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## SHROPSHIRE COUNCIL - FINANCE CORPORATE DEBT RECOVERY POLICY

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Version 0.1

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**DEBT RECOVERY TEAM**



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## 1. Introduction

The designated Section 151 Officer has responsibility, under section 151 of the Local Government Act 1972, for the administration of the financial affairs of the Council. One such area of administration relates to Sundry Debtors which is covered by this policy.

The Council has a duty to recover outstanding debts and in doing so ensure that its processes are fair and consistent to everyone. This policy covers the collection of customer accounts due to Shropshire Council.

The Sundry debt policy will ensure:

- We minimise debt and maximise rates of collection.
- We are consistent and co-ordinated in our approach.
- We assist customers based on their ability to pay and individual financial circumstances.
- We provide clear guidance for all Council Officers on the recording, reporting, recovery, and monitoring of debt.

## 2. Scope of this Policy

This Policy covers the sundry debt of Shropshire Council, with the exception of debt relating to the provision of Social Care and Parking services.

## 3. Purpose of the Corporate Debt Recovery Policy

The purpose of this policy is:

To ensure the efficient collection of income due to the Council by implementation of a transparent charging policy. Charges are set annually in a Fees and Charges report approved by Full Council each February.

This policy will help to ensure accurate and timely billing, reduce the level of debt arising and ensure effective and timely recovery processes utilise appropriate recovery methods by debt type.

To ensure that debts are managed in accordance with legislative provisions and best practice.

To ensure performance in relation to debt recovery is monitored and reported through the relevant management structures of the Council.



#### 4. The Council's responsibility

- To ensure a professional, consistent and timely approach to non-commercial debt recovery action across all of the council's functions
- To ensure that debts are managed in accordance with legislative provisions and best practice
- To set reasonable fees and charges in line with council priorities
- To maximise income collection while reducing the cost of collection
- To set out charges in the clearest manner possible
- To ensure a range of accessible payment options are available alongside advice and assistance at the earliest possible stage

#### 5. Responsibility of debtors

- To pay on time
- To contact the council or take appropriate debt advice if they are unable to pay an amount that is due and/or are unable to pay on time
- To contact the council as soon as possible if they do not agree with the bill and explain why they do not agree
- To contact the council as soon as possible about any change in circumstances such as a change of address

#### 6. Receipt of Payments/Income in Advance

Where payment can be taken before goods or services are provided these cases should be identified and payment taken in advance. This ensures that no debt is raised in these cases having due regard to the value of the transaction compared with the cost of collection. In particular, low value charges of less than £100.00 (excluding VAT) should be collected in advance and invoices should not be raised for payments due below this value.

A further advantage of income in advance is that this approach protects Shropshire Council from the risk of late payment or bad debt, improves the Council's cashflow and avoids the cost of administering debts.

#### 7. Raising Sales Invoices

All invoices must be raised through the Council's Finance Ledger System (currently U4 ERP).

All invoices should be raised in a timely manner and should be clear, accurate and in plain English.

Full details of the charge being made must be clearly stated on the invoice (or attachment where appropriate), including the date the service or goods were provided. Where a credit note is necessary full details of the reason for credit must be clearly stated on the credit note.

Prompt invoicing is vital in ensuring effective debt collection by ensuring prompt payment. Invoices must be raised within a maximum of five days of the goods or service being delivered.

By raising an invoice, the originating service area confirms, by default, that appropriate recovery action through the Corporate Debt Recovery Team, including court action when necessary, is granted at the time the debt is raised.

As set out in Section 6, invoices must not be raised for amounts of less than £100.00, excluding VAT, unless they relate to collection of peppercorn rents, licenses, or leases in connection with occupation of Council land and property.

If a Purchase Order (PO) number is required by the debtor this must be obtained prior to raising the invoice. If the customer has been identified previously as requiring a PO to make payment this will be shown on the customer account. Note, the invoice will not be raised until a PO is obtained.

## **8. Payment Terms and Conditions**

The Council's payment terms are strictly 20 calendar days

## **9. Late Payment of Commercial Debt**

The Council reserves the right to charge interest and claim compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and under the Late Payment of Commercial Debts Regulations 2013. Full details of the Act available at <https://www.legislation.gov.uk/ukpga/1998/20/contents>.

For Commercial debt, interest will be charged on any debt at a rate of 8% above base rate.

## **10. Methods of Payment**

The Council accepts a range of payment methods and the list of available methods of Payment is included on the reverse of the invoice.

Our preferred method of payment is Direct Debit as this is efficient, timely and provides value for money for the Council.. The use of cash and cheques is discouraged and will be phased out in favour of alternative electronic methods of payment.



## 11. Paying via Instalments

The Debt Recovery team have sole responsibility to agree payment beyond the Council's repayment terms (as set out in Section 8) or instalments as repayment of sundry debt. Where customers evidence that payment of outstanding debt due to the Council cannot be paid in full this will be considered on merit on a case-by-case basis.

Instalment plans must be mutually agreed between the Council and Debtor, and the instalment arrangement must not exceed 12 months and the method of payment must be Direct Debit. Should the customer default within this period the full value of the debt becomes payable in full.

For individuals who are unable to pay within 12 months consideration would be given to extending this period although interest charges will apply at the rate of 1% above The Bank of Englands Base Rate.

In exceptional circumstances, where a member of staff or Council Member have an outstanding debt with the Council, arrangements can be made to clear the debt via a salary deduction. This will be considered on its merits and is the responsibility of the Debt Recovery Team to agree and administer.

## 12. Reminder Letters

Shropshire Council operates a single reminder letter policy, which is the final demand for payment.

The reminder is issued where the debt is 10 days overdue and is sent via email (where held for the customer) or post. The customer has seven days to make payment in full before the debt is referred to Civil Enforcement Agents for recovery.

## 13. Invoices in query or dispute

A debt is in dispute where the debtor believes that the charge is incorrect. Note, reluctance to pay a charge that has been raised in accordance with this policy is not considered a dispute and, in these cases, the standard debt recovery procedures will be followed.

Where a dispute has been acknowledged the service area that raised the original debt has 30 days to resolve the dispute. In exceptional circumstances, the Senior Debt Officer will approve an extension of a further 30 days following an email request from the service area. Without this approval, the debt is due and beyond any agreed extension, no further extensions will be provided.

## 14. Statements

Statement of Accounts are sent on a monthly basis automatically from the Council's financial system to Trade Customers where an email address is held on the account.

## 15. Role of Debt Recovery Team

The Debt Recovery Team is responsible for enforcing all outstanding, invoiced, overdue debt owed to Shropshire Council. The debt becomes overdue where it has not been paid within the Council's payment terms (as set out in Section 8) and is outstanding until it is either collected, cancelled (via an issued, formal credit note) or formally written off. No other approaches can be taken for Sundry Debt covered within this policy.

The Debt Recovery team will attempt to recover debt within a timely manner and will liaise with service areas and debtors to enable this recovery. The Debt Recovery Team maintain a log of all correspondence in relation to the debt on the Council's financial system. This log is essential if debt is referred for legal action or if a complaint is received from the Debtor.

## 16. Assistance available to Customers

The Debt Recovery team cannot offer advice on entitlement to benefits, discounts and exemptions but will direct a debtor to local organisations who can offer advice on debt management such as:

- The Money Advice Service.
- The Citizens Advice Service.
- Age Concern Advocacy.

## 17. Referral of Debt to Recovery Agent

As set out in Section 12, following a Reminder Letter if payment has not been made the invoice is marked for collection by the Council's Debt Recovery Agent (DRA).

The DRA will then make further attempts to contact the customer using the information provided via email, post and telephone.

If all letters and forms of communication has been exhausted by the DRA and payment is still not forthcoming this is then returned to Shropshire Council for decision on further action required.

## 18. Referral of debt for legal action

Except in cases where a value for money judgement suggest it is cost prohibitive, legal action will be taken to recover outstanding debt following completion of Sections 12 and 17 of this policy as appropriate.

The Ministry of Justice requires any business claiming payment of a debt from an individual to follow a Pre-Action Protocol.

Pre-action protocols explain the conduct and set out the steps the court would normally expect parties to take before commencing proceedings against individuals. In line with the protocol the debt recovery officer will send an Income and Expenditure form to the customer for completion and a covering Letter before Claim. Giving the customer 30 days to complete and return.

For debt not with individuals a Letter for Claim will be sent giving Debtor a further 14 days to pay before legal action is initiated.

## 19. Credit Notes

Credit notes should be issued when it has been identified that an invoice was either raised for the incorrect amount or raised in error to ensure that the cost is charged back to the service.

Credit notes will must not be used to write off sundry debt.

Credit notes must be authorised in line with the council's scheme of delegation and must not be authorised by the same officer who raised the invoice.

The credit must contain a clear reason for the reduction or cancellation of the invoice, along with the original invoice number. The Cost Centre, Product Code, and VAT code must match the original invoice

Credit notes are not issued until they have been through a two-step approval process by the Debt Recovery team and the approving officer as laid out below.

The authorisation structure for credit notes are as follows:

Limit	Authoriser
£0.01 - £1000.00	Finance Business Partner for the Service
£1000.01 - £5000.00	Budget Holder
£5000 +	Section 151 Officer



## 20. Debt Write off

The Council will take all necessary action to recover in full debts that are due. Debts will be subject to the full recovery, collection and legal procedures as outlined in this policy. The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice.

Debts to be written off fall into two broad categories, firstly those debts that the Council is unable to collect and secondly those debts that are deemed uneconomic to collect.

The Council will seek to minimise the cost of write offs to the local tax payers by taking all necessary and appropriate recovery action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures and considerations as outlined in this Debt Recovery Policy

The following reasons are recognised as valid reasons for the write off of debts, subject to all appropriate action to enforce payment having been attempted.

- Uneconomical to pursue – the debt is £100 or less.
- The customer is deceased and has left no estate – proof required.
- The customer is subject to a formal insolvency order (in such cases any accruing debt to be written off will only be up to the date of the order).
- The customer has absconded/gone away and cannot be traced.
- The customer is living outside the jurisdiction of the English Courts and is unlikely to return.
- The age of the debt precludes recovery, or the debt is Statute Barred.

In general, recommendation for debts to be written off should be made only where one of the above categories applies. However, it is recognised that it is difficult to anticipate all potential circumstances where write off may be justified, and that on occasion it may be appropriate to write off a debt for other reasons.

Any write off of bad debts above £100,000 is referred to the appropriate Council body by the Section 151 Officer for approval.

## 21. Refunds of overpayments

Where an overpayment is identified to have been made by a debtor, provided there is no other outstanding debtors or ongoing goods or service provision to the Debtor; the debt recovery team will contact the Debtor to arrange a refund of the overpaid amount.

All refunds will be made via a BACs payment to the Debtors account.



## 22. Exception / deviations from this policy

The debt recovery process can be suspended in exceptional circumstances which includes but is not exhaustive:

- Issues arising from a local, national or global event e.g. a global pandemic.
- System breakdown causing customer accounts not to be updated.
- Breathing Space legislation.

To suspend the debt recovery process across the whole of the authority for a significant time frame i.e. a global pandemic, this would be agreed jointly by Executive Directors Team or equivalent.

In the case of system downtime the decision to suspend recovery would come from the Senior Debt Officer.

## 23. Further documents and information

- **Shropshire Council Financial Rules** – <http://shropshire.gov.uk/media/17608/appendix-1-financial-rules-feb-19.pdf>. Specifically, section D.2 on Income, this includes authorisation limits for write offs and requirements for reporting them.
- **Sales Ordering User Guide** – <https://staff.shropshire.gov.uk/media/708797/business-world-user-guide-sales-ordering.pdf>
- **Finance How do I? – Sales invoices in the ERP Intranet Pages** – <https://staff.shropshire.gov.uk/how-do-i/finance/sales-invoices-in-the-erp/>