

# WRITE OFF POLICY

## **Introduction**

This document sets out the procedure to be followed when writing off irrecoverable amounts (including credit balances) of Council Tax (CTax) and Non-Domestic Rate (NDR). At the end of the document, there are specific procedures that relate to Housing Benefit Overpayments (HB) and Council Tax Benefit Overpayments (CTB).

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.

Each authority within the partnership sets rigorous performance targets for the collection of CTax and NDR debt. In addition, they strive to minimise HB / CTB overpayment. They are committed to accurate collection and timely recovery and will ensure that sums outstanding are correctly recorded and recovery is taken where a debtor is in arrears.

Staff are required to take robust action to collect all debts; however, in some cases, this might not be possible and debts do become irrecoverable. Where a debt is deemed to be non-recoverable (or a credit considered to be non-refundable), it needs to be identified at the earliest possible opportunity and properly dealt with in accordance with financial regulations. Irrecoverable debts must also be identified and written off promptly; if only because they are shown in the council's accounts as an asset.

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.

## **Reasons for Write-Off**

Every effort will be made to recover a debt owing to the council before it is considered for write off. This includes using tracing agents, visiting the property, contacting the occupants / owners as well as cross-referencing other internal databases (e.g. housing, debtors, parking control, register of electors, etc.). There is a separate policy that sets out the CTax and NDR billing / reminder processes and the actions to be followed if a debt is not paid. Only where all recovery action has failed, is a debt regarded as irrecoverable.

The circumstances where a debt may be written off have been categorised as follows:-

| Reason                  | Description  |
|-------------------------|--|
| Insolvency              | Debtor is the subject of bankruptcy, individual voluntary arrangement, liquidation, company voluntary arrangement & administration order or administrative receivership proceedings or has ceased to trade |
| Unenforceable           | Debtor is overseas or the debt is over 6 years old   |
| Abscond                 | Tracing agents have been unable to find the debtor   |
| Uneconomical to Collect | Balance is too small for further action  |
| Uncollectible           | Custodial sentences / remitted debts / vulnerable people / hardship / local authority error / system roundings   |
| Deceased                | No funds in an estate  |

Should a debtor be subsequently traced, a debt will be re-instated if considered economically viable to recover and it is within the statute of limitations.

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.

There will be instances where the partnership will need to write off a credit that remains on a closed account. Not knowing the whereabouts of the creditor (or not having sufficient information to determine how or when a credit is to be refunded) will be the reasons for writing off a credit.

### **Procedures to be undertaken prior to obtaining write-off approval**

#### **General**

The procedures to be followed prior to the writing off of a debt / credit are analysed below. Once the actions have been undertaken, only then will a debt / credit be included on a list of cases submitted for write off.

It is accepted as good accounting practice (with exception of where a company has ceased to trade) that liability should be reduced to £1 indicating that the debt cannot be enforced or recovered during the life of the order. Once the order is in force, the total of the debt (less £1) will be included on a list of cases submitted for write off.

## **Insolvency**

### Bankruptcy

Upon notification of a bankruptcy, a proof of debt will be completed for the outstanding debt that is due at the date of the bankruptcy order and submitted as a claim to the trustee in bankruptcy. In the event of payment being received in full or part from the bankrupt's estate, this money will be credited back to the relevant account.

### Individual voluntary arrangement

A voluntary arrangement is an alternative route available to an individual wishing to avoid the restrictions placed upon them by a bankruptcy order. It involves the debtor making an offer to all creditors, which is less than the full amount of the debt outstanding, and agreeing that it be repaid over a period of time in full and final settlement. If 75% (in value) of creditors agree to the offer as an alternative to proceedings for bankruptcy, an insolvency practitioner will be appointed to administer the voluntary arrangement. In the event of payment being received in full or part, this money will be credited back to the relevant account.

### Liquidation

Liquidation may either be compulsory (sometimes referred to as a creditors' liquidation) or voluntary (sometimes referred to as a shareholders' liquidation ... although some voluntary liquidations are controlled by the creditors). Upon notification of liquidation, a proof of debt will be completed for the outstanding debt that is due at the date of the winding-up order and submitted as a claim to the liquidator. In the event of payment being received in full or part, this money will be credited back to the relevant account.

### Company voluntary arrangement / administration order

A company voluntary arrangement is an alternative route available to a company wishing to avoid the making of a winding up order. It involves the directors making an offer to all creditors, which is less than the full amount of the debt outstanding, and agreeing that it be repaid over a period of time in full and final settlement. If 75% (in value) of creditors agree to the offer as an alternative to liquidation, an insolvency practitioner will be appointed to administer the voluntary arrangement. In the event of payment being received in full or part, this money will be credited back to the relevant account.

### Administrative receivership

This involves an individual being appointed by a lender, usually a bank, which holds a debenture as security over a floating charge on assets of the company, and usually takes effect where the company is in default of agreed lending terms. An insolvency practitioner will assume immediate control of the company in an attempt to sell it as a going concern. However, although remaining in occupation, no action can be taken against the receivers appointed to enforce payment of previous or on-going rate charges. In the event of payment being received in full or part, this money will be credited back to the relevant account.

### Company has ceased to trade leaving no assets

On occasions, limited companies will cease to trade on the grounds of having no assets to pay an outstanding and / or on-going debts. They do not go through the formal process of winding-up proceedings, which carry a cost and have legal implications. Where this occurs, the authority could take steps to put the company into compulsory liquidation although this action is costly and is highly unlikely to secure payment.

In these circumstances, if it is proven that an enforcement agent has failed to recover monies due, or identify assets on which to levy distress, a recommendation for write-off will be made.

### **Unenforceable**

Certain debts will fall outside of legal jurisdiction either because the debtor is overseas or six years may have passed since recovery action had been instigated against a debtor and the debt was last acknowledged.

If a debtor is overseas and contact in writing has failed to result in payment or an arrangement to pay, a recommendation for write off will be made. Evidence supplied from external sources would be used to determine this.

In cases where six years may have passed since recovery action had been instigated against a debtor and the debt was last acknowledged, the whole debt will be submitted for write off. Evidence on what action, if any, has been taken will be used to determine this.

### **Abscond**

#### Closed accounts where no forwarding address is known and the debt is under £100.

For any finalised account with a balance of under £100, staff will make basic checks of the authority systems and known third parties, (i.e. solicitors and letting agents). If, after a three month period, a new address is not established, the debt will be submitted for write off.

### Debts where no forwarding address is known and the debt is £100 or more

Before the debt can be recommended for write off, the following enquiries will be undertaken by staff:-

- Check CTax or NDR database to identify if the person has re-registered at another address within the partnership area.
- Check with housing department, debtors, parking control etc.
- Check electoral register.
- Contact landlord or letting / estate agent.
- Contact other local authorities.
- Undertake visits to property.
- Conduct third party searches (i.e. through 'Experian' or similar companies).

If, after all enquiries have been completed, a forwarding address has not been established, the amount will be submitted for write-off.

### **Uneconomical to Collect**

Prior to annual billing, every debt of up to £1 on both live and finalised accounts will be submitted for write off to prevent bills being issued for small sums. These will automatically be written off prior to printing production.

### **Uncollectible**

#### Debts where the debtor has served a custodial sentence in respect of the debt

If a debtor is the subject of a means enquiry and has been imprisoned for non-payment of CTax or NDR, whilst a debt is not legally remitted on imprisonment, an authority cannot enforce the debt again in the event of continued non-payment. Therefore, an authority has no option but to write off the debt.

#### Debts which are remitted by the court on the grounds of inability to pay

If a debtor is the subject of a means enquiry and the court has remitted CTax or NDR on the grounds of inability to pay, an authority has no alternative but to treat the debt as being written off.

### Debts written off due to the debtors known personal or financial circumstances

There is a separate policy that deals with debts written off at the general discretion of the partnership. Details of why any debt has been written off will need to be provided to evidence this.

### Debts that have arisen because of local authority error / system roundings

If a debt has arisen as a result of a local authority error or system rounding, the possibility of recovering the debt would be considered in the first instance. If that proves impossible (i.e. legislation prevents recovery or the fault is not of a debtors doing) the debt will be written off. Details of the events that gave rise to the debt being incurred will be taken to evidence this.

### **Deceased**

Where a debtor has died and the estate is insolvent, the debt will need to be written-off. A letter from the executor confirming there are no assets from which to discharge any outstanding liability will be taken to determine this.

### **Credits**

There will be instances where an account is closed and a credit balance remains on an account. If it has not been possible to refund the money, for whatever reason (i.e. forwarding address unknown), the credit will be written off after a period of one year. The steps taken before writing off any debt less than £100 on a closed account will be used to determine whether any credit is to be written off.

### **Authority for Write off**

The constitution of each authority within the partnership sets out who has authority for writing off irrecoverable amounts and this is then delegated to officers using prescribed thresholds. At officer level, only the Director of Finance (or his or her nominated representatives) has the authority to write off a debt. All decisions for write offs need to be made by the individuals who have the authority to write off the corresponding level of debt.

There are four levels of write off:-

- For debts up to but not exceeding £100 (including aggregated debts for one debtor), the delegated authority rests with the enforcement team leader.
- For debts greater than £100 but not exceeding £1,000 (including aggregated debts for one debtor), the delegated authority rests with the authority's partnership manager.

- For debts greater than £1,000 but not exceeding £10,000 (including aggregated debts for one debtor) (and for all credit balances), the delegated authority rests with the senior partnership manager.
- For debts greater than £10,000 (including aggregated debts for one debtor), the request for write-off must be made in a report to the executive.

The procedures to be followed for each level of write off are set out below:-

- Debts not exceeding £100 (including aggregated debts for one debtor)

The delegated authority to approve write offs of up to but not exceeding £100 lies with the enforcement team leader. Where the debt is not greater than £100, normal recovery procedures have failed to secure payment and the debt is deemed to be uncollectable or uneconomic to pursue further, it can be written off by the enforcement team leader. No officer may record the debt as being written off until they have received formal written notification from the enforcement team leader that this has been duly authorised.

Once the debt has been written off, the executive will be advised via a monthly information report.

- Debts greater than £100 but not exceeding £1000 (including aggregated debts for one debtor)

Writing off of debts greater than £100 but not exceeding £1,000 can only be authorised by the partnership manager. Where the normal recovery procedures have failed to obtain payment, the debt shall be referred to the partnership manager for write off. In this instance, the enforcement officer will be notified of the impending action and will be asked to approve the referral for write off. Alternatively, they will suggest further recovery methods or provide more information appropriate to the case. Once authority has been given by the partnership manager, they will notify the enforcement team leader that the debt can be written off.

Once the debt has been written off, the executive will be advised via a monthly information report.

- Debts greater than £1000 but not exceeding £10,000 (including aggregated debts for one debtor) (and for all credit balances)

Writing off of debts greater than £1,000 but not exceeding £10,000 can only be authorised by the senior partnership manager. Where the normal recovery procedures have failed to obtain payment, the debt shall be referred to the senior partnership manager for write off. In this instance, the enforcement team leader will be notified of the impending action (if they had not originated the request for write off) and will be asked to approve the referral for write off. Alternatively, they will suggest further recovery methods or provide more information appropriate to the case. Once authority has been given by the senior partnership manager, they will notify the enforcement team leader that the debt can be written off.

The above procedures will also apply to how credit balances are treated; irrespective of the amount involved.

Once the debt has been written off, the executive will be advised via a monthly information report.

- Debts of £10,000 and over (including aggregated debts for one debtor)

For the write off of debts £10,000 and over, it will require a full report to be submitted by the senior partnership manager to the executive. In this instance, the enforcement team leader will be notified of the impending action (if they had not originated the request for write off) and will be asked to approve the referral for write off. Alternatively, they will suggest further recovery methods or provide more information appropriate to the case. Once authority has been given by the executive, the enforcement team leader will be notified that the debt can be written off.



## **HB and CTB Overpayments**

### **Where an Overpayment is Uneconomical to Pursue**

Factors that should influence the decision whether an overpayment is economical to pursue are:-

- The size and age of a debt in relation to where it is in the recovery process and the cost of certain action, which could be taken to try and secure recovery.
- Any previous action taken on the case and the results.
- Whether we know the current address of the debtor.
- When was the last action taken to try and recover the overpayment?
- Are all documents in sufficient order to support the recovery of the overpayment?

From here, council officers will calculate how much it would cost the authority to proceed with certain action and whether it is economically viable to do so.

### **Circumstances**

Whilst rare, it may be necessary to recommend an overpayment for write-off, whether it is claimed in error or fraudulently, due to:-

- A person's age, health or personal circumstances, which would make any prosecution or penalty unsuitable.
- The claimant's diligence in reporting a change of circumstances (if applicable).
- The standard of advice and notification given to the claimant in respect of the overpaid amount.
- Whether it is reasonable to expect the claimant or any other person affected to repay the overpayment.
- Whether recovery will cause unacceptable hardship to the claimant or any other person affected.

The authority (and procedure) for writing off debits and credits will follow the practice adopted for Ctax and NDR; referred to earlier in the document. The only exception is that the role of the senior enforcement officer is substituted with the benefits manager

## **Retention periods**

To comply with the requirements of the authority's standing orders, all documentation supporting write-offs of debts shall be retained in respect of the current year plus the previous 6 years.

## **Write Off Reporting**

All debts will be batched as follows:-

- Listed on a spread sheet showing the reference number, amount and year the debt was raised and supported by documentary evidence for each case which demonstrate the steps that have been taken to recover the debt and, if appropriate, the steps that have been made to trace the debtor.
- Sorted into the debt type and reason for the write off, (e.g. insolvency, unenforceable etc.).
- Summarised on a front sheet detailing the number of cases and amount of debt.

If there are exceptional debts within the write off batch (i.e. an extremely high debt or a very old debt), then a brief report will be given. This is so that the authorising person or executive can make a decision based on all the facts.

When debts are written off, they are to be recorded against the bad debt provision for the revenues and benefits section which is reviewed annually. An aged debt analysis for the revenues and benefits section is to be maintained and budget managers kept informed so that there is an awareness and understanding of how much debt there is that might be irrecoverable. This will assist with the calculation of the bad debt provision and to identify trends in recoverability.

Quarterly reports, in accordance with the above delegations, will be presented to a council's executive in relation to irrecoverable amounts.