

FALKIRK COUNCIL

Corporate Debt Recovery Policy

1. INTRODUCTION

- 1.1 This document details the Council's policies on the billing, collection and recovery of monies due to the Council.
- 1.2 This Policy sets out the general principles to be applied in relation to income collection and debt management across all services provided by the Council. The Council collects income from various streams; some of this activity is governed by legislation and others by sound principles of financial management.
- 1.3 The policy will apply to all Council Services and seeks to be fair but firm; it is essential that all monies due are collected effectively by the Council, 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 received promptly, and to allow for the re-investment of our income in Council Services.
- 1.4 Sums due to the Council can be a mixture of statutory and non-statutory charges. The methods for billing, collection and recovery of the statutory debts are tightly prescribed by statute. Our recovery practices must take account of this diversity.
- 1.5 An effective debt management process is critical to the delivery of the Council objectives. This policy will be underpinned by the creation and maintenance of a clear framework setting out a consistent and sensitive approach to collecting debt, whilst at the same time ensuring the Council continues to maximise collection performance. A full range of recovery methods will be used as appropriate if debts are not paid.

2 AIMS AND OBJECTIVES

- 2.1 The aim is to maximise income collection to Falkirk Council and to minimise the cost of collection, while maintaining and improving the customer experience through collection and recovery.

2.2 The objectives of the integrated income collection and debt recovery policy in achieving that aim are to:

- (a) Bill, collect and recover charges and rents in an economic, effective and efficient manner that meets with legislation.
- (b) Encourage people to pay regularly; using the most cost effective methods provided that method meets the needs of the person.
- (c) Promote early personal contact across all debt streams, recognising the need to prevent debts escalating.
- (d) Identify, where appropriate, support which may be required to those owing money to the Council, and ensure individual circumstances are taken into consideration promoting income maximisation.
- (e) Facilitate a co-ordinated approach to managing multiple debts owed to the Council, including a single assessment of the ability to pay, where required.
- (f) Standardise the approach to debt collection to ensure consistency of approach whilst complying with relevant legal frameworks applying to the different categories of debt.
- (g) Seek satisfactory arrangements for payment of debts at all stages of recovery. Where this cannot be achieved; we will take recovery action using the appropriate legal remedies.
- (h) Apply best practice to debt collection, to ensure all debtors are treated fairly and objectively.
- (i) Have regard to the requirements of client services within the Council including the need to protect vulnerable people and sustain persons in their homes.

3 SCOPE:

3.1 The policy applies to the collection and recovery of all council debt and includes all income streams and debts owed to the Council including:

- (a) Council Tax
- (b) Rents
- (c) Housing Benefit overpayments
- (d) Non Domestic Rates
- (e) Sundry debtors, e.g. fees and charges and commercial rental

- 3.2 There are specific procedures and legislation which govern the recovery and collection of specific debts. While section 4 below sets out shared, general principles, Appendices 1 - 5 set out the process for collection for each debt type in accordance with the relevant procedures and legislation.

4 GENERAL CUSTOMER PRINCIPLES

- 4.1 Falkirk Council's 'Towards a Fairer Falkirk' will be followed in implementing this policy.
- 4.2 Ensure all debtors/tenants receive fair and equal treatment regardless of disability, gender, age, race, ethnic or national origin, religious belief, marital status or sexual orientation.
- 4.3 Ensure that customers are advised of the amount due and the date(s) by which it should be paid at the earliest opportunity and in a clear and concise fashion.
- 4.4 Provide information on how to get assistance on every bill/invoice/demand that we issue to afford customers the opportunity to address any potential issues at the earliest opportunity.
- 4.5 Where non-payment will/may lead to customer incurring additional charges the customer will be notified of these in writing.
- 4.6 When dealing with Income Collection and Recovery, the Council will follow the principles outlined below:
- (a) Our action will be proportionate to the amount and frequency of the debt.
 - (b) Our approach will be consistent and transparent at all times.
 - (c) We will be to be firm and fair with each customer.
 - (d) Our manner will be courteous.
 - (e) We will encourage the customer to make early contact in respect of debt related matters.
 - (f) We will take into account the current economic climate and individual financial circumstances.
 - (g) We will write in plain English.
 - (h) We will provide assistance for people who have language or sensory communication difficulties.
 - (h) We provide appropriate support to any customer who requires further assistance.
 - (i) Where disputes arise these will be investigated fairly and timeously with outcomes explained in full.
 - (j) We will respect and protect the customer's rights throughout the recovery process.

- 4.7 In undertaking this collection function it is inevitable that the Council will be required to pursue the recovery of arrears from persons and or businesses experiencing difficulty in paying such accounts. An agreed policy of how the Council manages and collects debts is therefore essential to ensuring consistency and best practice in such situations.
- 4.8 We will resolve debt problems pro-actively and at the earliest opportunity to help customers to maximise their income, and alleviate financial hardship.
- 4.9 We will take a firm but fair approach to recovery and enforcement, offering help and support to all customers experiencing financial difficulties at each stage of the collection and recovery process.
- 4.10 Wherever possible, we will seek a solution so the customer is better able to manage their finances and meet future liabilities. We will provide benefit and debt advice where appropriate and when necessary refer to third parties for specialist Money Advice.
- 4.11 There may be instances where court action will be taken to obtain a court order against the debtor. This allows diligence to be used to recover the debt. Diligence includes bank/earnings arrestment's, attachment of goods, inhibitions etc. These will be invoked where the customer continually fails to maintain a pre-arranged agreement or will not engage with Falkirk Council.
- 4.12 Falkirk Council may appoint Sheriff Officers or Debt Collection Agencies to assist in recovering outstanding debt where it has been unable to enter into any repayment schedule with the customer. This will be done within the procedure and legislation covering each debt stream.

5 BANKRUPTCY/LIQUIDATION

- 5.1 In certain circumstances, and if sufficient assets exist to meet the outstanding debt the Council can petition for the Bankruptcy/Liquidation of the debtor. This is used where other methods of recovery are considered inappropriate or have failed and insolvency proceedings is considered to be a fair and proportionate course of action to recover from a particular debtor.

6 PRIORITISATION OF DEBT

- 6.1 In the first instance an agreement will be sought from the customer to maintain current/future payments for on-going liabilities. Where this is not possible or where arrears have accrued for more than one debt stream then one affordable arrangement should be sought.

- 6.2 The aim is to prioritise and support customers to reduce their rent arrears and maintain their tenancy, while at the same time allowing other Council debts to be reduced.
- 6.3 Priority debts are those debts owed to creditors who can take action with the greatest impact against an individual who does not pay, e.g. loss of their home, or where the action taken by a creditor may cause undue hardship.
- 6.4 Where on-going liability is being met, recovery of other Council debts in arrears will then be considered e.g.
- Rent
 - Council Tax
 - Non Domestic Rates
 - Sundry Debts
- 6.5 The above priority arrangement may be varied depending on the amount of debt for each debt stream and where Falkirk Council considers the repayments could be more fairly apportioned, as agreed with the customer.
- 6.6 Where an arrangement is in place and only partially paid, Rent and Council Tax will take priority over other debt types.
- 6.7 Housing Benefit overpayments will be recovered in accordance with the relevant statutory provisions operated by the Department for Work and Pensions (DWP).
- 6.8 Where the corporate debt arrangement is not maintained and where re-negotiation has failed, then Falkirk Council may pursue each debt using the recovery methods, procedures and legislation applicable to that debt stream.
- 6.9 If at any stage, the customer enters in to a new arrangement with the Council the recovery process will be suspended, but any statutory penalties already applied will remain.

7 WRITE-OFF

- 7.1 The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. Debts to the Council that are covered by this policy will be dealt with as follows, in line with the Write-Off Procedures:
- (a) Write-off of irrecoverable debt is kept to a minimum by early intervention and best practice in recovery.
 - (b) There is a framework of consistent guidelines and procedures to follow once every practical recovery process has been exhausted.
 - (c) There is a balance struck between protecting the Council's financial position and ensuring anti-poverty issues are addressed.

- (d) There is a planned process for the write-off of debt.

8 OFFSET CREDITS AGAINST COUNCIL DEBT

- 8.1 The Council will adopt a corporate approach to refunding credits or making payments, in that wherever possible checks will be made for other outstanding debts due to the Council, prior to a refund or payment being made.
- 8.2 Where these checks identify outstanding debts and where legally possible e.g. Council Tax / Rent arrears then the debt will be offset and the customer advised.
- 8.3 Where this is not the case, legal advice will be sought before any offset is applied.

9 REFUNDS

- 9.1 Where a customer continues to pay an arrangement which has been paid in full, and no other debt is identified, they will receive a refund.
- 9.2 Refunds will normally be made via cheque, but will be paid by BACS transfer where the customer has paid by Direct Debit. BACS payments may also be made on request, where the bank details can be adequately verified as belonging to the customer.

10 RETURNED MAIL

- 10.1 Any bills/reminders returned by Royal Mail will be investigated to establish a forwarding address. If no forwarding address is obtained then recovery action will be suspended to establish if one can be traced. Where all reasonable efforts made to trace the debtor have been unsuccessful it may be treated as unrecoverable. If this is the case then it will be dealt with in line with the Write-Off Procedures, and if the debtor is traced at a later stage recovery action can be resumed.

11 PAYMENT METHODS

- 11.1 The Council's preferred payment method for recurring payments is Direct Debt. Various payment dates are available to the customer who elects to pay by this method.
- 11.2 For one off payments the preferred method of payment is online via debit card payment.
- 11.3 In addition payments can be made in One Stop Shops, by Standing Order, via telephone Payment Line, Post Offices and Paypoint.
- 11.4 Credit and debit card payments are accepted with Credit cards attracting an additional processing charge.

12 PERFORMANCE MONITORING

12.1 Collection targets will be set annually and regularly monitored, reported, and performance reviewed against these targets.

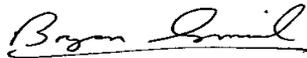
13 REVIEW OF POLICY

13.1 The Corporate Debt policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.

13.2 Where there are no changes that would trigger a review it is intended that this be reviewed every three years as a minimum

14 APPENDICES

14.1 The following appendices highlight collection and recovery methods applicable to the individual debt streams which are not already covered in the main Corporate Debt Policy.



----- CHIEF FINANCE OFFICER
March 2017

- Appendix 1 – Council Tax
- Appendix 2 - Non Domestic Rates
- Appendix 3 - Rents
- Appendix 4 – Sundry Debt
- Appendix 5 – Housing Benefit Overpayment

Appendix 1

FALKIRK COUNCIL

RECOVERY OF COUNCIL TAX

1. INTRODUCTION

- 1.1 Council Tax is a tax levied on all eligible domestic dwellings. The amount of Council Tax levied is dependent on the Council Tax band that the property falls into and the amount of tax to be raised.
- 1.2 The full rate of Council Tax is liable to be paid unless the property, owner or occupier is eligible for a reduction or exemption.
- 1.3 Council Tax is payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council and its Officers to collect outstanding debts in accordance with The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992.

2. COLLECTION & RECOVERY

- 2.1 Falkirk Council will bill, collect and recover all debts for Council Tax purposes in accordance with legislation.
- 2.2 Demand notices and revised notices will be issued in accordance with the applicable legislation.
- 2.3 Each financial year a recovery timetable will be created detailing the relevant dates reminders will be produced.
- 2.4 Reminder notices shall be issued any day after the instalment due date in accordance with legislation.
- 2.5 If a reminder notice is not paid in full by the due date a Final Notice will be issued. Note that if only one instalment is outstanding, in full or part, a Final Notice will not be issued in the same month as that instalment was due.
- 2.6 If the amount specified in the Final Notice is not paid within 14 days, or an arrangement made and maintained, the Council will apply for a Summary Warrant at Falkirk Sheriff Court. Once granted a 10% statutory penalty is added to the outstanding balance.
- 2.7 The amount due in terms of the Summary Warrant is then passed to a nominated Sheriff Officer or debt collection agent or collection. If payment remains outstanding, recovery can be enforced by one of the relevant diligences e.g. earnings/bank arrestment, attachment of goods.

- 2.8 On receipt of any of the above reminders from Falkirk Council, Sheriff Officers, or debt collection agency, a debtor can contact the Corporate Debt team to make arrangement to pay any balance or to query any aspect of the charge.
- 2.9 Direct deductions from DWP benefits will be used for debtors on relevant welfare benefits.

Appendix 2

FALKIRK COUNCIL

RECOVERY OF NON DOMESTIC RATES

1.0 INTRODUCTION

- 1.1 Non Domestic Rates is a tax levied on business properties which Falkirk Council statutorily administers on behalf of the Scottish Government.
- 1.2 Billing is carried out annually in April and monthly thereafter. Bills contain all information required by statute together with details of common reliefs available and promotional information.
- 1.3 Non-Domestic Rates will be administered and collected in accordance with the applicable legislation.

2.0 COLLECTION & RECOVERY

- 2.1 Demand notices and revised notices will be issued in accordance with the relevant legislation.
- 2.2 Each financial year a recovery timetable will be created detailing the relevant dates reminders will be produced.
- 2.3 Overdue notices, known as Final Notices, shall be issued in accordance with the relevant legislation.
- 2.4 If a Final Notice is not paid in full by the due date the Council will apply for a Summary Warrant at Falkirk Sheriff Court. Once granted a 10% statutory penalty is added to the outstanding balance. Summary Warrant notices will then be issued to the customer detailing the total amount due including the penalty.
- 2.5 If the debt due in terms of the Summary Warrant is not paid in full it will be passed to a nominated Sheriff Officer for collection.
- 2.6 The Sheriff Officer may enforce payment of the arrears by various forms of diligence available to them e.g. bank arrestment, money attachment, attachment and auction of goods.
- 2.7 The ratepayer or their nominated representative can contact the Council and/or Sheriff Officers at any stage of recovery to enter into a payment plan for repayment of the sum due or to discuss issues in relation to the amount charged.
- 2.8 Insolvency proceedings will be considered, where appropriate.

Appendix 3

FALKIRK COUNCIL RENT ARREARS POLICY

Introduction

This document describes Falkirk Councils (the Council) policy for managing the collection of rent arrears. The income generated from rents pays for the range of services provided to tenants including the management of the Council's housing stock and surrounding environment, the maintenance and improvement of houses to the Scottish Housing Quality Standard and to increase the provision of new and additional affordable housing to help meet demand.

It is therefore essential that the Council seeks to maximise its rental income to ensure the long-term viability of the Housing Revenue Account (HRA). As such, all staff have a responsibility to maximise income and reduce debt, through the prevention and recovery of rent arrears.

The payment of rent is the primary responsibility of every tenant and the Council is committed to helping residents not to fall into arrears through early intervention. If a tenant falls into arrears due to financial difficulties, the Council will follow the rent arrears procedure ensuring that the tenant has the opportunity to sustain their tenancy. This policy applies to Council tenants with a Scottish Secure Tenancy.

Policy Aims

The aims of this policy are to ensure that the loss of rental income is minimised by:

- Taking early and appropriate preventative action;
- Taking prompt, effective recovery and control of rent arrears, where they arise;
- Ending a tenancy and eviction as a last resort

Policy Objectives

The Policy aims will be delivered through:

- An emphasis on early intervention and prevention of arrears
- Recovery of arrears starts as early as possible
- Supporting tenants sustain their tenancy and prevent home loss due to rent arrears
- Taking action proportionate to the seriousness of the debt, when prevention and recovery attempts have failed.

- Ensuring all repayment arrangements are realistic and take account of a tenant's personal circumstances.
- Applying for Direct Payments from the Department for Work and Pensions (DWP) where appropriate.
- Ensuring any person who has been either threatened with eviction or evicted for rent arrears is advised of any statutory obligations the Council has towards them in terms of homelessness and receives a Housing Options interview in line with the Council's homeless prevention strategy.

Other Aims include:

- Prevention of Homelessness
- Education of tenants on the impacts of both Universal Credit and wider Welfare Reform.
- Increased engagement between the Council and its tenants

Policy Implementation - In Practice

The Council will adopt a firm but fair approach to rent arrears management, designed to help tenants sustain their tenancies. Advice and support if needed will be offered in the first instance or a referral for specialist advice.

The focus on early intervention and the use of the named officer is pivotal in managing arrears. We will aim to make early personal contact with tenants who fall into rent arrears (within 2 weeks of the rent account falling into arrears) and seek to offer advice and assistance and to negotiate payment arrangements.

We will follow a staged approach to recovery which reflects the tenant's circumstances and their response to any earlier intervention.

An arrears prevention and control procedure manual, to support the Rent Arrears Policy, will guide staff to ensure that all interventions in all cases will be based on the specific circumstances of the tenant. Tenants will be offered appropriate support to sustain their tenancies if they fall into arrears.

Officers will attempt to make contact with the tenant in every possible way. This will include telephone contact, unannounced visits and office appointments. It may also, where appropriate, include calling outside normal working hours, text message, email and contact at the tenant's place of work.

Where a tenant makes an arrangement to pay off rent arrears and subsequently breaks that arrangement, the next action taken will be a progression from the last stage they had reached. Recovery will not revert to start of the arrears process, unless the rent arrears have been cleared in full.

Legal action will be taken to recover the property if a tenant fails to pay rent, or agree and maintain a suitable repayment plan. All evictions will be approved by an Eviction Panel

The Council will seek to adopt best practice e.g. through the use of Pre Action Requirements

Service Standards

We aim to adhere to the following standards as part of managing rent arrears:

- Advise tenants of their balance regularly
 - Send tenants a rent account statement on request
 - Regularly monitor and contact tenants with arrears
 - Offer support and direct tenants to appropriate legal and financial advice
- Treat eviction as a last resort and prevent homelessness through support and advice.

Monitoring and Reporting Arrears Performance

Regular monitoring reports will be prepared and the Council will continue to benchmark its performance with its peers and report its performance via statutory returns. Performance reports will include information on the levels of arrears; number of court actions, including those resulting in eviction and number of cases where payment arrangements are in place or action is sisted.

We will also carry out performance reviews on a regular basis to ensure that all staff involved in the process are complying with the rent arrears policy and procedures

Performance information will be provided to tenants through the Charter Return events and the tenant's newsletter

Legal and Policy Framework

We will ensure that, in addition to current legislation, the Rent Arrears Policy operates in accordance with:

- The standards set out in the Scottish Social Housing Charter
- The requirements of the Scottish Housing Regulator
- Corporate policies regarding the collection of debt
- Council Policies in relation poverty

Staff Training and Development

Falkirk Council is committed to staff training and personal development. Staff will be fully trained and have the necessary skills to motivate tenants to engage with services which will help them manage their rent accounts.

Consultation

This policy is based on consultation with tenants who placed a high value on early and on-going face to face contact.

The policy will be reviewed regularly and the following groups will be specifically consulted before any proposed changes are made:

- Tenants through the established consultation process
- Other Council services
- External bodies- if appropriate e.g. Shelter
- Elected members

Responsibility

The overall responsibility for implementation of this policy lies with the Council's Head of Housing Services

Equalities

The Council aims to promote equality of opportunity and tackle discrimination. In seeking to offer equitable services, all written materials will be offered with an option for translation or alternative formats. Where necessary, translation services can be accessed for interviews or personal contacts. The use of home visits will be offered to those who are unable to access our offices or use the telephone.

Policy Review

We will normally review the Rent Arrears Policy every 3 years. However, given the proposed changes to Universal Credit in Scotland, this policy will be reviewed again in 2018.

FALKIRK COUNCIL

RECOVERY OF SUNDRY DEBT

I. INTRODUCTION

- 1.1 Falkirk Council is responsible for billing and collection of all charges levied by the Council for services provided which plays a significant part in funding the Council's overall budget.

2. CHARGING

- 2.1 The responsibility for charging lies with the Service imposing the charge which will:-
- 2.1.1 Ensure whenever possible that payment of the fee or charge is made in advance.
 - 2.1.2 Ensure the charge is properly due and payable, having necessary evidence available to support the issue of the invoice being raised.
 - 2.1.3 Invoices will be raised as soon as identified the charge is due and payable and no later than 10 days following the goods or service being supplied.
- 2.2 Invoices will not be raised:-
- 2.2.1 For less than £10. This will be reviewed on a regular basis.
 - 2.2.2 Where there is no written agreement or the debt cannot be substantiated.
 - 2.2.3 Where the current address is not known, debtor unknown and/or the amount due is unknown
 - 2.2.4 If an invoice has been raised in any of these circumstances they will be cancelled by the Sundry Debtors team.
- 2.3 Disputes
- 2.3.1 Where a debt is in dispute, the responsibility for dealing with this will remain with the issuing service who should aim to resolve the dispute within 20 working days. Where a dispute cannot be resolved within 20 working days, the issuing service must notify the Sundry Debtor team of the reason; indicating when the dispute is likely to be resolved. If the team are not notified after 20 working days have expired, invoices may be cancelled in full.

3 COLLECTION & RECOVERY

- 3.1 Reminders will be issued when an invoice is overdue and the issuing Service will be supplied with a list of these customers to allow them to contact the customer by telephone where possible to request payment of the debt.
- 3.2 The council will use External Collection agents, Sheriff Officers and Corporate and Housing Services, Governance Division, Legal Services Section to recover debts as appropriate.
- 3.3 Sundry Debtors team provide the necessary advice and assistance to issuing services to maximise recovery of the debt.
- 3.4 Customers who receive on-going services from the council may have these services suspended or withdrawn if they have unpaid invoices relating to these services. This decision will be made by the individual Services.

Appendix 5

FALKIRK COUNCIL

HOUSING BENEFIT OVERPAYMENT RECOVERY

1 INTRODUCTION

- 1.1 Falkirk Council is responsible for the administration of Housing Benefit. The Council is committed to protecting public funds and will take all possible steps to recover overpayments of these benefits.
- 1.2 Customers are both required and encouraged to prevent overpayments occurring by notifying the council as soon as possible of any changes that may affect the amount of benefit that they are entitled to.

2 RECOVERY

- 2.1 Where it has been identified that a claimant of Housing Benefit has been overpaid, and the overpayment is recoverable in accordance with the relevant statutory provisions, Falkirk Council will consider on a case by case basis whether it is reasonable to recover the overpayment, from whom it can be recovered and the appropriate means of recovery.
- 2.2 All available methods of recovery will be employed to recover outstanding overpaid benefit. These methods include:-
 - (a) Direct deductions from on-going housing benefit or arrears of Housing Benefit.
 - (b) Direct deductions from landlord's payments of housing benefit.
 - (c) Recovery from on-going housing benefit in another local authority area.
 - (d) Recovery from Department for Work and Pensions (DWP) benefit.
 - (e) Issue of an invoice
 - (f) Referral to debt collection agencies/sheriff officers for recovery
 - (g) Diligence
- 2.3 Overpayments will be recovered from on-going entitlement to Housing Benefit at a rate set by the DWP, dependent on the reason for the overpayment, with fraudulent overpayments being recovered at a higher rate. Consideration will be given to individual financial circumstances and deductions reduced where appropriate.
- 2.4 If there is no on-going entitlement to Housing Benefit direct deductions can be taken from certain other DWP benefits received by the claimant. These rates are set by the DWP and based on the type of benefit being received. Any reductions to these set amounts require the customer to negotiate direct with the DWP.

3 APPEALS

- 3.1 A person can appeal an overpayment decision in accordance with the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001. Recovery of the overpayment is suspended pending the outcome of an appeal.