

POLICY & FINANCE COMMITTEE

27 JUNE 2019

WRITE-OFF POLICY

1.0 Purpose of Report

1.1 To seek approval for the updated Write-off Policy detailed at Appendix A.

2.0 Introduction

2.1 The write off of bad debts is a necessary function of any organisation which deals with the collection of debt. Effective write off procedures contribute to the efficient management of debt.

2.2 The purpose of the Write-off Policy is to establish a framework to regulate the process under which Council debts should be submitted for write off. The policy is intended to ensure that the writing off of debts is conducted in a consistent and accountable manner.

3.0 Background Information

3.1 The Council is responsible for the collection of: Council Tax, Non Domestic Rates, Sundry Debts including Housing Benefit Overpayments and Rents (not covered by this Policy).

3.2 Under the Accounts and Audit Regulations 2003 (as amended by the 2006 and 2009 Regulations), bad debts should not be written off without approval of the responsible financial officer, or such member of staff as is nominated by him or her for this purpose. There are no equivalent rules for credit balances although it is prudent to have these written off on a regular basis.

3.3 The Council is prudent in managing bad debt and makes provision for them in its annual statement of accounts. This ensures that the writing off of bad debt has no detrimental effect on service provision or the council taxpayer.

3.4 The Council's policy is to pursue all debts where it is economic to do so, and a comprehensive debt recovery process is followed. Debts are only put forward for write-off when there is no other option.

3.5 Writing off irrecoverable items represents good financial management. It allows staff to concentrate on recoverable debts and ensures that the level of debtors / arrears within the accounts is accurate and represents a true and fair reflection of the Council's financial position.

4.0 Reasons for Write-Off

4.1 Every effort will be made to recover a debt owing to the Council before it is considered for write off. Only where all recovery action has failed, is a debt regarded as irrecoverable.

- 4.2 In cases where the debtor is jointly and severally liable for the debt with another party, recovery action will continue against all liable individuals and only if this action fails, will monies be recommended for write off.
- 4.3 The Write Off Policy at Appendix A sets out the procedure to be followed when writing off irrecoverable amounts (including credit balances) of Council Tax, Non-Domestic Rates, and Sundry Debts including Housing Benefit Overpayments.
- 4.4 The Council will update and review the policy in accordance with any changes in legislation relating to the collection of debt.

5.0 Equalities Implications

- 5.1 There are no equalities implications in the report.

6.0 Impact on Budget/Policy Framework

- 6.1 There will be no impact on the Council's budget. Money is set aside each year in the Council's accounts to cover losses due to debts that are unrecoverable.

7.0 RECOMMENDATION

That the updated Write-off Policy, as detailed at Appendix A to the report, be approved.

Reason for Recommendation

To ensure that only income which is collectible is included in the Council's accounts.

Background Papers

Nil

For further information please contact Phil Ward, Business Manager – Revenues and Benefits on Ext 5347.

Sanjiv Kohli
Director – Resources / Deputy Chief Executive

WRITE-OFF POLICY

REVENUES & BENEFITS BUSINESS UNIT

(COUNCIL TAX, BUSINESS RATES, HOUSING BENEFIT OVERPAYMENTS, SUNDRY DEBTORS)

SUMMARY OF POLICY

An integral part of debt recovery is the effective management of irrecoverable debts, to ensure that resources are applied to the collection of monies outstanding which can reasonably be expected to collect. Obviously every effort must be made to maximise the amount of income collected, however, it is bad practice and a failure to use resources to their maximum benefit if irrecoverable debts are not written off. There are a number of reasons why a debt becomes irrecoverable, these include

- Where the debtor has absconded and cannot be traced.
- Where the debtor has died and there are no funds available from the estate to clear the debt.
- Where the debt is too old to recover.
- Where the balance is small and the recovery costs would make the debt uneconomical to collect.
- On the grounds of hardship in the case of business rates.
- Where individuals or companies have become insolvent.
- Insufficient evidence available to support the claim
- Other / special circumstances

There are also cases where the Council actually owe a debtors/taxpayer an amount, but are unable to make payment because

- the chargepayer has absconded and cannot be traced.
- the chargepayer has deceased and we have been unable to trace the beneficiaries.

The intention of the policy is to ensure that there are consistent procedures to follow and that every effort is made to collect the debt, it also provides a framework to write off debts once these procedures have been exhausted.

If for any reason, i.e. new information, a debt which has previously been written off becomes collectable again recovery action is started and the debt is brought back as a live account.

Approval and Authorisation

The Business Manager Revenues and Benefits or the Senior Revenues Officer(s) must approve proposals for write off.

Authorisation for debts to be written off up to £10,000 is by the Section 151 Officer, over £10,000 by the Policy and Finance Committee.

BACKGROUND INFORMATION

Revenues & Benefits Write Off Policy & Procedures

In this document 'Full Checks' Means Checking

Where Applicable:

- Notepad entries
- Revenues and Benefits system
- DIP System
- All previous and linked addresses
- Reports from any external debt collection agency.
- CIS/Benefits Agency in respect of Benefit Overpayments
- Social Media sites
- Rents/Newark and Sherwood Homes
- Owner/Landlord/Letting Agent
- National Anti Fraud Network (NAFNA) searches
- Visits to the property
- Any other appropriate agencies e.g. other LA's
- Check Electoral Roll

Debit Balances

No Forwarding Addresses (NFAS)

These are all cases where the debtor has absconded and all attempts to locate their new address have been unsuccessful and the account has been marked as No Forwarding Address. In these cases there will have been a full check done and nothing found.

If we are unable to find the debtor then the debt may be written off after approval through the Section 151 Officer. Records are to be kept of all these cases for audit purposes for 6 years from the date of write-off.

In respect of any of these write offs, if a debtor is found later then the debt may be brought back, although we need to assess whether it is still recoverable at this stage.

Cases where the Debtor has Deceased

In cases where it has been established that there are no funds to clear the debt it will be submitted for write off. These will be listed and passed to the Section 151 Officer for approval.

Cases That Are Too Old to Recover

Case law has made it clear that if we do not try to collect charges as soon as practicable then they become irrecoverable. (case - Encon Insulation Ltd v Nottingham City Council 1999).

Each of these cases will be considered individually, where it is not in the interest of the Council to pursue further enforcement action through the Courts they will be submitted for write off.

As a general rule:-

1. Debts that are over 6 years old and have reached committal stage but have not been progressed should be considered for write off, especially so where the debtor is no longer living in the District.
2. Council Tax debts on previous accounts where the debtor has a deduction from Income Support or Jobseekers Allowance on their current account and the circumstances mean that it is very unlikely that we will ever be able to recover these old debts.

Uneconomical to proceed (unless it is in the public interest to pursue them)

1. Under £50 plus any costs outstanding. Where a liability order has been obtained for under £50 plus costs and there is no available information to seek an attachment and no arrangement has been made these amounts can be written off as it is not cost effective to recover.
2. Debts up to £100 returned from the debt collection agency (sundry debts).
3. Debts of any higher amount to be assessed on an individual basis having considered ability to pay, cost of collection and available recovery options
4. Under £5.00 Write off these very small balances periodically to tidy system up.

Hardships cases - Business Rates Only

Legislation only allows this discretion to be applied in Business Rates cases.

The Section 151 Officer has the delegated power to approve these cases that are considered individually. Cases are submitted on an ad-hoc basis.

(See appendix A of this Policy)

For Council Tax only the Magistrates are allowed to remit charges at committal stage.

Liquidations, Bankruptcies, Administration Orders and Voluntary Arrangements

Regardless of the amount once official notification of insolvency is received then a claim is submitted for the relevant debt to the Insolvency Practitioner, then the debt is written off. If any dividend is paid to the Council, this amount of the debt is raised to offset payment.

Insufficient evidence available to support the claim

Where it is considered that judgement would not be granted due to:-

- Debtor untitled
- Address insufficient
- Detail insufficient to support the detail of the original account raised

Other / special circumstances

- Where there may be a cause for write off of the debt on compassionate grounds, for example where illness or accident renders the debtor unable to pay.

Credit Balances

No Forwarding Addresses

Where the debtor has vacated and we do not have a forwarding address the credit may be written off without seeking approval. Records are to be kept of all these cases for audit purposes for 6 years in case there is any comeback from the taxpayer.

In respect of any of these write offs if the customer is found or contacts us later then the credit may be brought back and refunded.

Cases where the Taxpayer has Deceased

Where the customer has died more than 1 financial year ago and we do not have the address of the beneficiaries, then the credit may be written off without seeking approval. In respect of any of these write offs if the beneficiary is found or contacts us later, then the credit may be brought back and refunded.

- 1. Consideration of applications for relief from Business Rates under Section 49 of the Local Government Finance Act 1988 (Hardship relief)**
- 2. Notwithstanding the provisions of the scheme, each application must be considered on its own merits.**
- 3. Any decision must be in the interest of the Council Taxpayers and other residents of the Newark and Sherwood District.**
- 4. The last available accounts of the business will be used to evaluate hardship.**
- 5. Items of account not directly relating to the running of the business shall be disregarded.**
- 6. The obligation to show hardship lies with the ratepayer.**
- 7. Normally no relief shall be given within one year of the commencement of the business i.e. before annual accounts can be produced.**
- 8. Applications in respect of defunct businesses will be considered.**
- 9. Applications will be effective from the Council's financial year in which the application is received or the date of occupation, whichever is the latest.**
- 10. Approvals will be effective for one year only. If the organisation wishes to re-apply further annual accounts must be supplied.**
- 11. Relief will be withdrawn on the sale of the business.**

NOTE

Applicants should note that appropriate action will be taken, if the application contains information found to be false and/or fraudulent.