

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 14 February 2012

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PART I **KEY DECISION**

INCOME COLLECTION AND DEBT RECOVERY POLICY/ WRITE OFF OF IRRECOVERABLE DEBT

1 Purpose of Report

1. To seek Cabinet's approval of a new Income Collection and Debt Recovery policy for the Council
2. To seek Cabinet's approval to write off various individual debts that have proven to be irrecoverable.

2. Recommendation(s)/Proposed Action

That Cabinet is requested to resolve:

- a) That the Income Collection and Debt Recovery policy be approved as set out in Appendix 1; and
- b) That the debts set out in the summary at paragraph 5.4 be approved for write off.

3. Key Priorities – Taking pride in Slough and making a difference to communities and our environment

The adoption of the Income Collection and Debt Recovery Policy and the write off of irrecoverable debt will help to improve financial and asset planning, monitoring and stewardship aim of Key Priority 5- maintaining excellent governance within the Council to ensure it is efficient, effective and economic in everything it does.

4. Other Implications

(a) Financial

The adoption of the Income Collection and Debt Recovery Policy will ensure that a uniform approach is taken to the collection of sundry debts across the Council.

Total write offs of £3.10m are requested in this report. Of this £2.01m is for National Non Domestic Rates (NNDR) and this will fall as a charge on the NNDR pool rather than the Council's General Fund, provided that the external auditor is satisfied that the Council has acted with all due diligence in seeking to recover the debt.

Former Tenant Arrears of £0.31m for write off. Of these some 20% emanate from tenants in temporary accommodation, who tend to be of a transient nature, often vacating the premises without warning. These tenants are generally very difficult to locate and become uneconomical to pursue. The value of these cases represents 9% of the total proposed write off

Most of the debts recommended for write off were fully or partially provided against in the Council's financial statements at 31 March 2011.

(b) Human Rights Act and Other Legal Implications

The Council has a general duty to take all reasonable and economic steps to recover monies due to it. The policies, procedures and practices adopted by the Council in this regard are considered to be satisfactory. There are no specific Human Rights Act implications.

(c) Equality Impact Assessment

The Council is facing a period of unprecedented cuts in public funding and is planning cuts of about £7m for 2011/12, with further cuts planned over the coming financial years. In order to reduce the impact on frontline service delivery the council, as part of its Medium Term Financial Strategy is looking to improve its income collection and reduce its debt liability. To assist with this strategy the current debt recovery policy has been reviewed and updated.

In addition to this the Council is also seeking to work in partnership with a local service provider in establishing a multi functional public service delivery hub, who will be responsible for improving the councils income collection and debt recovery activities.

It is therefore important that we have robust policies and procedures in place that provide a clear understanding to the service provider and offer support to our service users, especially the vulnerable elements of our community.

(d) Risk Assessment

Adoption of the draft Income Collection and Debt Recovery policy will mitigate the risk of non-recovery of current and new sundry debts by ensuring that there is a common understanding across the Council of our approach to debt collection.

(e) Workforce

There are no workforce implications.

5 Supporting Information

5.1 A detailed review of the Council's sundry debt collection policy and procedures has been undertaken following a corporate initiative to improve collection performance. A draft Income Collection and Debt Recovery Policy is attached as an Appendix. The draft has been seen by Directors, Assistant Directors and key service managers and it incorporates suggested changes.

5.2 The key features of the draft policy are:

- It recognises the Council's responsibility to protect Council Tax payers by collecting debt whilst at the same time recognising the need to support vulnerable debtors.
- The Council will, where it is permitted and practical, seek to obtain payment prior to or at the point of service delivery to reduce the number of debts to be collected.
- Invoices will be issued on a timely basis and will clearly set out the amount to be paid, the deadline for payment and the means of payment available.
- The Council will treat vulnerable debtors professionally and compassionately and will offer an assessment of entitlement to benefits where appropriate.
- Payment methods will be clearly explained to customers and direct debit will be offered for the payment of recurring debts.
- The Council will use all permitted means to enforce payments including the county court process.

5.3 As part of the process of ensuring that our accounting records present fairly the financial position of the Council, periodic reviews of all outstanding debts are undertaken. A decision is taken as to whether those debts are likely to prove recoverable given the time and resources already devoted to obtaining payment and the sum outstanding.

5.4 The table on the next page provides a summary of the value and volume of debts for write off by reason of category (e.g. bankrupt, abscond etc) and by type (council Tax, NNDR, sundry debts etc) that Cabinet is asked to endorse as being irrecoverable.

Table: Summary of proposed debt write offs

Reason	NNDR		Former Tenant Arrears		Council Tax		Sundry Debtors		Total	
	No.	Value £	No.	Value £	No.	Value £	No.	Value £	No.	Value £
Liquidation	32	494,615.21							32	494,615.21
Dissolved	54	790,101.28							54	790,101.28
Administration	13	608,542.27							13	608,542.27
Bankruptcies					22	25,929.14			22	25,929.14
Out of Time Limit	16	15,178.23							16	15,178.23
Absconded	8	87,889.25			175	134,623.12			183	222,512.37
Deceased	1	17,369.87	342	169,778.66	23	22,066.18			366	209,214.71
Irrecoverable- Collection Agency			26	24,241.37					26	24,241.37
Statute Barred			204	178,129.33			77	247,931.54	281	426,060.87
Uneconomical			126	2,021.61	485	277,203.49	162	120.93	773	279,346.03
	124	2,013,696.11	698	374,170.97	705	459,821.93	239	248,052.47	1766	3,095,741.48

- 5.5 In addition to the proposed former tenant arrears write offs some 538 write ons of £61,620.40 have been identified.
- 5.6 The sundry debts identified for write off are irrecoverable because they are statute barred under the Limitation Act. (1980). These are debts for which no payment has been received in the past six years and where the debtor has not acknowledged the debt in writing in the same period. A review of older non-statute barred debt is underway and it is likely that further will be required and will reported to the Cabinet at a future meeting.
- 5.7 Where debts are written off because the debtor has absconded, further attempts to collect will be made if contact is established with the debtor in the future. Occasionally, where debts are written off due to bankruptcy or liquidation, small payments may subsequently be received from liquidators, receivers or trustees.
- 5.8 Adequate provision for write off has been made. A copy of this report has been provided for review by the External Auditor.

6 **Conclusion**

Members are requested to review and approve the revised Income Collection and Debt Recovery policy and to approve the requested write offs.

7 **Appendices Attached**

Appendix 1 - Draft Income Collection and Debt Recovery Policy

8 **Background Papers**

None.

SLOUGH BOROUGH COUNCIL

INCOME COLLECTION AND DEBT RECOVERY POLICY

1 Objectives

1.1 This policy seeks to set best practice with consistent and effective processes for the maximisation of income and the management of the Council's debt. It should be read in conjunction with the Financial Regulations set out in the Council's Constitution.

1.2 The specific aims of the policy are:

- To develop a corporate approach towards sharing debtor information across collection teams and managing multiple debts owed to the Council.
- To use cost effective and fair collection and recovery practices in the pursuance of all debts owed to the Council, ensuring that those with the means to pay do pay to protect the interests of Council Tax payers.
- To ensure a professional, consistent and timely approach to recovery action across all of the Council's functions.
- To fully consider the debtor's circumstances and ability to pay.
- To treat individuals consistently and fairly regardless of age, sex, race, gender disability and sexual orientation and to ensure that the individual's rights under the Data Protection Act and Human Rights legislation are protected.

2 Debts Covered by this Policy

2.1 The debts covered by this policy are as follows:

- Accounts Receivable (Sundry Debts)
- Former Tenant Arrears
- Commercial Rents
- Adult Social Care Fees & Charges
- Penalty Charge Notices

2.2 Debts for Council Tax, National Non Domestic Rates, current rent arrears and overpaid housing benefits are collected in accordance with their own specific income management policies.

2.3 The policy will apply to all departments of the Council and focus on collecting the charge set rather than how the charge is arrived at. Ability to pay is a key concern when considering debt recovery.

3 Fair Debt Collection

3.1 This policy aims to adopt fair debt collection and recovery practices including:

- Ensuring that bills are accurate, timely and clear.
- Providing appropriate and easy payment methods.
- Encouraging people who fall into arrears to contact us and agree to payment arrangements appropriate to their circumstances.
- Helping to reduce the effect of debt on people on low incomes by informing them of the general availability of income-related benefits and by trying to ensure that maximum benefit take-up occurs.
- Advising people where they can get independent advice with financial problems
- Identifying deliberate non-payers or those who delay payment and taking timely and effective enforcement action.

4. Prepayment for Goods and Services

4.1 Where permitted by law the Council will seek payment in advance of supplying goods and services under statute. For commercial services the Council will seek payment in advance wherever it is practical to do so.

5 Raising Invoices

5.1 No invoice will be raised without full and accurate debtor information and supporting documentation including the name of the party to be invoiced, postal address, email address and telephone number.

5.2 Before supplying requested goods and services to a new commercial customer which amount to £10,000 or more, officers must carry out a company search and credit check through the Accounts Receivable team.

5.3 The Council will not normally raise invoices for a value of £20 or less unless required to do by statute or to protect the Council's interests.

5.4 Where a charge is for a low value, repeated service, an invoice will be raised on a periodic basis (quarterly as a minimum) whenever possible.

5.5 All invoices will be despatched within two days of generation.

5.6 The Council will aim to develop a facility so that invoices will be sent electronically where the debtor is able to receive such invoices.

6 Payment Methods

6.1 The Council will promote payment by the following methods:

- Direct Debit (to be implemented)
- Standing Order for regular fixed payments
- Debit/ Credit Card
- Direct Bank Payments

6.2 Payments by cheque will be accepted by post. Cash payments will only be accepted at the My Council office or other Council offices with cash receipting facilities and will be subject to review in accordance with Money Laundering Regulations.

6.3 Further details of acceptable payment methods and locations are set out below.

6.3.1 Available Methods of Payment

Direct Debit

This is the preferred method of payment for Council Tax, Business Rates and Housing Rents since it is the easiest and most cost effective method of collection. The Council is working to offer direct debit as a payment method for other types of debt but not one off charges or parking fines.

Debit Card/ Credit Card

Debit/ credit card payments are accepted for all Council debts, rent, charges and parking fines.

24 Hours a Day

Payment can be made 24 hours a day, 7 days a week by debit/ credit card by:

- Telephone: 0845 303 9488
- Online at: www.slough.gov.uk

Internet banking payments can be made directly to the Council's bank account:

- Sort code 08-90-16
- Bank Account No. 61038422

Any internet banking payment should include a transaction reference such as the Council Tax reference number, invoice number etc.

Payment Card

A payment card can be used to pay Council Tax or rent at any post office or at My Council.

Post

Cheques made payable to Slough Borough Council can be posted to:

Slough Borough Council
My Council
Landmark Place
High Street
Slough
SL1 1JL

Posted payments should quote the transaction reference such as the Council Tax reference number, invoice number etc.

In Person

Payment can be made in person at the Customer Service Centre between 9am (10am on Thursdays) and 4.45pm Monday to Friday:

My Council
Landmark Place
High Street
Slough
SL1 1JL

Parking fines can also be paid at the Parking Shop between 9am and 5pm Monday to Friday:

Parking Shop
Unit 5
Shaftesbury Court
Chalvey Park
Slough
SL1 2ER

Disputed Invoices

Debtors wishing to dispute invoices will be encouraged to promptly contact the Council. Contact may be made by telephone, letter, email, fax and in person. Contact details are set as below:

6.3.2 Sundry Debt Invoice Queries

Sundry debt invoice queries can be made:

By telephone to 01753 875511 for payment issues and to the number shown on the invoice for anything else.

By fax to 01753 875371 quoting the invoice number

By post to Slough Borough Council
Landmark Place
High Street
Slough
SL1 1JL

By email to enquiries@slough.gov.uk quoting the invoice number

In person at: Slough Borough Council
Landmark Place
High Street
Slough
SL1 1JL

Opening Hours are Monday 9am to 6.30pm. Tuesday, Wednesday and Friday 9am to 5.30pm, Thursday 10am to 5.30pm and Saturday 9am to 1.30pm.

- 6.4 The Council will respond to disputed invoice queries as soon as possible. Investigation of any query raised by a debtor will commence within seven days of its receipt. The Accounts Receivable team will acknowledge the query and provide timescales to the debtor for its resolution. The Accounts Receivable team will notify the cost centre manager of the dispute. Where a cost centre manager becomes aware of a dispute before the Accounts Receivable team, the cost centre manager will provide details to the Accounts Receivable team as soon as possible.
- 6.5 Where a debt is deemed by the cost centre manager to have been raised in error, the cost centre manager will immediately arrange for its cancellation. This will only apply where the goods or services were not supplied to the debtor. Where the quantity or price shown on the invoice is incorrect, the cost centre manager will instruct the Accounts Receivable team to issue a credit note.

7. **Hardship**

- 7.1 Debtors (excluding business debtors) seeking help due to financial difficulties will, where appropriate:
- be offered an assessment of their ability to pay to be undertaken by the Finance Business Partner for the relevant Council service.
 - be invited to provide details of their means to pay by listing their income and expenditure with supporting evidence if necessary
 - be encouraged to use appropriate money advice services
 - be given access to the Council's interpretation service if required
 - be encouraged to seek benefit advice where appropriate
- 7.2 If it is found that the debtor is suffering severe financial hardship or has difficulty in managing their own affairs, the following will be considered:
- Can the debt be reduced? Is there any entitlement to relevant benefits, discounts, exemptions and reductions to minimise the potential for further debts to accrue?

- Does the debtor owe money to other Council services? If so, the debtor will be advised that, with their consent, all their Council debts may be taken into consideration when deciding on an arrangement.

7.3 Where a debtor agrees that all their Council debts can be considered collectively, officers from the relevant services will exchange information and seek to identify an appropriate payment arrangement and the basis on which payments will be allocated. Debts will be prioritised in accordance with government guidelines.

7.4 Where payment arrangements are made with a debtor, these will be confirmed in writing to the debtor and will be regularly monitored. Should the payment arrangement be breached, further recovery action will be taken. Debtors subject to a payment arrangement will be advised to contact the Council should they experience a change of circumstances affecting their ability to pay.

7.5 Where the amount to be subject to a payment arrangement is less than £200, the maximum time period for the arrangement will not normally exceed 12 months but this may be overridden where the debtor does not have the ability to pay within this period.

8 **Enforcement**

8.1 All debts will be allocated to a named officer. Typically this will be the originator of the invoice or their cost centre manager. All debtor accounts will be allocated to a specific debt recovery officer by the Transactional Finance Service Manager.

8.2 The debt recovery officer will coordinate an effective and timely debt recovery process and ensure close monitoring and a proactive approach to debt collection.

8.3 For sundry debts and commercial rent accounts managed in-house:

- Automated reminder letters will be sent to the debtor 28 and, if still unpaid, 35 days after an invoice has been issued.
- Regular case review meetings will be held between debt recovery officers and the originators of invoices or their cost centre manager to review debts outside of the Council's payment terms and determine appropriate recovery actions. In contentious cases, decisions may be referred to the Transactional Finance Service Manager and the relevant Assistant Director for the service area.
- Telephone contact with the debtor by the debt recovery officer may commence 14 days after an invoice has been issued and will continue for as long as considered appropriate. Where required a Council representative will visit the debtor.
- Where contact by the Council fails to recover the debt in a reasonable timescale, it will be referred to a debt collection agency or the in-house bailiffs team unless inappropriate due to the vulnerability of the customer or if other collection methods are likely to be more successful.
- The Council may use all appropriate means (including the use of tracing agencies) to locate a debtor who moves without providing a new contact address.
- The Council will seek recovery of unpaid debts through the court where appropriate and, at the earliest opportunity, secure a debt by placing a legal

charge on a debtor's property. Where a legal charge is inappropriate, other enforcement actions will be taken including the use of bailiffs to seize and sell debtors' goods. This process will normally be followed when dealing with rent and service charge arrears but may be supplemented by proceedings to possess the property and an approach to a leaseholder's mortgage company.

- As a last resort, the Council will, subject to a risk assessment, issue a bankruptcy petition (or a winding up petition for limited companies) where a debtor refuses to pay and other methods of enforcement fail.

8.4 Fees, charges and contributions for adult social care will be collected in accordance with the process for sundry debtors described in paragraph 9.3 above with the following variations:

- New service users will receive a personal visit from a Financial Assessment and Benefits Officer in order to complete a financial assessment. This will include a full benefits check and assistance with the completion of associated forms.
- If payment is not received after the initial reminder letter has been issued, the debt recovery officer will discuss the most appropriate method of collection with the social worker or occupational therapist responsible for the service user.
- The Council will make full use of its enforcement powers under Section 21 of the Health and Social Services and Social Security Adjudications Act (HASSASSA) (1983). If a service user gifts an asset within the six months before the service commences, the recipient of the gift becomes liable for the social care charges.
- The Council will make full use of its enforcement powers under Section 22 of HASSASSA (1983). Where a service user fails to pay an assessed charge for accommodation but has a beneficial interest in land, the Council will place a charge against a solely owned property and a caution against a jointly owned property.
- Debts for non-residential services are recovered under Section 17 of HASSASSA (1983).

8.5 Council tax debts will be recovered in accordance with the Council Tax (Administration and Enforcement) Regulations Act (1992) and subsequent amendments. National Non-Domestic Rates will be recovered in accordance with the Local Government Finance Act (1998) and subsequent regulations and amendments. Slough Borough Council appoints bailiffs to recover local taxation arrears in accordance with its own code of conduct. Only certificated bailiffs can levy "distress" for local taxation and fees charged to the debtor are governed by legislation.

- 8.6 Housing benefit overpayments will be recovered in accordance with Regulations 99-108 of the Housing Benefit (General) Regulations (2006) as amended. Slough Borough Council has debt recovery procedures in place where Housing Benefit has been overpaid but the debtor is no longer in receipt of the benefit.
- 8.7 Rent arrears are collected by the Housing Service in accordance with its Income Management Procedure.
- 8.8 Arrears on externally managed commercial tenancies are recovered in accordance with the procedures specified in each contract.
- 8.9 The Council's debt recovery standards are set out below:

9. **Debt Recovery Standards**

The debt recovery standard is to ensure that all customers are treated in a consistent way across the whole Council and to ensure prompt payment and recovery action is taken no matter what the invoice is for.

Timescale	What will happen	What this means
0 Days	Invoice / invoice sent to the customer	The money is now owed to the Council
14 days	Reminder	The payment is overdue
28 days	Final reminder	The payment is significantly overdue and will affect the ability of the Council to continue providing services.
35 days	Letter Before Claim (This needs to be better clarified)	The Council will now take legal action if the invoice is not paid
46 days	Summons issued to the court	Legal action is now in process
60-67 days	County Court Judgments (CCJ)	The Council will apply to the court for a CCJ. The debtors credit rating will be affected
<p>Any or some of the following options are now available:</p> <p>Note – all these options below will add additional administration and court costs to the debt</p>		
81 days +	Charging Order obtained	This will put the charge on a debtor's property. When the property is sold the debt will be recovered from the proceeds.
81 days +	Bailiffs Instructed	Bailiffs can seize debtor's possessions to the value of the debt plus costs.
81 days +	Debt Collection Agencies Instructed	Life becomes uncomfortable for the debtor until the debt has been paid i.e. night time phone calls etc
81 days +	Possession proceedings commence	If the debtor is leaseholder they will lose their home
81 days +	Eviction proceedings commence	If a Council tenant they will lose your home
81 days +	Deduction from benefits commences	This will ensure that money will be recovered direct from a claimants benefits at source
81 days +	Attachment of Earnings arranged	This will ensure that money will be recovered directly from a debtor's wages via the employer.
81 days +	Third Party Debtor Order obtained	Money will be taken directly from a debtors bank account(s)
81 days +	Liability Orders (Business Rates) obtained	Referral to a Bailiff or Imprisonment
81 days +	Bankruptcy proceedings initiated	Forced closure of debtors business
81 days +	Liquidation proceedings initiated	Forced closure of debtors business
81 days +	Committal to prison proceedings	Debtor sent to prison

Exceptions to the agreed debt recovery standards

The recovery of outstanding debt in some Council sections is governed by legislation, and this will take precedence over the debt recovery standard.

10. Debt Write Off

10.1 Irrecoverable debts will be written off in accordance Part 4, Section 4.6 of the Council's constitution.

10.2 Debts will normally only be written off if the debtor is:

- Deceased with no assets
- Bankrupt with no assets
- In an Individual Voluntary Arrangement and the arrangement is adhered to
- Gone away and no trace
- After a custodial sentence for non-payment of Council tax if so instructed by the court
- Dissolved limited company

Following a review, it may also be determined that a debt is uneconomical to collect.

11. Performance Monitoring and Reporting of Debt

11.1 The Council will set separate performance targets for income and cash collection.

11.2 A detailed sundry aged debt report will be issued to cost centre managers on a monthly basis. A summarised report, highlighting trends, will be issued to Corporate Management Team, Assistant Directors and the Head of Finance on a monthly basis.

11.3 The Council will provide against specific debts where there is a significant risk of non-payment. It will also apply a general provision to debts outside of the Council's payment terms. Bad debt provision movements will be credited to or charged to the relevant cost centre and will be monitored on a monthly basis. Cost centre managers will therefore be accountable both for their income budgets and also for the collection of outstanding debt.