

# Debt Recovery Policy

## 2021 – 2025

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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, <https://www.lgo.org.uk/information-centre/reports/focus-reports>. The council will pause all recovery action recommended in this policy whilst a debtor is in debt respite, also known as “breathing space” in accordance with The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020. All cases will be considered for discounts and reliefs that may be appropriate before taking debt recovery action.

## 3. Income Collection Principles

Different types of debt attract different collection treatment, this is detailed in Appendix A. Every demand 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 demands 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 following the completion of the debt recovery processes described in this policy.

## **4. Fraud Prevention Privacy Notice**

The personal information we have collected from you will be shared with fraud prevention agencies who will use it to prevent fraud and money-laundering and to verify your identity. If fraud is detected, you could be refused certain services, finance, or employment.

Further details of how your information will be used by us and these fraud prevention agencies, and your data protection rights, can be found on the Herefordshire Council website here: <https://www.herefordshire.gov.uk/directory-record/6201/fraud-preventionprivacy-notice>

Herefordshire Council will not accept deliberate manipulation or fraud, and any instances are taken very seriously and are actively investigated. Any individual who falsifies their records or dishonestly provides inaccurate information to make a financial or otherwise gain, will face prosecution. The council reserves the right to recoup funds paid in error, or via fraudulent misappropriation.

## 5. Fines

The council will levy appropriate penalties and fines where charges have been intentionally avoided through misleading or concealing relevant data (for example claiming single person discount on a council tax bill however not meeting the discount criteria).

The council will regularly review accounts receiving discounts against data available to it to ensure these have been appropriately awarded.

## 6. Summary of debt collection process

Debt type	Number of reminders	Service area involvement	Summons	Enforcement Agency	Notes
Council tax	3	n/a	Yes	Yes	Discounts and exemptions to be considered
Business rates	2	n/a	Yes	Yes	Discretionary Rate Relief Policy to be considered
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	No, passed to debt collector	Dependent on what the service is and if it is still ongoing and amount is viable
Penalty charge notices	3 legislative letters	None	Obtain order from traffic enforcement centre	Yes	Issued and recovered in line with legislation
Rent	2	Referred to Director and S151 Officer	Yes	Yes	Property Services could start repossession of the premises
Trade waste	2	Referred to Director and S151 Officer	Yes	Yes	Quarterly reporting provided to service area
Adult Social Care	2	Appeals, disputes, pre court action/ write off	Service instruction	No	Would check with Service that they have documentation to support the charge before commencing court action
Sundry	2	Referred to Director and S151 Officer	Yes	No, passed to debt collector	Would check with Service that they have documentation to support the charge before commencing court action

Parking invoices	1	Account cancelled	No	No	Parking permit cancelled following non-payment
Telecare	2	Appeals, disputes, pre court action/ write off	Yes	No	Would check with Service that they have documentation to support the charge before commencing court action

## 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 as appropriate.

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 Council maintains a Tax Local Assistance Hardship Fund 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 the 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 the Council Tax Reduction Scheme are claimed correctly.

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 and a 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 maintains a Discretionary Rate Relief Policy that 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. This will be considered when determining the value of debt overdue.

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 as appropriate.

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.

If you are already receiving Housing Benefit or Universal Credit Housing Element, we may be able to give you more financial assistance towards your rent. Discretionary Housing Payments are free standing payments we can provide if you receive Housing Benefit and/or Universal Credit.

To access full details please click the following link [www.herefordshire.gov.uk/DHP](http://www.herefordshire.gov.uk/DHP)

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)
- applying to the County Court for a County Court Judgement (CCJ). With a County Court Judgment 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 Revenues 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.

## **Adult Social Care and Support**

### **1. Charges for Care and Support**

A person or their representative should be informed that care and support is a chargeable service prior to council funded care being arranged.

A financial assessment or "light touch" assessment will be carried out to establish how much an individual can afford to pay, except where a person doesn't wish to have an assessment and agrees to pay the full cost for care.

It should also be explained that this means there will be invoices and that an agreement should be reached as to whom the invoices are sent. The person's authority and agreement must be obtained before sending invoices to a representative, unless that person has legal authority, such as lasting power of attorney (LPA) for property and finances.

The outcome of the financial assessment will be confirmed in writing to the person, as well as information about how and when charges will be collected, and how to request a review or appeal a charge.

Invoices will be issued in accordance with the council's charging schedule.

## **2. Policy Statement**

The Care Act 2014, and care and support statutory guidance, which came into effect on 1 April 2015, have been referred to when drafting this policy.

## **3. Legal and Policy Framework**

Sections 14, 17 and 69-70 of the Care Act 2014, provide a framework that enables a council to charge a person when it is arranging to meet care and support needs.

The council must only use the debt recovery powers under section 69 of the Care Act 2014 in order to recover debts from the date the Act came into force, including debts that were incurred before that date.

Section 4 of the Care Act 2014 places a duty on the council to provide information and advice that is accessible, including financial information.

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.

The Care and Support Statutory Guidance issued by the Department of Health and Social Care, provides councils with guidance on the application of the law. Annex D of the guidance covers; the principles underpinning the approach to debt recovery, options for debt recovery, and processes around debt recovery.

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.

## **4. Guiding Principles**

- The council's statutory duty of care towards people assessed as needing care and support services remains. It should also consider how different approaches might impact on a person's wellbeing, in line with the general duty to promote a person's wellbeing.
- Good management of the Debt Recovery 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, debt recovery through 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 the County Court.*
- 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.
- Before pursuing any course of action the local authority should consider whether it is appropriate to recover the debt in full or in part. Such circumstances may include:  
*where the amount of the debt is small and the costs of recovery would be disproportionate,  
the person or their representative could not reasonably have been aware that charges were payable..*
- 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.

## 5. Reasons for non-payment or disputed invoice

A dispute may arise for various reasons. All disputed invoices will be placed on hold, investigated fully and resolved in a timely manner. Reasons for non-payment can include;

- **Issues with service delivery** - This may be due to service not being received or the person being dissatisfied with the standard of service received.
- **Change in financial circumstances** – A reduction in income or increase in expenses. This should prompt a review of the financial assessment.
- **No attorney or deputy in place** - In some cases the person will lack capacity and there will not be anyone with the authority to act on the person’s behalf. Invoices should continue to be issued, but recovery actioned suspended until someone has been given legal authority to act for the person.
- **Financial abuse** - It may become clear that non-payment may have occurred due to the person having been the victim of financial abuse. An Adult safeguarding referral should be made in these circumstances
- **Person believes they are entitled to Continuing Healthcare (CHC)** – 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 will continue to be sent until CHC funded care has been confirmed.

- **Person states they cannot afford the charge** – If a financial assessment has been undertaken then the person should be able to afford the charge. Disputes tend to arise if the person has outgoings, such as credit card bills or loan repayments which are not an allowable expense. The person should be supported with getting debt management advice by referral to relevant agencies.

## **6. Suspending Recovery of a Debt (Reviews)**

An individual has the right to ask the council to review the financial assessment that has been used to establish charges.

This may be due to a change in financial circumstances, or because there is disagreement with the calculation of the financial assessment.

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.

If following the review the charge remains due then appropriate debt recovery action will be reinitiated. If the charge is increased or reduced, an invoice or credit note will be issued for the sum due.

## **7. Suspending Recovery of a Debt (Appeals)**

An individual has the right to appeal a charge if they think they are being charged more than they should, or disagree with the way financial and charging rules have been applied.

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.

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 an invoice or credit note will be issued.

## **8. Complaints**

A person may wish to make a complaint about any aspect of the way the council uses its powers under the Care Act. Information and advice about how to lodge a complaint will be provided in financial assessment notifications but will also be provided upon request where a dispute hasn't been resolved to the charge payer's satisfaction.

Any debt recovery action relating to the charge in question will be suspended (pending any issues relating to the Limitation period) whilst the complaint 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.

## **9. Recovery of Charges**

When an invoice is not paid by the due date, 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.

Within the Care Act is an obligation to have considered and evidenced well-being. This should be followed through within debt recovery processes. A summary flowchart to explain the process is shown at Annex A1.

Where the debtor is unable to pay invoices for care and support charges, either in full or in part, they should notify the council as soon as they can so that the council can discuss any issues with them and find a solution.

Options may include negotiating a repayment plan, using an advocate to help the person understand the options available to them, supporting the family to gain a power of attorney or deputyship, the local authority itself applying to be a deputy or the use of independent mediation.

If 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 and Protocols - Civil Procedure Rules](#) provided by the Ministry of Justice and any associated guidance when doing so.

### **Recovering from an estate**

The council will make a claim against the estate of a deceased person.

The process for citation and application for a grant to a creditor is governed mainly by the Non-contention Probate Rules 1987.

## **10. Where a person has diminishing or been assessed as lacking mental capacity concerning their finances**

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 relevant locality team for an early review of their care and support needs, so the individual's allocated worker can undertake a mental capacity assessment concerning their ability to manage their own finances. Should they be found to lack capacity, a best interest decision will follow thereafter. Full consideration of all available options will be made, which can include the need for the individual to have an appointed DWP benefits appointee, or for a Court appointed Deputy to be made.

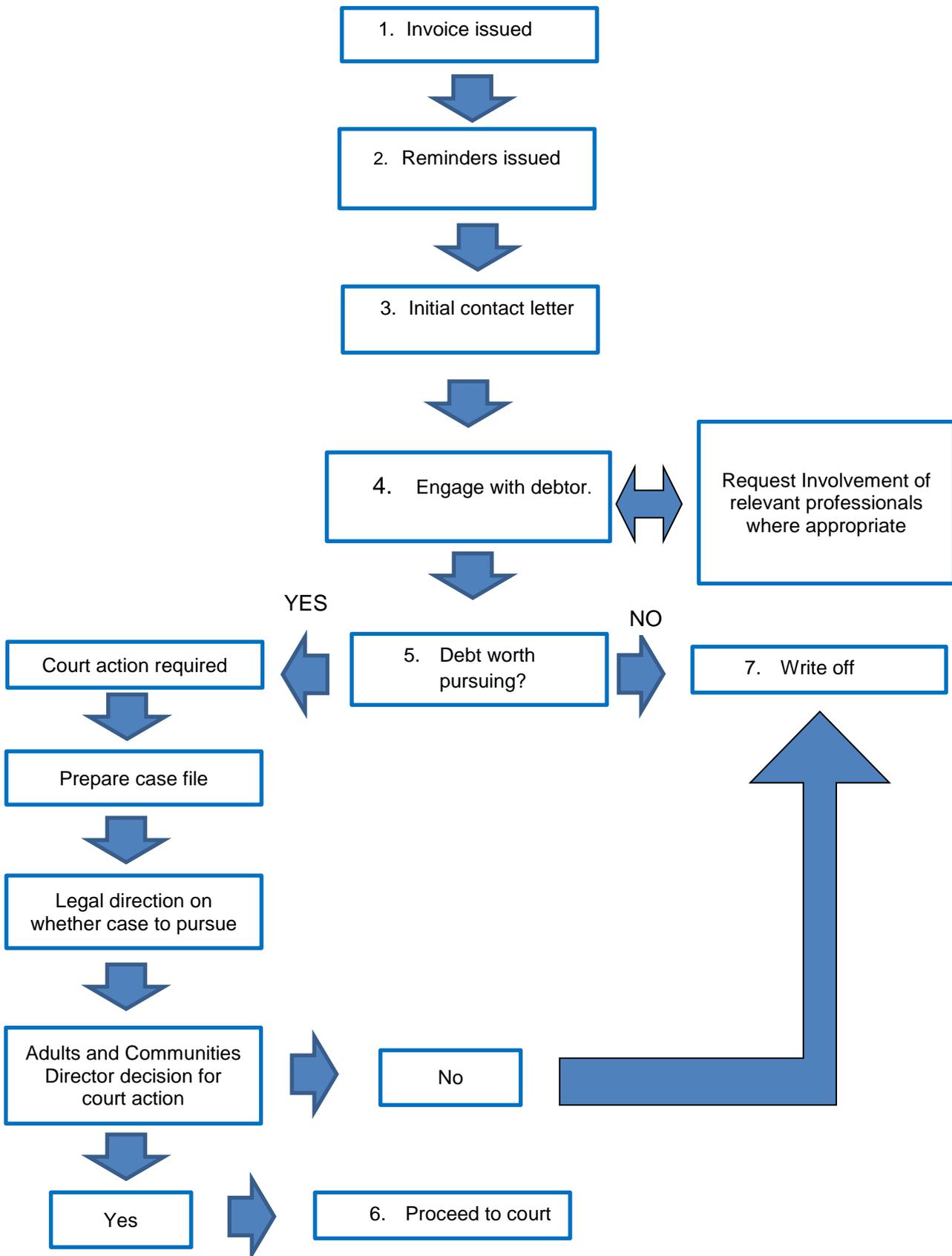
## **11. Write-Offs**

A debt may, but is not limited, 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).
- 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

In the circumstances above the decision to write-off will be taken in accordance with the debt recovery process and the councils' Financial Procedure Rules.

## Annex A1 – Adults and Communities Debt Recovery Process



1. If a person is assessed as having to contribute towards their care costs, an invoice will be issued for the care and support services provided in accordance with the charging schedules.
2. A 1<sup>st</sup> reminder is issued 4 days after the due date for payment. A 2<sup>nd</sup> reminder is issued 20 days later.
3. 34 days after the due date, initial contact is made with the person or their representative in an effort to ascertain why the contribution to their care and support costs has not been met.
4. Engagement is likely to be by phone, but may also include written communication in an appropriate format or a visit. This may require involvement from relevant professionals in Adult Social Care and a suspension of recovery action. The greater the person's need, the more effort should be made to resolve the issue positively through the use of negotiation, mediation, or arbitration, and effective social work skills.
5. 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.
6. 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 must be received from the Director of Adults and Communities.
7. At each stage, consideration should be given as to whether there is merit to write off the debt.

## Recurring Charges

This includes all services that are payable regularly through a contract, tenancy agreement or similar. Dependent on the service received reminder letters 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

1. 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.
2. Commercial rents and leases
  - 1<sup>st</sup> reminder issued 4 days after the due date of the invoice. A 2<sup>nd</sup> reminder will be issued 14 days after the due date of the invoice. Where payments continue to not be made an internal memo will be produced 24 days after the due date and personal contact will be made.
  - 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.
3. Trade Waste Disposal Charges
  - 1<sup>st</sup> reminder issued 4 days after the due date of the invoice followed by a 2<sup>nd</sup> reminder 13 days after the due date. An internal memo will be produced for continued non-payment 24 days after the due date of the invoice and persons contact will then be made.
  - 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.
4. 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 Revenues Team unless requested to do so by Encore.
5. 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 Revenues Team unless requested to do so by School Transport.

**6. 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**

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**

1. 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.
2. Debts returned from Debt Collection Agency
  - The only remaining options are issuing a court summons if economically viable.
3. 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 Local Assistance Hardship Fund 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 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**

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 judgment 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 Council's Financial Procedure Rules. These state that the S151 officer must approve all debt balances written off in excess of £20,001 and these must be reported to Cabinet providing the total number and value of debts written off split by debt type and reason for write off. Debt write offs up to £20,000 must be approved by the deputy S151 officer.
- 1.2 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.
- 1.3 For debts under the de-minimus value and after following the reminder process a monthly write off schedule from a system report will be produced and retained for audit purposes.
- 1.4 The staff authorised to write off debts along with their authorisation limits are listed below:

<b>Amount</b>	<b>Job Title</b>
Up to £150, including credit balances up to £150	Team Leaders (Hoople Ltd)
Between £151 and £1,000	Revenues Manager (Hoople Ltd) Benefit and Development Manager (Hoople Ltd)
Between £1,001 and £5,000	Revenues and Benefits Operational Manager (Hoople Ltd)
Between £5,001 & £20,000	Deputy Section 151 Officer
Above £20,001	Chief Finance Officer