing exceptional and temporary hardship and they do not have access to other funds and/or assets that could be used to meet their council tax liability;
 - 2) Any reduction made in accordance with this policy is intended as short term assistance rather than a way of reducing council tax liability on a long term basis;
 - 3) The applicant's eligibility to council tax reduction and all other statutory reductions have been determined;
 - 4) There are unusual and unforeseen circumstances which prevent the property from being occupied and this situation cannot be rectified within a reasonable period of time, for example because of flooding;
 - 5) The applicant has taken reasonable steps to resolve their situation prior to making their application;
 - 6) The applicant can demonstrate that their current circumstances are unlikely to improve in the following six months.

6. The Council expects to give higher priority to relieving temporary difficulties where the arrangement is likely to be sustainable longer term. Assisting people whose financial commitments are unsustainable and likely to remain so will normally be treated as a lower priority.

Alternative Criteria for applications where residents are in receipt of Council Tax Reduction

7. Herefordshire Council have set up a fund to cover the shortfall between Council Tax liability and payments of Council Tax Reduction, in cases of exceptional hardship.
8. Every customer who is entitled to Council Tax Reduction and who can evidence exceptional hardship is entitled to make a claim for financial assistance.
9. The objectives of the fund are to:-
 - assist customers who are experiencing a personal crisis and difficult events affecting their finances
 - assist customers through unforeseen short-term circumstances which is causing financial hardship
 - aim to prevent exceptional hardship and assist those who are financially vulnerable
 - support vulnerable young people in the transition to adult life
 - support customers with children to keep the families together
 - assist customers in obtaining and sustaining employment
 - aim to alleviate poverty
10. The main features of the fund are that:-
 - the payments are discretionary
 - payments are time limited and to help with exceptional temporary hardship
 - there is no statutory right to be awarded a payment
 - hardship payments are not a payment of Council Tax Reduction
 - the fund is a cash limited fund
 - applicants should normally be in receipt of Council Tax Reduction when the application is made
 - all applications will be considered on their own merit
11. Considerations for making an award:-
 - the exceptional nature of the customer and/or their family circumstances that impact on finances
 - the steps taken by the customer to reduce the shortfall
 - the amount of Council Tax to be paid
 - changing the payment methods, council tax instalments or set alternative arrangements in order to make payments affordable for the customer
 - eligibility for any Council Tax discount, exemptions or reductions
 - steps taken by the customer to identify and reduce non-essential expenditure

- personal circumstances including age, medical circumstances including ill health and disabilities of the customer, partner and any other household members
- the financial difficulties of the customers which prevent them from being able to meet their council tax liability and the length of time the situation is likely to exist
- all income of the customer, their partner and other household members including income that is disregarded when awarding Council Tax Reduction
- savings or capital that is held by the customer and their partner
- all debts outstanding for the customer and partner
- the amount available in the fund at the time of the request

12. Payments from the fund will not be awarded in the following circumstances:-

- for any other reason other than to pay Council Tax
- where it is considered that the customer has not taken reasonable steps to reduce unnecessary expenses and/or outstanding debts
- to recover an overpayment of Council Tax Reduction
- to cover previous years Council Tax arrears
- where the shortfall is caused by a Department for Work and Pensions sanction or suspension being applied due to the customer turning down work, interviews or training opportunities
- where Council Tax Reduction is suspended

13. An award from the fund will be considered on the individual application considering all the relevant factors and special circumstances of the customer.

14. The award from the fund will normally be restricted up to 50% maximum of the Council Tax due for payment and will be a one off discretionary hardship payment.

15. An award made is not a guarantee that a further award will be made at a later date, even if the circumstances of the customer have not changed.

Applications

16. Applications to the fund must be made in writing or electronically to the Revenue and Benefits Service. The Director of Resources has delegated decision making to the Head of Corporate Finance, and they will be responsible for determining applications.

17. The applicant will be required to complete an application form which requests a full financial statement that confirms their total assets with full details of all income and expenditure. The Council may seek reasonable evidence to support an application and failure to provide this information without appropriate evidence is likely to result in the application being refused.

Awards

18. Awards will be to meet current needs rather than past debts. However, retrospective payments may be appropriate to reduce council tax arrears or to avert recovery action where this would enable the applicant to deal effectively with any remaining arrears.

19. Decisions will normally be made within one month of the application provided all supporting information has been received and will be notified to the applicant as soon as practicable thereafter.
20. Where a request for a discretionary hardship payment has been refused further requests will be only be considered where the taxpayer can demonstrate that their situation has worsened significantly or a substantial period of time has elapsed.
21. Discretionary hardship council tax payments will always be credited to the applicants council tax account.

Period and Amount of Award

22. The award is designed to be a measure of temporary assistance although each case will be considered on its own merits.
23. Any payments awarded will usually be a percentage of the net council tax liability (the amount payable following the award of any benefit, discount, exemption or relief) and be for a specified period.
24. If it is subsequently identified that the payment has been awarded as a result of false or fraudulent information, the council reserves the right to withdraw the award and recover the resulting sum due. The council also reserves the right to prosecute the applicant for false representation.

Review of Decision

25. Applicants may request a review of a decision relating to a council tax discretionary hardship payment. A request for review must be made in writing or electronically within one month of the date of the letter informing the applicant of the original decision.
26. The review request must give the reasons why the applicant considers the original decision should be amended, and may include new or additional information relevant to the request to change the original decision.
27. Where necessary the Director of Resources will review the original decision and the outcome of the review will be notified to the applicant normally within one month of receipt.
28. The only statutory avenue open to challenge a discretionary decision is through judicial review, where the High Court may be asked to consider whether the billing authority has acted within its powers. Unlike the majority of billing authority decisions relating to council tax, discretionary decisions cannot be appealed to the Valuation Tribunal which is responsible for hearing council tax appeals.

Discretionary Rate Relief

1. Introduction

- 1.1 Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes came into effect from the 1 April 2012 and extends the pre-existing provision relating to the granting of discretionary rate relief. The decision to grant or not grant relief is purely a matter for the council. This policy is supported by the aspiration of Herefordshire Council to support Herefordshire organisations with relief where appropriate to do so.

2. Mandatory Rate Relief – Registered Charities, Educational Establishments and Community Amateur Sports Clubs

- 2.1 Mandatory rate relief is available where the ratepayer is a charity or the trustees for a charity and the property is wholly or mainly used for charitable purposes. Relief under this category will not normally apply to a Friendly Society or Provident Society, Social Enterprises or Credit Unions unless they can provide a letter showing they are entitled to exemption from taxes under Section 505 of the Income and Corporation Taxes Act 1988.
- 2.2 Mandatory 80% relief will be awarded to qualifying charities/organisations.
- 2.3 Community Amateur Sports Clubs (CASCs) relief, introduced in April 2002, enables many local amateur sports clubs to register with HM Revenue & Customs (HMRC) and benefit from a range of tax reliefs including gift aid.
- 2.4 Registered CASCs are entitled to 80% business rate relief on any non-domestic property that is mainly used for the purposes of that club.

3. Discretionary Rate Relief

- 3.1 Decisions to grant discretionary rate relief must be based on the criteria set out in this policy. The Council's Director of Resources or Deputy S151 Officer will approve all awards of discretionary rate relief.
- 3.2 For registered charities discretionary rate relief of up to 20% may be granted in addition to the 80% mandatory rate relief providing the aims of the organisation meet the criteria of operating solely for the benefit of the residents of Herefordshire.
- 3.3 All other non-profit making organisations including Social Enterprises may apply for discretionary rate relief of up to 100% of the rate liability, the actual relief determined by paragraph 3.4 below.
- 3.4 Criteria –
- All or part of the premises is occupied for the purposes of one or more organisation.
 - The organisation(s) is not established or conducted for personal profit

- The objects of the organisation(s) are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.

4. How Qualification for Discretionary Rate Relief is Determined

4.1 Discretionary Rate Relief will be awarded where organisations link into Herefordshire Council's Priorities which are to:-

- keep children and young people safe and give them a great start in life
- enable residents to live safe, healthy and independent lives
- invest in projects to improve roads, create jobs and build more homes

4.2 In order to meet these priorities Herefordshire Council seeks to encourage individuals, communities and organisations to do more for themselves and their local area.

4.3 If any of the following apply, this will reduce the amount of discretionary rate relief to be awarded:

- if the business restricts its membership, including where membership rates are set at a high level as to exclude the general community, the relief will be reduced by 33% (1/3)
- if the organisation runs a bar and the gross income from bar sales exceeds £10,000 per annum the relief will be reduced by 33% (1/3)
- where the percentage of members who live in Herefordshire is less than 80%, unless there are valid reasons for this, for example the organisation is a club situated on the border (additional evidence will be required) the relief will be reduced by 33% (1/3)

4.4 The amount of relief will also be based on the following factors:

- the organisation is not established or conducted for personal profit and must be able to demonstrate a direct benefit to the County of Herefordshire or to the public at large within the county;
- the level of assets and annual income of the organisation in comparison to the charge;
- where the organisation is a social enterprise they will need to demonstrate that an "asset lock" is in place;
- the criteria contained in the "Discretionary Rate Relief Charter for Herefordshire" included at Annex C1.

5. Rural Rate Relief

5.1 The council is required to maintain a Rural Settlement List which identifies all rural settlements within its area. A qualifying rural settlement must have a population of less than 3,000.

5.2 Rural rate relief applies to the following types of property and is subject to the following rateable value thresholds:

- the sole post office or general store with a rateable value up to £8,500;

- a food shop with a rateable value up to £8,500 (this does not include properties where food is consumed on the premises or takeaways);
- the sole public house or filling station with a rateable value up to £12,500.

5.3 Mandatory 50% rural rate relief will be awarded to qualifying rural properties.

5.4 In addition to this the council will also award discretionary rural rate relief as follows:

- 50% discretionary rural rate relief will be awarded to post offices and general stores;
- 25% discretionary rural rate relief will be awarded to filling stations;
- 25% discretionary rural rate relief will be awarded to Public Houses where they can prove they meet the council priorities in accordance with section 3.4 of this policy and the criteria contained in the Discretionary Rate Relief Charter for Herefordshire attached at Annex C1;
- No discretionary rural rate relief will be awarded to food shops.

5.5 The council can also award up to 100% discretionary relief to any other business within a rural settlement occupying a property with a rateable value of £16,500 or less. The relief may be awarded where the property is used for purposes which benefit the local community and where it is in the interests of council taxpayers to grant the relief.

6. Hardship Rate Relief

6.1 Section 49 of the Local Government Finance Act 1988 allows a local authority to reduce the whole or part of the rates payable in the following circumstances:

- a) where it is satisfied that the ratepayer would sustain hardship if relief is not given;
- b) it is in the interests of council taxpayers for the relief to be given.

6.2 Up to 100% hardship relief may be given but central government guidance indicates that the following factors should be taken into account when considering applications:

- although authorities may adopt rules for consideration of hardship cases, a blanket policy either to give or not to give relief should not be adopted; each case should be considered on its own merits;
- reduction or remission of rates on grounds of hardship should be the exception rather than the rule;
- the test of hardship need not be confined strictly to financial hardship. All relevant factors affecting the ability of a business to meet its liabilities for rates should be taken into account;
- the interests of local taxpayers in an area may go wider than direct financial interests, for example where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in the village;
- where the granting of relief would have an adverse effect on the financial interests of local taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to the local taxpayers;
- hardship relief will not be awarded to empty properties;
- all hardship payments will be awarded for a set period and do not constitute continual payment.

- 6.3 In addition, the Secretary of State advises that hardship could apply to companies as well as individuals.

7. Part Occupied / Section 44

7.1 Introduction

- 7.1.1 The council receives requests from ratepayers asking that the rateable value of a specific premise be split between the occupied and unoccupied portions and that the council then only charge rates on the occupied portion. This is permitted under Section 44 of the Local Government Finance Act 1988.
- 7.1.2 The council has discretion to accept or refuse such a request. If the request is accepted then the Valuation Office Agency is asked to supply a certificate indicating the relevant values for the occupied and unoccupied portions and this certificate is binding to the council.
- 7.1.3 The decision whether or not to recommend an apportionment to the Valuation Office is taken by the Revenue and Benefits Service Manager in conjunction with one of the council's property inspectors.

7.2 The Law

- 7.2.1 Section 44A of the Local Government Finance Act 1988 allows the billing authority to charge on the basis of apportioned rateable values certified by the valuation officer where a non-domestic property is partly occupied and partly unoccupied so long as this situation exists for a "short period of time". The phrase "a short period of time" is not defined in law but is generally accepted to mean a maximum of one year. The law provides a discretionary power, but the decision whether to exercise that power must be taken before the valuation officer's certificate is requested as the apportioned values are those upon which the charge must be levied once supplied.
- 7.2.2 The effect of the apportioned values applies for the operative period, which is defined as the period beginning with the day on which the hereditament became partly unoccupied and ending with the first day on which one or more of the following events occurs:
- the occupation of any of the unoccupied part of the property;
 - the ending of the financial year in which the apportionment was required;
 - the requiring of a further apportionment or;
 - the complete occupation of the property;
 - the complete vacation of the property.
- 7.2.3 The authority is required to terminate this relief in the event of a change in the proportions of the property occupied and unoccupied or at the end of a financial year, and then may, if appropriate, consider requesting the valuation officer to issue a further certificate.

8. All Other Types of Business

- 8.1 Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses. The Plain English Guide to the Act addresses this as follows:

“The Localism Act gives councils more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area.”

- 8.2 There is a general requirement for applications for rate relief under this section of the policy to only be considered favourably where the council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area.
- 8.3 The maximum amount of award under this section is up to 100% rate relief in any one year for qualifying businesses.

9. Appeals

- 9.1 Under the Local Government Finance Act 1992 there is no right of appeal against the council's use of discretionary powers. However, the council will accept a customer's request for a re-determination of its decision. If an application for discretionary rate relief has been refused applicants have the opportunity to request a re-determination. All requests must be made in writing or electronically within one month of the council's decision. Requests will be considered by a panel of two officers who were not involved in the original decision.
- 9.2 If an unsuccessful applicant decides to make a request for re-determination, they will still need to continue to pay their rates bill. If the request is successful, the rates bill will then be adjusted and any overpayment refunded accordingly.

10. State Aid

- 10.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates can constitute state aid. The council must bear this in mind when granting discretionary rate relief.
- 10.2 Rate relief for charities and non-profit making organisations is not generally considered to be state aid because the recipients are not in market competition with other businesses. However, if the charities or non-profit making organisations are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid and would not be granted.
- 10.3 Where the relief to any one business is greater than the equivalent of €200,000 over three years, then permission will be needed from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government for advice and then referred to the council for consideration.

Annex C1 - Discretionary Rate Relief Charter for Herefordshire

11. Introduction

11.1 Herefordshire Council recognises that the voluntary and community sector (VCS) makes a major contribution to the economy, health and wellbeing of the people who live and work in Herefordshire. This covers both children's and adult's services. The County needs a healthy voluntary and community sector to provide:

- local community based services. Many VCS organisations (including social enterprises) are community based and may therefore be better able to work with harder to reach groups;
- choice. By supporting VCS organisations (including social enterprises) the council hopes to provide a greater choice for local people in terms of the services they are able to access and being responsive to changing local need;
- opportunities for people to participate. As volunteers as well as service users;
- specialist services. Many VCS organisations develop expertise in the particular needs of a client group.

11.2 Herefordshire is committed to protecting facilities and services in rural areas, as they improve the resilience of communities and support those who are more vulnerable and isolated. These services provide:

- a social hub. A focal point for the community and a place for people to meet, find out what's going on locally and to interact socially. This is particularly important for the sections of the community that might otherwise be socially excluded, particularly the elderly living alone, or those with disabilities;
- facilities for those with limited transport options. Very local facilities provide a lifeline for those unable to travel further afield, due to lack of public transport, poverty or limited mobility;
- employment. Rural retail services provide employment opportunities and flexible opportunities which provide employment to young people and those seeking part time work;
- support for local producers. Rural retail services provide a valuable outlet for local producers.

11.3 The council recognises that Discretionary Rate Relief (DRR) is paid for in part, by council tax payers and therefore the council has a duty to ensure that public funds are spent wisely, with due transparency and accountability. By awarding DRR, the council is effectively awarding aid to those organisations, so they can use their resources towards achieving the aims of this charter rather than paying the rates that would otherwise be due.

12. Aim

12.1 The aim of the Discretionary Rate Relief scheme is to support organisations to run and further develop facilities, services or activities which directly benefit Herefordshire residents and meet the priorities of the council.

13. Council's Priorities and How Your Organisation Can Help

13.1 The council's priorities are to:

- Keep children and young people safe and give them a great start in life;
- Enable residents to live safe, healthy and independent lives;
- Invest in projects to improve roads, create jobs and build more homes.

13.2 In order to meet these priorities Herefordshire Council seeks to encourage individuals, communities and organisations to do more for themselves and their local area.

Priority	How your organisation can help
Keeping children and young people safe and giving them the best start in life	<ul style="list-style-type: none">• Provide services and activities which support vulnerable children and their families;• Engage with children and young people about what things they would like to take place;• Make your services and activities accessible and open to children and young people.
Enabling residents to live safe, healthy and independent lives	<ul style="list-style-type: none">• Provide services and activities which support people to live independently and stay healthy;• Engage with more vulnerable residents about what things they would like to take place;• Make your services and activities accessible and open to the more vulnerable and socially excluded;• Enabling communities to help themselves through improved local coordination of activities which support vulnerable and socially excluded residents.
Investing in projects to improve roads, create jobs and build more homes	<ul style="list-style-type: none">• Support local producers;• Offer local employment, training and volunteering opportunities;• Reduce journey times by increasing access to local services.

14. Evidence Needed for Eligibility

14.1 Voluntary and community sector (VCS) Organisations will need to describe how they deliver and intend to develop activities to meet the council's priorities and to what level they believe these services and/or activities will directly benefit Herefordshire residents.

14.2 Organisations will need to commit to provide and update information on their services and activities as advised by Herefordshire Council.

14.3 It is known that many VCS organisations already deliver activities that satisfy the priorities however there is an expectation that additionality will be evidenced by doing and offering more in their communities.

15. Types of Relief Available

15.1 There are two types of business rate relief – Mandatory and Discretionary.

a) Mandatory Rate Relief is funded nationally and granted to the following categories of Business Rates payer:

1. registered charities;
2. village Post Offices, general stores, specialist food shops, public houses and petrol filling stations – if they are in a designated rural settlement;
3. registered Community Amateur Sports Clubs (CASCs)

b) Discretionary Rate Relief - Local authorities also have the power to grant discretionary rate relief as follows:

- to make a further award on top of Mandatory Rate Relief to those categories listed above and also:
- in respect of sports grounds and clubs;
- to other non-profit making organisations including asset locked social enterprises, such as Community Interest Companies;
- to other rural businesses situated within a designated rural settlement.