



Debt Management Policy

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1. Introduction

- 1.1 Durham County Council (DCC) is financed through a combination of Government grants, retained Business Rates, Sundry Debts, Council Tax and Miscellaneous income. Residents and businesses have a responsibility to pay these balances to fund the services and goods that the Local Authority provides to them.
- 1.2 While these revenue sources fund the services the Local Authority provides, there are general services provided direct to residents and customers which are individually chargeable.
- 1.3 The provision of care is also commissioned on behalf of service users in the county and Adult Social Care charges make up a substantial amount of Durham County Council Debt.
- 1.4 The below list of debts outlines some of the debt streams invoiced and billed by Durham County Council;
 - Council Tax
 - Business Rates
 - Sundry Debts (General services)
 - Sundry Debts (Adult Social Care)
 - Collection on behalf of Durham Business Improvement District Levy
 - Parking
 - Housing Benefit Overpayment
 - Commercial rents
- 1.5 When payments are received on these debts this is used as revenue income to fund day to day costs of running services. Many of these services provided are statutory and the Local Authority has a legal obligation to provide them.
- 1.6 To effectively manage debt, resources need to be focused on the unpaid Council debts that are reasonably considered to be collectable.
- 1.7 It is accepted that some DCC debt is not recoverable (whether due to legal, ethical or practical limits) so to effectively manage the debt and the resource needed to ensure collection, the processes and procedures in this document are utilised. The detail in the Corporate Write Off Policy and Hardship policies ensure that the management

strategies laid out in this policy are implemented effectively in a practical and monitored environment.

- 1.8 These policies are all contained within the same suite of documents so that Collectable debt can be effectively recovered and appropriate action is taken.
- 1.9 If the charges remain uncollected, then the services provided by the Local Authority can face closure or be discontinued. The Local Authority needs to balance its books to maintain high level service provision.
- 1.10 Most residents pay in line with the bills or invoices issued to them. It is in the interests of these residents, the services that they use and the financial security of DCC that the Local Authority acts on its legal duty to collect any funds that go unpaid. When taking steps to recover debts DCC works to ensure that the processes involved are proportionate and fair.
- 1.11 Under the Debt Respite Scheme Regulations 2020 the Council is compelled to enter a moratorium of recovery action against an individual. This prevents not only recovery but any contact with the customer in respect to any outstanding debts which has implications for the customer.

2. Key Aims

- 2.1 Supporting billing, invoicing, and recovery processes by providing strategy and development plans for collecting outstanding debts and major sources of income, many of which are used to fund critical local services provided to the public.
- 2.2 This will be achieved by:
 - Maximising financial performance while promoting ethical collection.
 - Considering the sustainability of payment arrangements to pay over longer time scales if feasible
 - Promote and implement an effective and smart debt management culture
 - Supporting and proactively encouraging engagement from those in need via collaboration with stakeholders (eg. Signposting customers to support where needed - internal and external).

- Considering new technologies and lateral thinking to develop ways to enable us to identify customers in need and/or requiring extra support¹.

3. Billing and Invoicing

- 3.1 Prompt, accurate and accessible billing via the appropriate format is important in reducing the burden of rising instalment amounts on customers, as well as ensuring the Authority debt levels and Collection Rates are reported accurately.
- 3.2 All bills/invoices will be in plain English clearly showing:
 - What it is for
 - Liability period (where relevant)
 - Amount due and any subsequent instalment plan
 - Payment methods
 - Contact/web details for enquiries
 - Any available entitlement to reliefs, exemptions, and discounts already awarded.
- 3.3 Where a debt changes for any reason other than payment, clear notification will be given of the amount due, any instalments and relevant contact details.
- 3.4 Quality assurance checks of amendments to accounts are carried out ensuring changes in circumstances and applications for exemptions, discounts, reductions, and reliefs are correctly calculated in accordance with legislation and policy.
- 3.5 All attempts will be made to eradicate delays and utilise technology to minimise avoidable contact.
- 3.6 A range of communication services are available to customers upon request, including:
 - translation and interpreting services if your first language is not English
 - sign language interpreters and other support if you are deaf or have impaired hearing

¹ Poverty action plan – “Use Data and Intelligence to target Low Income Households”

- documents in alternative formats, for example Braille, large print, audio and disc
 - other options tailored to meet specific individual needs
- 3.7 For sundry debt (general charges) to minimise action required after the fact, payment should be obtained in advance of service provision where practicable.
- 3.8 Penalty Charge Notices (for example, parking fines) will include advice that any challenge must be made by the customer within 28 days of issue.

4. Ways to Pay

- 4.1 The council make it as accessible as possible for customers to pay their debts, and a variety of payment methods are offered. 'How to Pay' advice is on the reverse of all bills, recovery documents and invoices as well as on the DCC website.
- 4.2 A variety of payment methods are available:
- Direct Debit
 - Debit/Credit card payments via the automated payment line
 - Bank transfer direct to the Council's bank account
 - Barcode
 - PayPal is available to pay most bills
 - Cheques
 - Standing Order
 - BACS, CHAPS or Faster Payments to the Council's bank account
- 4.3 Where feasible, Direct Debit will be promoted, as this is the most effective and efficient method of payment to administer. However there are social and practical barriers to paying this way such as unpredictable working patterns and the inability to open a bank account.
- 4.4 To combat these barriers the Council not only offers many methods of payment but also signposting to various agencies/supportive measures who can assist with opening a bank account where appropriate.

5. Ethical Collection of Debts

- 5.1 The Council works to adopt a well-rounded approach when dealing with the collection of debts; considering circumstances, the priority/hierarchy of debts and any potential for hardship, but also recognises that engagement with customers earlier in the process is key to improving their journey and minimising costs.
- 5.2 Management and recovery of the Council's debt is handled smartly and while an engagement/welfare focused approach will affect cash collection initially, it does ensure that a targeted approach to the management and Collection of DCC's debt isn't at the expense of vulnerable and financially deprived individuals and communities within the county.
- 5.3 Priority is given to debts where non-payment could lead to loss of the customer's home, liberty or have direct implications upon an individual's mental/physical health and wellbeing.
- 5.4 Supportive avenues are signposted at each point of engagement wherever appropriate, and where necessary the consequences of non-payment are clearly outlined.
- 5.5 Debts categorised as priority include:
 - Rent arrears and tenancy related charges
 - Mortgage repayments
 - Unpaid maintenance and child support
 - Council Tax and Business Rates
 - Gas and electricity
 - Unpaid court fines
 - County Court Judgments
 - Income Tax, VAT and National Insurance contributions
 - Phone or Internet Bills
 - Hire purchase for goods that are essential
 - Arrears relating to supported accommodation and care charges
 - Invoices for any essential services or goods
 - Television licence fees

- 5.6 Where a customer has accounts involving several charge/debt types, if one account is in credit and another is in debit, the customer will be contacted and encouraged to agree to the credit being transferred towards the debt.
- 5.7 Delayed recovery action due to delayed or missed payment will reduce the time in which the customer can pay. Priority is given to the most recent financial year's charge or invoice where older debts exist, to minimise or break the impact of the cyclical nature of annual/recurring charges such as Council Tax and Business Rates. Action is taken in a timely manner in accordance with an agreed schedule of recovery.
- 5.8 Under this strategy it is critical to target resource in order to collect the most recent, recoverable debt therefore the current year and three years prior will be the targeted priority, and in certain circumstances debts over 3 years of age can be written off in line with the Corporate Write of Policy.
- 5.9 Recovery action is continuous, dynamic, and proportionate, within appropriate legislation, in its effort to strike a balance between the welfare of the individual/business, the community and their obligation to the Council. Where debt exists, the type of recovery action to be taken depends upon the type of debt.
- 5.10 Where the amount of resource it would require to recover a debt outweighs the amount of the debt itself then consideration will be given to writing the debt off and balancing the reasonableness of action taken.
- 5.11 The Council will set tolerances for unenforceable debts of low balances which are considered in the Corporate Write off Policy. These amounts are set to prevent cases of low balances going through recovery action which incurs costs that are disproportionate to the amount originally owed. But cases of low balances are also filtered out to prevent further action being taken on balances which may be made up of solely court costs.
- 5.12 Transparency in recovery action maintains public confidence, ensuring the customer understands what is expected of them and what they can expect from the Council. Advice and information provided by the local authority is clear and concise.
- 5.13 Where a customer is in severe, short term poverty then an application for Hardship Relief can be submitted under S13(A) Local

Government Finance Act 1992 for the charge to be remitted under circumstances outlined in the associated policy.

- 5.14 Causes of customer indebtedness vary, so DCC has started attempting engagement campaigns to establish if support is needed and signposting to services as early as possible in efforts to mitigate/understand these causes and get the appropriate intervention to the appropriate audience as soon as possible.
- 5.15 DCC accepts that there are customers who can afford to pay who don't, these are the people that recovery action needs to focus/nudge customers into setting up arrangements and direct debits and where that fails push for payment via the actions outlined above.
- 5.16 In collecting Council Tax, employment details will be requested at every appropriate opportunity as Attachment of Earnings Orders is the preferred method of recovery should this become necessary. This form of action avoids the added costs of Enforcement Agents being passed on to the Customer but also streamlines Council collection.
- 5.17 The Collections Team is committed to developing new ways to identify those who have the ability and means to pay and taking more focused recovery action against them. In doing this development work the Collections Team can start to move away from resource heavy Attachment of Benefits where action is being taken against those who struggle to pay.
- 5.18 While this method will still be used, it will be utilised more as a focused, controlled action where the result is not lengthy, consecutive orders with additional court costs felt by the customer.

6. Council Tax/Business Rates Recovery

- 6.1 Recovery action taken up to and including Magistrates Court follows the below stages for Council Tax and Business Rates:
 - Reminder or/and Final Notice – Automatic payment arrangement sent out at Cancellation of Instalments Stage
 - Summons (£50.00 costs) – Automatic payment arrangement sent out at Summons stage including the court costs for summons and Liability Order
 - Liability Order in the Magistrates Court (£40.00 costs)

- Payment Arrangement – outside of the automatic repayment arrangements set up at Cancellation of Instalments Stage and Summons
- 6.2 Post Court action and Enforcement action post Magistrates Court is as follows (It should be noted that a payment arrangement including any associated costs can be made at any time):
- Attachment of DWP Benefits (Council Tax only) – Action against those on benefits need to be considered and contacted to apply for Local Council Tax Reduction where this is not currently in payment. A more targeted view of this will be taken and only where no other option remains available.
 - Attachment of Earnings (Council Tax only)
 - Attachment of Council Members Allowances (Council Tax only)
 - Referral to Internal Enforcement Agent Service (County Durham Outreach and Support) - debt must be £100 or more and includes action such as signposting to assistance, immobilisation of vehicles and taking control of goods.
 - Insolvency actions (bankruptcy/winding up) - debt must be £750 or more for winding up proceedings and £5,000 or more for bankruptcy.
 - Charging Order – (Council Tax only) debt must be £1,000 or more for the property giving rise to the charge – The case does not have to progress through Enforcement Agent Stage if Senior Officer/Team Leader approval given to pursue.
 - Committal to Prison - debt must be £750 or more –for very specific cases. Referral to Team Leader/ Assistant Manager required for sign off.

7. Housing Benefit Overpayment Recovery

- 7.1 Recovery action to be taken against Housing Benefit overpayment debts progress through the following stages:
- Reminder
 - Final Notice
 - Payment Arrangement
 - Payment Deduction Programme (deductions from DWP Benefits)

- Direct Attachment of Earnings
- Debt Collection Agency – CDOS

8. Sundry Debt Collection (Including Adult Social Care)

8.1 Sundry Debts progress through recovery action to the County Court Action prior to the County Court consists of:

- Reminder
- Final Notice
- Payment Arrangement
- Cessation of Service (where appropriate)
- Debt Collection Agency
- County Court Judgement
- Third Party Deductions

8.2 Sundry Debts escalate through a recovery process and there are prescribed recovery tolerances in place for different charge types which generally dictate what action is taken based on service specific considerations. The service areas are given discretion as to which cases the Collections Teams would escalate through further recovery.

8.3 Action that can be taken to enforce Sundry debt is outlined below:

- High Court Writ/Enforcement Agents – debt must be at least £600
- Warrant of Control/County Court Bailiff - Debts must be under £5,000
- Attachment of Earnings (County Court)
- Order to Attend for Means Enquiry (County Court)
- Third Party Debt Order (County Court)
- Insolvency (bankruptcy/winding up) - debt must be £750 or more for winding up proceedings and £5,000 or more for bankruptcy
- Charging Order – debt must be £600 or more

9. Parking Fines

9.1 Parking fines are recovered via the below process, and are escalated to Enforcement with County Durham Outreach and Support if unsuccessful:

- Notice to owner
- Charge Certificate
- Application to the Traffic Enforcement Centre
- Order for Recovery
- Warrant of Execution
- Payment Arrangement

10. Business Improvement District Levy

10.1 BIDs are recovered via the below process and if uncollected are escalated to Enforcement with County Durham Outreach and Support:

- Reminder
- Summons (£50.00 Costs)
- Liability Order in the Magistrates Court (£40.00 costs)
- Payment Arrangement (up to 3 months)

11. Payment Arrangements, Financial Statement submission and Review

11.1 Where appropriate and acceptable a sustainable and realistic payment arrangement should be set up prior to court action. If there is any doubt as to the sustainability of the arrangement, the customer should be asked to complete an income and expenditure review. This can be done over the telephone with a member of staff, or currently, one can be sent out in paper form.

11.2 Where customers are experiencing financial difficulties to the extent that an affordable, sustainable repayment arrangement cannot be agreed and financial evidence has been provided by an Income and Expenditure process, they should be signposted for assistance to relevant debt advice charities or internal departments and a hold placed on the account to allow for intervention to take place.

- 11.3 The income and expenditure review is conducted via access to a budget calculator which provides access to the Standard Financial Statement. This provides reasonable/standardised tolerances for categories of income and expenditure provided by customers and is utilised across the third sector and support agencies.
- 11.4 All payment arrangements are confirmed in writing and include service contact details as well as the notification that recovery action will continue without notice should the arrangement not be maintained.
- 11.5 Arrangements can be renegotiated following a change in circumstances. Any renegotiation or arrangements would take into consideration the number of broken arrangements already made, financial information received and the regularity/balance of previous payments. If the arrangement is ordered by the court then a variation order may be required.

12. County Durham Outreach and Support (CDOS)

- 12.1 Where there is non-payment and no alternative, debts (Council Tax, Business Rates, Parking Fines, BIDs and Commercial Rent) will be referred to the Council's Enforcement Agent Service for collection. The introduction of an in-house Enforcement Agent service in 2020 provides the opportunity for a more joined-up, streamlined and flexible approach to debt recovery and management. As the team is still in its infancy due to COVID delays, CDOS is supported by a contracted external agency for out of area debt and to provide any needed resilience, guidance, capacity and support to the new service.
- 12.2 When collecting Sundry Debt (General Charges and Adult Social Care) and Housing Benefit Overpayment CDOS will attempt Debt Collection via outbound campaigns and visits where possible, but fees cannot be applied and there are no legal powers of Enforcement for these debts .
- 12.3 The ability to refer debt to an Enforcement Agent is still an important tool in the recovery process but the Council appreciates the political sensitivity surrounding Enforcement Agent action. County Durham Outreach and Support (CDOS - Internal Enforcement Agent Service) has been setup with the objective of collecting whilst prioritising customer welfare where appropriate.

- 12.4 Procedures are in place to filter out any Council Tax cases with financial vulnerability/extra needs before automated escalation to CDOS. These procedures continue to be reviewed and developed to try and refine the results, so any unintended action is avoided but collection rates aren't impacted by broad, blanket recovery holds.
- 12.5 The aim of developing this process, is for CDOS to focus on cases where the ability to pay exists but the inclination is not forthcoming, protecting the interests of those within the County who do pay.
- 12.6 As a member of CIVEA, (The Civil Enforcement Agency) the principal trade association representing civil enforcement agencies, CDOS are held to a high professional standard. Audits are completed annually to ensure robust procedures exist to guarantee code of conduct compliance. Performance management measures are implemented to ensure compliance and quality of service (this also applies to the external contractor).
- 12.7 CDOS signpost customers to varying sources of support including the Local Council Tax Reduction Scheme, discretionary and hardship funding, Welfare Rights, Advice in County Durham network support agencies, Step Change and Credit Unions, Housing Solutions, social care, etc. and work towards measuring this as a Performance Indicator.
- 12.8 The Enforcement Agents identify and promote entitlements to discounts, exemptions, and reliefs as appropriate to maximise income for stakeholders.
- 12.9 A key factor for Enforcement Agents is the ability to identify vulnerability/customers struggling to manage financially, adopting a supportive and flexible approach. Action will be withdrawn where appropriate and the external contractor will have a dedicated team to deal with vulnerable customers and situations.
- 12.10 If the debt has been referred to the external Collections Agency to collect, the Council will intervene where there are exceptional circumstances to seek a resolution.
- 12.11 CDOS and the third-party Enforcement Agency will be informed of any payments received by the Council, or changes to the charges, on debts referred for collection. This does not prejudice any statutory fees or charges levied by the third party for recovery action taken on behalf of the Council.
- 12.12 When a case is returned to the Collections Team or Insolvency and Enforcement the method of return will signify the follow up work

needed. Employment details of debtors are the priority and will be utilised in place of Enforcement action should this prove ineffective.

13. Enforcement and Insolvency Team (Post Enforcement Agent)

- 13.1 The Insolvency and Enforcement Team take action on debts which have escalated through the Recovery/Court/Enforcement Agent process. This team deals with the more contentious accounts where it is believed that the financial security to pay exists, but they lack the propensity to pay. There must also be no reason/engagement received to believe that any action would exacerbate an existing vulnerability.
- 13.2 Throughout the recovery processes undertaken by this team, should constructive engagement be entered into which contradicts this belief then consideration will be given to the cessation of action being taken where appropriate as well as signposting wherever appropriate.
- 13.3 Accounts are returned from CDOS or the external Enforcement Agent company to the Collections Team for consideration of an Attachment of Earnings, arrangement due to vulnerability, Trace or write off while others are channelled into the Insolvency and Enforcement Team for possible further action.
- 13.4 Consideration will be given to the most effective or appropriate recovery method by the Insolvency and Enforcement Team.
- 13.5 This will include:
 - Insolvency action - Insolvency action will only be taken following advice and guidance from an appointed partner specialising in that subject.
 - County Court Action on Sundry debts as per Paragraph 8.
 - Charging Order - Leading to a possible forced sale - an Order of Sale will only be applied for in accordance with the relevant legislation, civil procedure rules and good practice. A full review will be undertaken to determine the individual's circumstances as well as to establish that there is sufficient equity in the property ensuring such action is cost effective.
 - Committal to prison proceedings (A sentence could be for up to 90 days) - This will only be considered as a last resort because it is punitive and not corrective and therefore does not result in the debt

being paid if incarceration is the result so resource is expended and no income clawed back.

- Write off - This will be considered where it becomes apparent that recovery is not possible and/or the circumstances fall within the scope of the write off policy.
- 13.6 Customers who become subject to further enforcement action will have had many opportunities to engage with DCC to prevent further action. Every attempt will be made to contact the customer directly by telephone, email, and post with at least two written warning notices being issued advising of the potentially severe consequences.
- 13.7 A home/site visit can be undertaken by a member of the Insolvency and Enforcement Team prior to committal to prison proceedings or insolvency action where it is deemed necessary/appropriate.
- 13.8 Staff will take reasonable steps to establish and understand the customer's circumstances as well as the potential implications of taking further enforcement actions. Including but not limited to:
- Whether the customer has the means to pay
 - Whether the customer has any assets
 - Payment history
 - Whether the customer is vulnerable or has any other extenuating circumstances that would reasonably preclude further enforcement action being taken
- 13.9 Staff will record and document any contact, warning notices, visits and note all reasons for the chosen action being appropriate in that case. Peer review as well as management sign off be required before an action is initiated.
- 13.10 On engagement where required Customers will be signposted to any approved and appropriate advice service or organisation.
- 13.11 Consideration will also be given to other wider implications in all cases:
- Ongoing liability and future charges
 - Duty to those who do pay to recover against those who do not
 - The Council's reputation

14. Tracing Absconded Customers

- 14.1 Where the customer has moved house or 'gone away' without providing a forwarding address, every reasonable and proportionate attempt will be made to locate the individual within procedural guidelines.
- 14.2 The Council will make all necessary attempts to trace any customer to ensure that recovery action can be continued. Attempts made to trace a customer and action taken will be proportionate to the level of debt involved.
- 14.3 Where permitted, searches will be conducted with the help of credit referencing agencies to help trace absconders and gain insight into a customer's ability to pay. Consideration will be given to the use of tracing agents where necessary and if there is an effective process in place to deal with any new contact details that come to light.
- 14.4 Social media in the public domain can also be used where appropriate.
- 14.5 The timelines of tracing, allowing time for the customer to establish a financial link to their new address, alongside the size/age of the debt will be considered and the debt written off where the resource needed outweighs the benefit to the business.

15. People with extra needs/in need of support

- 15.1 Customers who find themselves in debt often have multiple debts which spiral and affect the whole family, their quality of life and wellbeing. Staff dealing with individuals and families in difficult situations will receive training on recognition of hardship/possible vulnerability and when to refer for extra help and advice.
- 15.2 Recovery action taken to recover debt can often cause distress, especially where the person is holistically indebted. Where practical, to avoid this, Durham County Council will encourage anyone with concerns/in need of support to engage at every step and ensure that any mutually agreed repayment arrangements are affordable, sustainable and that the customer understands any/all options available to them that could minimise costs, maximise income and avoid accruing further debt in the future.
- 15.3 Where the service is advised of circumstances and/or it has been substantiated that recovery action will have a significant detrimental effect on the customer's wellbeing, the action may be held for a

reasonable and appropriate period to allow time for an agreeable resolution to be found or the appropriate assistance, guidance and support through signposting to internal or external services is accessed.

- 15.4 The benefit of understanding the challenges of customers within the county is acknowledged, particularly those with a low disposable income, unemployed or existing on resources just above their minimum needs.
- 15.5 Intrusive recovery action will not be undertaken in cases where genuine hardship or vulnerability affecting a customer's ability to pay is evidenced. The same applies to cases where it is apparent that recovery action would be detrimental to health and wellbeing of the customer. Customers will not be asked to make unrealistic repayments at a rate that is not sustainable.
- 15.6 Certain actions can be taken temporarily to mitigate the immediate circumstances the customer may find themselves in until a more long-term solution can be put in place:
- Postponing or withdrawing recovery action
 - Assisting and signposting the person to claim benefits, financial assistance, reductions in charge, other entitlements and support
 - Providing documentation and information in an accessible and acceptable format
 - Agreeing a temporary repayment arrangement with lower payments than would normally be agreed
 - Informing other appropriate service areas within the Authority of any concerns regarding the customer's safety or welfare
- 15.7 Discretion will be used (within the appropriate legislation) to backdate Council Tax Reduction entitlement when continuous good cause can be demonstrated. The Local Council Tax Reduction Scheme entirely covers the Council Tax charge of those most in need of support in the Local Area.
- 15.8 Special consideration will also be given to those who are no longer taking responsibility of their own finances, for example, long-term hospital patients.
- 15.9 For the purposes of this Policy the key factors in determining whether a person should be regarded as vulnerable/needing additional support consideration will be given as to whether they may

require support around their ability to deal with financial affairs or their ability to pay.

- 15.10 If effective support is provided in maintaining payments, then recovery action and any detrimental affect it may have had, will be avoided, or at least, minimised.

16. Characteristics possibly leading to increased chances of Vulnerability

- 16.1 This section sets out characteristics which could lead to an individual/household needing extra support around finances. This list is not intended to be exhaustive and each case is considered on an individual basis taking into account all any factors.
- 16.2 Disabled Persons - A person with a disability is not necessarily vulnerable, however, where the disability affects the person's ability to pay then the person should be considered to be vulnerable.
- 16.3 Persons with Mental Health Impairment or Learning Difficulties - Where an individual has mental health issues or learning difficulties which affect their ability to pay or understanding, or where recovery action would be detrimental to the individual's wellbeing then support should be offered. Further enquiries may need to be made with Social Services. A reduction in Council Tax may be applicable as there is provision within legislation for Severe Mental Health Impairment.
- 16.4 Persons Experiencing Serious Illness (including Mental Illness) - A customer or a customer's partner suffering from a serious or life-threatening condition that affects their ability to pay or understanding, or where recovery action would be detrimental to the individual's wellbeing then the person should be considered to be vulnerable.
- 16.5 Those on Income Support, Job Seeker's Allowance, Employment and Support Allowance, Universal Credit or Guaranteed Pension Credit - They may be vulnerable for the purpose of this Policy as they may experiencing financial hardship. Claimants that are new to Universal Credit in the first 6 weeks of the claim. Applications can take up to 6 weeks to be put into payment during which time customers may be experiencing extreme hardship.
- 16.6 Unemployed Persons - Unemployment does not automatically mean the customer is vulnerable. For example, a person may have

received a substantial redundancy payment and be financially secure in the short-term. However, loss of employment may result in serious financial and personal difficulties if they are suddenly unable to meet their existing financial commitments. A person who has recently become unemployed after a long period of employment may be unfamiliar with processes for claiming benefits and may need additional assistance to understand their entitlements.

- 16.7 A Person who has difficulty understanding English - If a person does not understand either spoken or written English, vulnerability should be considered, particularly if they do not have support from family members who can speak and read English. The Council will provide appropriate translation where necessary.
- 16.8 Persons Aged Under 18 - It is unlikely that a person aged under 18 years will owe any sums to the Council. However, it is possible that a person may assist or care for a parent or other older person and could contact the Council on their behalf. A person aged under 18 years may be the only person at home when an enforcement visit takes place and therefore the visit should be abandoned. The Council will always treat any person under 18 years old as vulnerable.
- 16.9 Care Leavers aged 18 to 25 - It is unlikely that a person aged under 18 years will owe any sums to the Council. However, it is possible that a person may assist or care for a parent or other older person and could contact the Council on their behalf. A person aged under 18 years may be the only person at home when an enforcement visit takes place and therefore the visit should be abandoned. The Council will always treat any person under 18 years old as vulnerable.
- 16.10 A Person Recently Bereaved - A person suffering the recent bereavement (this may be up to 52 weeks) of a partner, child or close relative may be considered to be a vulnerable person.
- 16.11 Lone Parents - A lone parent is not necessarily a vulnerable person and it is recognised that some lone parents are financially secure. However, lone parents, and in particular those with very young children, may have difficulty in undertaking employment and are therefore reliant on welfare benefits.
- 16.12 Pregnancy - A person in the later stages of pregnancy may find dealing with serious financial issues stressful, particularly if they are not supported by a partner, or if they are living on a low income. Any

additional essential expenditure due to the pregnancy or birth of a child can often compound this situation

- 16.13 A person that has difficulty reading or writing - A person may be regarded as being vulnerable if they have difficulties in reading or writing because they are either unable to, or, do not understand written notices. People who have difficulty reading or writing may be embarrassed and reluctant to reveal their difficulties. If there is concern that a person has such difficulties, sensitivity must be applied when dealing with such cases.
- 16.14 Ex service personnel and veterans
- 16.15 It is a national priority to assist ex-service personnel, particularly those who may have suffered ill health or injury because of service. The intention is to support them with the transition from military to civilian life.
- 16.16 Homeless Persons - A homeless person likely will be experiencing both personal and financial hardship. Individuals must be signposted to all relevant support and assistance, particularly Housing Solutions, Welfare Assistance, etc.
- 16.17 Victims of Domestic Abuse - This includes physical, mental or emotional harm and/or financial loss, and, may result in depression, anxiety, other mental health issues
- 16.18 Carers - Carers are often in very stressful, emotional and sensitive circumstances and may be in need of extra help and support.

17. Signposting to Internal or External Services

- 17.1 Whilst Collections staff can provide information around an individual's outstanding Local Authority debts, they are not fully trained or licensed experts in debt advice. Customers should be referred for advice via the Advice in County Durham portal or signposted to StepChange Debt Charity. Information on these services and other advice agencies, are available on the Council's website (www.durham.gov.uk) and on the back of the recovery letters issued throughout the process.
- 17.2 The Council recognises that many customers will experience personal financial difficulty at some point. Where there is genuine financial hardship, applications can be submitted for short term relief under the Council's Council Tax and Business Rates Discretionary Hardship Reduction Policies. The policies for these require certain

specifications are met and other remedies are sought before applying.

- 17.3 Customers must be encouraged to maximise income where possible. This can be done by signposting and supporting customers to claim everything they are entitled to:
- Local Council Tax Reduction Scheme (LCTRS)
 - Universal Credit for working-age customers
 - Third Sector Support Agencies for free, independent debt advice including, Citizens Advice County Durham (CACD), East Durham Trust and Durham Christian Partnership
- 17.4 Recovery action can be suspended, where there is potential for a substantial reduction in the amount owed. Working in conjunction with income maximisation is debt reduction, to help tackle customer indebtedness every effort will be made to make individuals aware of all discounts/reductions or reliefs including:
- The availability of discounts, exemptions, reliefs and disregards
 - Discretionary Housing Payments
 - Council Tax and Business Rates Hardship Relief Policies
- 17.5 The Collections team make outbound telephone calls and CDOS can provide visits from a welfare and support perspective where practicable and resource allows. This approach will be developed to be particularly targeted at those customers identified to be 'in crisis' or 'at financial risk'. In possible need of:
- Welfare Assistance
 - Welfare Rights Service
 - Foodbanks
 - Mental Health and Wellbeing Initiatives/organisations/charities
 - Other charitable and support organisations
- 17.6 Customers have access to a portal for referrals to Advice in County Durham via the Collections Team, which refers customers for advice as well as an agreement to withhold action for an agreed amount of time for 'live' cases. This may be extended to 90 days where there is evidence that a customer is pursuing insolvency proceedings. This agreement also applies to the Council's Enforcement Agent and Debt Collection internal and externally contracted services.

- 17.7 The Council Tax Protocol is a promissory document between the Collections Team and Citizens Advice County Durham to work to meet a best practice standard of balancing a welfare approach with Collection targets as well as working in tandem to provide a two-way support system for training and development.
- 17.8 Customers may also be made aware of other organisations specialising in free and independent debt advice such as Step Change and the National Debt Helpline to access free debt counselling. Those experiencing financial difficulties should be given every assistance with money management. In appropriate cases consultation with Social Services, Police or other appropriate agencies may be required.

18. Breathing Space

- 18.1 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 came into force on 4 May 2021. The Regulations apply to a wide range of debts including, Council Tax, Business Rates, sundry debt and Parking Fines.
- 18.2 Breathing Space gives eligible people in problem debt, who received professional debt advice, access to a sixty day period in which interest, fees and charges are frozen and enforcement action is paused. The legislation requires debt advisers to assess eligibility to breathing space and establish if it is the most appropriate debt solution. Debt Advice in County Durham may be accessed locally from Citizens Advice County Durham, East Durham Trust and Durham Christian Partnership or nationally from Citizens Advice or StepChange.
- 18.3 A separate Breathing Space scheme exists for those in receipt of mental health crisis treatment and the referral must be completed by an approved mental health professional. The recovery action moratorium on this particular scheme will end 30 days after the crisis treatment ends or 30 days from the last contact with the customer.

19. Performance Monitoring and Indicators

- 19.1 Performance is primarily measured in terms of the rate of in-year debt collection.

- 19.2 Current processes mean that the recovery action taken is done via a prescriptive, bulk approach, particularly in the early stages or the process.
- 19.3 The Collections Team will adopt a targeted approach of collecting from those who “Won’t pay” rather than those who “Can’t pay.”
- 19.4 By developing targeting methods, resource is focused on the “won’t payers”, this bolsters the welfare outlook whilst minimising the impact of this on the Key Performance Indicator, as costly resource is being used to accrue revenue from those who have it.
- 19.5 Recovery or enforcement action is not actively targeted at those who cannot pay.

20. Costs and Interest

- 20.1 The addition of court costs to a debt is considered during any customer engagement to ensure the incursion of fees is reasonable. Where they are reasonably and legally incurred, costs and/or fees will be added to the amount(s) already owed.
- 20.2 The teams within Collections have the flexibility to withdraw costs where they deem them unreasonable to be added. Costs can be considered at any time in the recovery period and written off where circumstance warrants it.
- 20.3 Where legislation allows, statutory and/or reasonable fees and costs incurred in taking recovery action will be added to the amount(s) already owed.
- 20.4 In certain circumstances the level of costs will be determined by the Court. However, where there is financial hardship, officers will have discretion not to enforce costs but the justification for this must be documented.
- 20.5 At the discretion of the Court interest may be added to a sundry debt once a County Court Judgment is obtained. Interest accrues daily at a rate of 8% from the date of the invoice until the date the County Court Judgment is granted.
- 20.6 If a charging order is obtained, for any debt stream², interest of 8% also accrues from the date the final charging order was granted, until the date the debt is paid in full. Again, this is at the Court’s discretion and would be decided by the Judge when the final charging order is

² under the County Courts (Interest on Judgment Debts) Order 1991 Section 4(2)

granted. Consideration will be given to the interest accrued in the recovery moratorium due to COVID.

- 20.7 Whilst interest is not an incurred expense, it does compensate for the additional cost in obtaining a Judgment and for the loss of cash flow.
- 20.8 The officers managing cases and representing the Council at Court have delegated powers which allow the discretion to remove all or part of the interest charged should circumstances justify this.

21. Service Improvement and development

- 21.1 The Service will continue to develop, test and review processes and procedures to enhance Collection Rates. Promote effective customer engagement and implement targets outlined in Service Improvement Plans.
- 21.2 The Council is committed to continuous improvement, and it is critical that new approaches and ways of working are challenged to make effective improvements. Technology will be utilised to automate, expedite, and streamline whatever processes are possible maximising efficiency and resource.
- 21.3 Staff are empowered to suggest improvements to service provision and the culture being promoted is one of positivity around change and is rooted in the Council's Core Values.
- 21.4 Any feasible ideas with an advantageous time/resource ratio will be tried and tested/piloted to see if the suggested approach is plausible and effective.
- 21.5 This policy will be subject to regular review and assessed on its contribution to the improvement process. The Finance and Transactional Service teams have robust mechanisms in place to review the effectiveness of the application of this Policy in practice.



Corporate Debt Write Off Policy

November 2022

Contents

1. Introduction
2. Write Off Identification and Reporting
3. Process of Approval
4. Circumstances Leading to Write Off
5. Uneconomical to Pursue
6. Systems
7. Oracle Sundry Debt
8. Procedural Requirements
9. Review

1. Introduction

- 1.1 There will be circumstances where it is appropriate to consider writing off amount(s) owed (or part thereof) to the Council. The reasons for this may be:
 - legislative,
 - a directive from the Court,
 - policy decision from local management.
 - The provisions are set out in Section 49 of the Local Government Finance Act 1998
- 1.2 The Council has established a Debt Management Policy to provide clarity in its use of resources and the intention to develop policy to concentrate recovery efforts more on those that won't rather than those that can't pay.
- 1.3 The Write Off Policy should be read in conjunction with the Debt Management Policy, the Council Tax Discretionary Reduction (Hardship Relief) Policy, the Business Rates Hardship Relief Policy and Financial Management Standards.
- 1.4 Writing off irrecoverable and/or aged debt frees up resource to target recoverable, debt and ensures that the level of Collectable debit reported within the Council's accounts is accurate. Reporting a true and fair reflection of the Council's financial position.
- 1.5 The Council makes provision each year for bad and doubtful debts. This is based on an estimation of the value of the arrears outstanding at the year-end that will not be collected.
- 1.6 All amounts written off will be undertaken in accordance with this Policy and procedure.

2. Write off Identification and Reporting (Debt type specific)

- 2.1 Each service will have its own procedure for identifying and authorising accounts to be written off within their specific debt type (i.e. Council Tax, Sundry Debt).
- 2.2 Reporting and reconciliation of write offs will be carried out on a periodic basis, at least monthly.

3. Process of Approval

- 3.1 The Councils Constitution states that the Corporate Director of Resources is authorised to discharge any function of the Executive in relation to the proper administration of the Council's financial affairs. This includes delegated authority to establish a Debt Management Strategy and to write off debts.
- 3.2 Chief Officers and Heads of Service are enabled by the Constitution to authorise officers within their service area to exercise delegated powers. This ensures the efficient day to day running of Council business within Resources. It is necessary for the Corporate Director of Resources to authorise officers within the Directorate to exercise some of these powers delegated to them.
- 3.3 In terms of Debt Management and Write Offs, this includes delegations to the Head of Transactional and Customer Services and Head of Corporate Finance and Commercial Services.

4. Circumstances Leading to write off

- 4.1 There are certain circumstances where debts may not, or should not, be pursued and therefore write off is the only justifiable and feasible course of action.
- 4.2 The following is a non-exhaustive list of circumstances which may lead to a debt being written off.
- 4.3 Where the debtor has absconded, the trace procedure has been completed and was unsuccessful. If a debtor is subsequently located and it is appropriate to do so, the debt could be written back on, and recovery action recommenced.
- 4.4 If the debtor is not resident in England or Wales, then certain recovery measures are either not permitted or not feasible to pursue.
- 4.5 Individual / company is insolvent. There are several forms of insolvency; Bankruptcy and Liquidation dictate that no further action can be taken and in Administration and Receivership there is no obligation to pay.
- 4.6 Where an Individual Voluntary Arrangement is applied for and is successful a percentage of the debt will be received and the remainder uncollectable.
- 4.7 Debts where a company has ceased to trade leaving no assets.

- 4.8 Debtor has served a custodial sentence in respect of the Council Tax or Business Rates debt.
- 4.9 Debtor deceased and there are no funds or assets to realise in the estate to enable repayment of the outstanding debt.
- 4.10 Debts where all or part has been remitted by the Court, or, an Order for Payment has been refused by the Court.
- 4.11 Where the debt cannot be pursued due to potential recovery action having a significant detrimental effect on the debtor's wellbeing.
- 4.12 Where an individual is on a low income, there is no ability to pay any previously accumulated arrears and, there is no future prospect of an improvement in their financial situation (which must be evidenced and recorded) and leads to a determination that the debt is irrecoverable. Approval for these cases must be sought from a Senior Officer or in more complex cases with Team Leader agreement.
- 4.13 Debts which cannot be legally enforced, for example, lack of supporting documentation / contract, or debts which are statute barred (over 6 years of inaction).
- 4.14 Debts created due to Local Authority error and deemed unreasonable to collect. For example, this may be where Council Tax Reduction has been incorrectly calculated and applied to the account.
- 4.15 Debts where usual recovery action has failed and further enforcement would either be disproportionate, or, unfeasible.
- 4.16 System rounding, part of the billing extract processes, any debit or credit balances under £1.00 are written off.
- 4.17 Balances over 6 years where payments are being received but newer debts exist so the aged debt can be written off to support the customer, help their holistic indebtedness and constructive engagement is evidenced.
- 4.18 As categorised in the Debt Management Policy, a targeted over 3 year aged debt write off is possible to prevent time and resource being spent on collecting uncollectable/unenforceable debt when the resource is needed elsewhere. Reviews and case targeting will be completed prior to write off.
- 4.19 Debts where a negotiated settlement has been agreed and a reduced balance is regarded as payment in full, for example, 'knock

down damage' and repairs. All negotiated settlements will have the agreement of the service manager and / or budget holder.

5. Uneconomical to Pursue/Unenforceable debts

- 5.1 Different debt types have different tolerances for how far the service will go to pursue debts.
- 5.2 In reference to Council Tax and Business Rates for a debt to be enforceable to pursue, the charge must be more than the costs amount. If a charge is made up solely of court costs then further recovery action will not be pursued and the balance written off.
- 5.3 The charge must exceed the cost amount when the relevant action begins. If an amendment is made after the fact and reduces the debt, then the service will have discretion as to what costs should remain.
- 5.4 Debts that are uneconomical to pursue due to the higher resource required to reasonably collect outweighing the debt owed in relation to the debt amount will be written off.

6. Systems

- 6.1 The debt will be categorised under the appropriate system transactional code, which will include the following (this may vary slightly between systems) listed below.
 - 6.1.1 Statute Barred – over 6 years of inaction
 - 6.1.2 Older than 6 years with some engagement/Targeted over 3 year old - Discretionary write off for support around poverty/holistic indebtedness and streamlining recovery.
 - 6.1.3 Uneconomical – Balance too small for further action (debt type dependent) or resource required outweighs balance outstanding.
 - 6.1.4 No Trace – Tracing procedures and agents unable to locate customer
 - 6.1.5 Bankrupt – Bankruptcy Order
 - 6.1.6 Insolvent – Including: Liquidation, Administration, Receivership, Individual Voluntary Arrangement (IVA), Company Voluntary Arrangement (CVA).

- 6.1.7 Uncollectable – The debt cannot be collected in circumstances such as vulnerability, further action is no longer feasible or there is no long term prospect of recovery.
 - 6.1.8 Ceased Trading – The Company has ceased trading leaving no assets
 - 6.1.9 Unenforceable – No legal remedy available and/or no supporting documents held within the service area
 - 6.1.10 Deceased – No funds in the estate
 - 6.1.11 Abroad – Recovery action is not permitted or feasible
 - 6.1.12 Remission – Debt remitted by the court
 - 6.1.13 Local Authority Error – Error in the calculation/charge and unreasonable to pursue
 - 6.1.14 Service Inactivity - Service area fail to respond to the Enforcement Team when further action is required (sundry debt)
 - 6.1.15 Negotiated Settlement - Payment of a reduced balance (mainly Sundry Debt but can be used for other fund types)
 - 6.1.16 Debt Management Strategy - The Debt Management Policy either allows for, or, dictates write off
- 6.2 The same reasons will be applied to credit balances that cannot be refunded. With regard to write backs, the same transactional code must be used as was used to write off the debt

7. Oracle Sundry Debt

- 7.1 Dependent on the debt raised in Oracle the debt type dictates the recovery process it follows. All processes have an end point of write off but the timeline and route taken to this point differs dependent on the transaction or debt type.
- 7.2 The Sundry Debt Team, is the central point of debt recovery and administration for Advanced Collections. Services can forward identified write offs to the Sundry Debt Team to process through the module (those outside of that team with access to the module can also 'flag' the account accordingly). In addition to the service requests, the Debtors Team can also recommend accounts for write off.

- 7.3 With regard to sundry debt (invoices), it is important to differentiate between a write off and a credit note. A write off is an amount owed that will never be collected. A credit note is issued in various situations to correct a mistake on an invoice, for example, where an invoice is overstated. A credit note must not be used as a substitute for a write off or vice versa, it is financially incorrect in respect of accounting terms and there are potential VAT implications.

8. Procedural Requirements

- 8.1 Officers identify irrecoverable debt routinely during the course of their work. This may include aged debt which needs to be dealt with promptly in order that resource can be utilised in the pursuit of recoverable debt.
- 8.2 The most appropriate write off transaction types / codes must be used for the circumstance, for example, if a Council Tax debt is under £75 but the debtor is bankrupt, then the bankrupt category would apply rather than the uneconomical category.
- 8.3 In respect of sundry invoices, relief from VAT can be claimed for unpaid debts (bad debt relief as it is termed by HMRC) however there are conditions that need to be met. It must be at least six months from when the payment was due, or, from the date of the original supply of goods / service. With the last opportunity to claim being four years and six months from when either, the payment was due/payable or the date of supply, whichever is the later. It is imperative that the correct coding is applied and the VAT position is properly reflected.
- 8.4 Each debt type has its own more detailed procedures, which will be relevant to the respective software system. Where system access allows, officers can identify, check and post a write off. A percentage of debts written off will be checked, based on the value of the debt, to confirm that it is appropriate.
- 8.5 All write off transactions, £90 or above for Council Tax, Business Rates and BIDs, and £55 or above for all other debts, will be accompanied by a system recorded (diary) note and any relevant supporting documentation for justification.
- 8.6 All write offs for Council Tax or Business Rates of £5,000 or above, in the first instance, should be approved by a senior officer and recorded on the account via diary note entry referencing agreement and the relevant Senior Officer.

- 8.7 At the end of each month a system transactional report will be produced, detailing all individual write offs as well as a summary of value and volume. This will be passed to the Chief Financial Officer in accordance with the Constitution, for authorisation. Should any amounts be returned as unauthorised, they will be reversed and dealt with accordingly.
- 8.8 The process of checking and authorisation of write offs/reversals are contained within the relevant Procedure Guidance Notes.
- 8.8.1 Less than £10 write offs will be subject to a cursory random check by an Officer or Quality Assurance Officer.
- 8.8.2 Between £10 to £100 write offs will be subject to a 5% check by an Officer or Quality Assurance Officer.
- 8.8.3 Between £100 to £1,000 write offs will be subject to a 10% check by an Officer or Quality Assurance Officer.
- 8.8.4 Between £1,000 to £5000 write offs will be subject to a 20% check by a Senior Officer or Quality Assurance Officer.
- 8.8.5 Between £5,000 to £10,000 write offs will be subject to a 50% check by a Senior Officer or Quality Assurance Officer.
- 8.8.6 Over £10,000 write offs will be subject to a 100% check by a Senior Officer or Quality Assurance Officer.
- 8.9 Any transaction found to be inappropriate or unjustified will be brought to the attention of the Team Manager. At the very least, the write off will be reversed / corrected and the originating officer will be advised. Any other appropriate required action will also be undertaken accordingly.
- 8.10 Once the write off transactions have been approved by the Chief Financial Officer a monthly reconciliation will be undertaken for each specific debt type. The reconciliation will be up to the month end, and, will also be cumulative. The procedure will be documented and include:-
- A reconciliation between the 'approved' write offs and those actually posted within the system
 - Reconciliation between the core system and the General Ledger
 - Any discrepancies should be recorded and an explanation given

9. Review

- 9.1 The practical application of this Policy will be monitored for effectiveness, quality, and accuracy on at least a monthly basis by officers within the Financial Support Service. The detailed procedures that underpin this Policy will also be reviewed and amended where appropriate to ensure that the Council is proactive in identifying potential issues.
- 9.2 These processes are an integral element of the Council's core key financial systems and will be subject to annual review by the Internal Audit Service. External Auditors may also review elements of this Policy and its application.
- 9.3 The Write Off Policy will be made available to all staff via the intranet.
- 9.4 The Write Off Policy will be subject to regular review.



Council Tax

Discretionary Hardship Reduction Policy

Section 13A(1)(c) Local Government Finance Act 1992

November 2023

Contents

1. Introduction
2. Criteria
3. The Application
4. The Decision Making Process
5. Rights of Appeal
6. Cancellation of an Award
7. Advice and Support

1. Introduction

- 1.1 This policy sets out the Council's approach to the awarding of discretionary hardship reduction in respect of Council Tax liability (charge) and ensures that all customers making an application for reduction are treated in a fair and consistent manner.
- 1.2 The policy is part of a suite of policies including the Debt Management Policy and Corporate Write off Policy which support the debt management strategies implemented by Durham County Council.
- 1.3 Councils have the discretion to reduce the amount of Council Tax payable by an individual under Section 13A Local Government Finance Act 1992 as amended by the Local Government Act 2003, section 76.
- 1.4 This discretion allows for the partial reduction of a bill or, where appropriate a complete remission to nil. This can be applied to cases on an individual basis or the Council can determine a class of property or resident whose liability is to be partially or wholly reduced.
- 1.5 This policy incorporates the Localised Council Tax Support Scheme and Council Tax Technical Changes introduced from 1st April 2013.

2. Criteria

- 2.1 Each hardship application will be assessed on its individual merits.
- 2.2 All awards are intended as short-term assistance and awards will not normally extend beyond a twelve-month period. They are not to be considered as a method of reducing Council Tax liability indefinitely or repeatedly. Hardship reduction or remission will be the exception and not the rule.
- 2.3 Council Tax hardship reduction will not be awarded for any reason other than to reduce Council Tax liability.
- 2.4 Reduction is not to be granted in order to prevent recovery action including bankruptcy/committal to prison proceedings commenced by the Council or any other body. However, consideration will be given to such action being suspended if there is a hardship application decision pending.
- 2.5 The applicant must detail the reasons for the application, explaining the specific circumstances and hardship being experienced.

- 2.6 There must be evidence of hardship or personal circumstances that justifies a reduction in Council Tax liability. There is no definition in the legislation for 'hardship' and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria.
- 2.7 Exceptional circumstances for hardship under the Council Tax regulations will usually be circumstances that are outside the control of the household and beyond normal risks faced by a household. The householder(s) must demonstrate that they have done all they can to mitigate those risks and are taking action to minimise them.
- 2.8 Although the Council may make an award in respect of hardship, any such award is funded by the Council and the impact on Council Tax payers must be considered.
- 2.9 The applicant must be able to demonstrate that all reasonable steps have been taken to reduce and/or discharge their full Council Tax liability prior to application including exploring entitlement to all other reductions, discounts, exemptions, reductions, discretionary payments and valuation office appeals.
- 2.10 The applicant does not have access to other assets that could be realised and used to pay Council Tax.
- 2.11 Application for hardship reduction should be one of last resort. Applicants will be expected to have explored and secured any lawful entitlement to other benefits, incomes and reductions in preference to claiming hardship reduction. This particularly includes an application for Council Tax Reduction.
- 2.12 The liable person for an unoccupied domestic property has made their best efforts to sell or let the property and to levy a Council Tax charge would cause them exceptional financial hardship.
- 2.13 The Council's finances allow for a reduction to be made.
- 2.14 The amount outstanding must not be the result of wilful refusal to pay or culpable neglect.
- 2.15 Hardship reduction will normally be awarded for a short, fixed period depending on the nature and likely duration of the hardship. In all cases reduction will end in the following circumstances:
 - At the end of the hardship reduction award period.
 - There is a change of liable person.
 - The Council Tax payer enters any form of formal insolvency.

- The Council Tax payer's financial circumstances significantly improve.

3. The Application

- 3.1 All applications will be made in writing or electronically from the Council Tax payer, their advocate/appointee or a recognised third party acting on their behalf, using the relevant form. All necessary supporting information and a full financial statement should be included.
- 3.2 Applications and supporting documentation can be emailed to revenuesenforcement@durham.gov.uk.
- 3.3 Postal application forms and supporting information can be sent to:

Durham County Council
Revenues and Benefits
PO Box 238
Stanley
County Durham
DH8 1FP
- 3.4 Further information may be requested from the applicant in order for a robust decision to be made. If the applicant does not supply the requested information within a specified period, the application can be deemed defective and the applicant will be informed.
- 3.5 The application may be reopened if the applicant demonstrates 'good cause' as to why the information could not be supplied at the time. No costs will be borne by the Council in the provision of this evidence.

4. The Decision Making Process

- 4.1 Upon receipt of a signed application and all supporting documentation /information a standard decision-making process will be followed.
- 4.2 Initial applications will be considered by an Enforcement and Insolvency officer within 28 days of receipt of a signed application and supporting information. This will include a review of findings, financial implications and initial recommendations.
- 4.3 If the Enforcement and Insolvency Officer proposes to reject then a Team Leader will assess the review and if in agreement then a letter

will be issued outlining the reasons for rejection and rights of appeal (see below).

- 4.4 If the Enforcement and Insolvency Officer recommends approving the application and a Team Leader agrees this will escalate to the Assistant Payments, Income and Support Manager who will review. Their approval is needed to agree the application.
- 4.5 If the Assistant Payments Income and Support Manager disputes the decision of the Officer and Team Leader and rejects the application then any redetermination would be considered at PIS Manager level and that decision would stand.
- 4.6 If a rejection issued after redetermination is appealed then the applicant will be advised in writing of this and also of their right to appeal to the Valuation Tribunal.
- 4.7 Once a decision has been approved the Council Tax payer will be notified in writing of the decision within 28 days and a revised Council Tax demand notice (bill) will be issued where applicable.
- 4.8 Whilst every effort will be made to meet the deadlines outlined above, failure by the Council to do so does not qualify the claimant for reduction.

5. Rights of Appeal

- 5.1 The Council will accept a request from the applicant for a re-determination of its decision.
- 5.2 Written requests for redetermination should be made within 28 days of the issue of the decision letter stating reasons why the decision should be reviewed.
- 5.3 In the case where the applicant has been notified of a decision and they exercise their rights to appeal, payment cannot be withheld pending an appeal decision. In the event that an appeal is successful, any interim overpayment will be refunded.
- 5.4 Considerations will include any additional information provided by the applicant that may justify a change to its original decision.
- 5.5 The Council will notify the Council Tax payer of its final decision within 21 days of receiving a request for a re-determination.

- 5.6 Whilst every effort will be made to meet the deadline outlined above, failure by the Council to do so does not qualify the claimant for reduction.
- 5.7 If a claimant remains dissatisfied with the outcome of the redetermination, they may appeal to the Valuation Tribunal for England (VTE). The applicant has two months from the date of the redetermination decision to do this.

Any application for appeal made outside of the two month time frame may be considered at the discretion of the chair of the Tribunal.

Valuation Tribunal
2nd Floor
120 Lemon Street
London
E1 8EU

Telephone: 0303 445 8100

E mail: appeals@valuationtribunal.gov.uk

6. Cancellation of an Award

- 6.1 If an award is subsequently cancelled, the amount awarded will be withdrawn from the applicant's Council Tax account and will be payable as the Council Tax due under the regulations.
- 6.2 The Council reserves the right to withdraw any award made under this scheme where fraud or error has occurred.
- 6.3 The Council reserves the right to withdraw any award where the applicant has failed to provide, or, has knowingly provided false or misleading information.

7. Advice and Support

- 7.1 Every attempt should be made to provide as much support and advice to applicants as possible. There are several avenues of support that can be signposted and they include:
- Welfare Rights
 - Welfare Assistance
 - Free School Meals
 - Citizens Advice County Durham

- Step Change Debt Charity



Business Rates Discretionary Hardship Reduction Policy

Section 49 Local Government Finance Act 1988

November 2023

Contents

1. Introduction
2. Key Aims
3. Period of Hardship and Relief
4. Making a Claim
5. The Decision Making Process
6. Further Review

1. Introduction

- 1.1 Councils have the power to reduce or remit the business rate charge where it considers that 'hardship' would otherwise be caused to the ratepayer.
- 1.2 The provisions are set out in Section 49 of the Local Government Finance Act 1998
- 1.3 Applications to reduce or remit the business rate charge will only be considered where the Council is satisfied that the rate payer would otherwise sustain hardship, and that it is reasonable to grant relief having regard to the interest of residents and businesses of Durham who are affected by decisions under this section.

2. Key Aims

- 2.1 Councils have the power to reduce or remit the business rate charge where it considers that 'hardship' would otherwise be caused to the ratepayer.
- 2.2 All applications should be made in writing from the rate payer, their advocate/appointee or a recognised third party acting on their behalf, contain the necessary information and attach relevant supporting documents.
- 2.3 All applications are only intended as short term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing Business Rate Liability.
- 2.4 Hardship relief or remission will be the exception and not the rule.
- 2.5 The financial interests of the council taxpayers will not be the overriding factor e.g. employment and amenities provision will also be taken into account. As the
- 2.6 The potential amount of any relief may in some cases be limited by the Subsidy Control Act 2022 and therefore current UK guidance and any subsequent legislation will be adhered to.
- 2.7 The test of hardship will include an assessment of the ratepayer's individual accounts to verify that the payment of rates would cause hardship.

2.8 To aid Council in making a determination as to the award of hardship, a number of factors will be considered. These include (but are not limited to) as follows:

- % of Rates to Sales
- % of Rates to Gross Profit
- % of Rates to Expenditure
- Ratio of Current Assets to Current Liabilities
- Ratio of Current Assets less Stock to Current Liabilities

2.9 Relief will normally only be awarded retrospectively. However, where you can show that the circumstances will remain the same for a period up to the end of the current financial year relief may be award for the remainder of the year.

3. Period of Hardship and relief

3.1 In all cases relief will end in the following circumstances.

- At the end of a financial year
- All or part of the unoccupied area becoming occupied
- A change of liable person
- The property becomes empty, or become occupied
- The ratepayer enters any form of formal insolvency
- The ratepayer's financial circumstances significantly change the rate payer must inform the council if their circumstances change (e.g. Change in rateable value)

3.2 From the assessment of the above criteria, the council will determine if the business is suffering from financial hardship due to the payment of Business Rates.

3.3 Examples of appropriate circumstances: (The following examples indicate circumstances where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines and are not intended to be prescriptive.)

- Without rate relief the business will close and deprive residents of an essential service and protecting employers.

- The ratepayer's business has been detrimentally affected by circumstances beyond their control that do not constitute part of the normal risks in running a business (e.g. a natural disaster, an unusual or uncontrollable event in the neighbourhood of the business such as a fire making the immediate area of the business unsafe).

4. Making a claim

- 4.1 A claim must be made in writing with relevant supporting information enclosed and should be completed and returned to:-

Durham County Council
Revenues and Benefits
PO Box 238
Stanley
Co Durham
DH8 1FP

Email: revenuesenforcement@durham.gov.uk

- 4.2 It is the responsibility of the ratepayer applying for relief to provide sufficient information and documentary evidence to support their applications. If the Ratepayer applying does not or will not provide the required evidence, we will still consider the application but only based on the information and evidence provided.

5. The decision-making process

- 5.1 Initial applications will be considered by an Enforcement and Insolvency officer within 28 days of receipt of a signed application and supporting information. This will include a review of findings, financial implications, and initial recommendations.
- 5.2 If the Enforcement and Insolvency Officer proposes to reject then a Team Leader will assess the review and if in agreement then a letter will be issued outlining the reasons for rejection and rights of re-determination?
- 5.3 If the Enforcement and Insolvency Officer recommends approving the application and a Team Leader agrees this will escalate to the Assistant Payments, Income and Support Manager who will review. Their approval is needed to agree the application.

- 5.4 If the Assistant Payments Income and Support Manager disputes the decision of the Officer and Team Leader and rejects the application then any redetermination would be considered at PIS Manager level and that decision would stand.
- 5.5 Once a decision has been approved the ratepayer will be notified in writing of the decision within 28 days and a revised demand notice (bill) will be issued where applicable.
- 5.6 Whilst every effort will be made to meet the deadlines outlined above, failure by the Council to do so does not qualify the claimant for reduction.

6. Further Review

- 6.1 Under the Local Government Finance Act 1992, there is no right of
- 6.2 appeal against the Council's use of discretionary powers.
- 6.3 Any redetermination will be completed by a different set of Officers and if this remains as a decision to reject then that decision will stand.
- 6.4 The Council will notify the rate payer of its decision within 21 days of receiving a request for a re-determination.