



# Debt Recovery Policy

Draft Copy

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## **1. Introduction**

- 1.1 South Somerset District Council has a duty to ensure cost effective billing, collection and recovery of all sums due to the Council.
- 1.2 Effective debt management is crucial to the success of any organisation. The Council needs an effective policy to support the maximisation of debt collection in an efficient, consistent and sensitive manner.
- 1.3 This document sets out the general principles South Somerset District Council will apply to debt management across all services we provide.

## **2. Policy Aims**

2.1 The key aims of this policy are as follows:

- To ensure a professional and timely approach to recovery action.
- To consider fully the debtors circumstances and ability to pay and so distinguish between the debtor who won't pay and the debtor who genuinely can't pay.
- To treat individuals consistently and fairly regardless of age, gender, disability and sexual orientation.
- To promote a coordinated approach towards sharing debtor information and managing multiple debts owed to the Council.
- To improve the levels of income collected by the Authority.
- To balance the potential loss of income to South Somerset District Council against the costs of compliance.

### **3. How These Link to Our Corporate Aims**

**“Providing well managed, cost effective services valued by our residents”**

We will continue our drive to minimise costs and make sure we give the best possible value for money, through a planned programme of streamlining services and improving efficiency. Importantly, this plan is not about new money for new projects. It is about preserving the services that are essential to our residents.

## **4. Policies Common to All Types of Debt**

- 4.1 Service providers must endeavour to obtain payment in advance or at the time of service delivery wherever permissible. Invoices should only be raised where payment in advance for a service is inappropriate.
- 4.2 Every demand for money will be correctly addressed to the person who is liable to pay it. The name on the demand will be that of a person or body possessing “legal personality” as far as possible based on the information available.
- 4.3 If a c/o address is used for an individual for the purpose of receiving/collecting post only or the debtor is of no fixed abode legal action cannot be taken. For legal action to be taken the debtor must reside at the address we hold at the time legal proceedings commence. For this reason c/o addresses should not be used unless there are exceptional circumstances which must be agreed by the Manager of the Service. The owner/occupier of the address must give their permission for the address to be used.
- 4.4 Demands will, wherever possible, be issued on the day of production.
- 4.5 Where possible all documentation relating to a demand will be kept either in paper or scanned image format until at least six years after the demand is raised. If at the end of that six-year period the demand still remains unpaid, the supporting documentation may be retained until either the bill is paid or the debt written off.
- 4.6 The Council will attempt at all times to use the most appropriate and effective method of debt recovery in order to maximise income.
- 4.7 The Council will encourage the most cost effective payment methods with the emphasis being on unmediated electronic means where possible. “Unmediated” in the context of electronic payment methods means a method of payment that requires no human intervention by officers of the Council to achieve its crediting to the account in question.
- 4.8 All invoices, reminders and final notices shall be issued immediately.

- 4.9 Officers, will be able to intervene in the recovery cycle in appropriate circumstances to deal with hardship/dispute situations or where they are dealing with a vulnerable person. This includes the ability to make deferred payment arrangements where immediate payment is impossible due to lack of means.
- 4.10 Where the potential for a statutory benefit or discount exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities and they will be assisted and encouraged to apply for these.
- 4.11 All notices issued by the Council will comply with the corporate style guidance and be readily identifiable as being from the Council.
- 4.12 The Council welcome the involvement of welfare agencies in connection with debts due to the Council and recognise the benefits that these organizations can offer both the debtor and the Council in prioritising repayments to creditors and in maximising income available to the debtor.
- 4.13 The Council recognises that prompt recovery action is key in managing its debt and maximising income. The Council therefore aims to:
- Regularly monitor the level and age of debt.
  - Have clear written recovery procedures.
  - Assess recovery methods to ensure maximum recovery.
  - Regularly review irrecoverable debts (and those where recovery is not economic) for write-off.
- 4.14 All accounts that are written off will be written off against the income code against which they are raised. The VAT on written-off sundry debtor accounts will only be recovered by the Authority in accordance with the rules and procedures laid down by HM Customs and Excise. In practice this means that VAT on a written-off debt can only be reclaimed 6 months after the debt became due or the date of supply.
- 4.15 Where an external agency is procured to assist with the delivery of a service the flow of information between the Council and the agency should, wherever possible, be in an electronic format.
- 4.16 Where legislation permits, the Council will seek to levy and recover from the debtor any and all costs/fees that are legitimately due from the debtor to the Authority or its agents.
- 4.17 Only in exceptional cases, where it would not be in the public interest to pursue costs/fees will they be waived.

## **5. Principles of Enforcement (all debts)**

- 5.1 The Council will follow the principles outlined below.
- Our action will be proportional
  - Our approach will be consistent
  - Our actions will be transparent
- 5.2 Additionally our intention will be to be firm and fair and our manner will be courteous.
- 5.3 Proportionality - Proportionality allows for a balance to be struck between the potential loss of income to the Council, the costs of compliance and the circumstances of the debtor.
- 5.4 Consistency - Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aim to achieve consistency in:
- The advice the Council gives.
  - The use of our powers.
  - The recovery procedures used.
- 5.5 The Council recognise that consistency does not mean simple uniformity. Officers need to take account of many variables such as:
- The social circumstances of the debtor.
  - The debtors payment history.
  - The debtors ability to pay.
- 5.6 Transparency -Transparency is important in maintaining public confidence. It means helping people to understand what is expected of them and what they should expect from the Council. It also means explaining clearly the reasons for taking any recovery/enforcement action.
- 5.7 If action is required:
- the reasons why must be clearly explained, in writing;
  - time scales must be clearly stated; and
  - a distinction must be made between advice and legal requirements.
- 5.8 Appropriate support such as the use of the Language Line facility is to be made available as an aid to improving verbal communications with those customers for whom English is not their first language.



- 5.9 An opportunity must be given to discuss what is required to comply with the law before formal enforcement action is taken. A written explanation must be given of any rights of appeal against formal enforcement action either before or at the time the action is taken.

## **6. Legal and Policy Framework for Recovery**

### **6.1 Council Tax**

Council Tax recovery procedures are laid down by statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

South Somerset District Council appoints bailiffs to recover council tax arrears when the debt has reached a certain point within the recovery process. Only certificated bailiffs can levy distress for council tax and fees charged to the debtor are governed by legislation.

### **6.2 National Non-Domestic Rates**

National Non-Domestic Rates recovery procedures are laid down by statute in the Local Government Finance Act 1988 and subsequent regulations and amendments.

South Somerset District Council appoints bailiffs to recover business rates arrears when the debt has reached a certain point within the recovery process. Only certificated bailiffs can levy distress for business rates and fees charged to the debtor are governed by legislation.

### **6.3 Housing Benefits**

Housing Benefit overpayments are recovered in accordance with Regulations 99-107 of The Housing Benefit Regulations 2006 (working Age) (as amended) and also with Regulations 80-88 of The Housing benefit Regulations 2006 (Pension Age) (as amended). In addition there are Debt Recovery Procedures' in place where Housing Benefit has been overpaid and is no longer in payment.

### **6.4 Parking Enforcement**

Parking Enforcement debts are recovered in accordance with The Road Traffic Act 1984; The Traffic Management Act 2004 s.78; Civil Enforcement of Parking Regulations (England) General Regulations 2007; and Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

## 6.5 Miscellaneous Income (Sundry Debtors)

Sundry debtors are collected within the relevant framework (e.g building control fees, licensing fees, rent due under commercial leases etc), up to the point that legal action is required, at that point the debt is passed to the Council's Legal Services for further recovery action.

## **7. Write Off Policy (all debts)**

- 7.1 The Council recognise that where a debt is irrecoverable, prompt and regular write off of such debts is good practice.
- 7.2 The Council will seek to minimise the cost of write-offs to the local Council Tax payers by having adequate controls in place to limit the amount of debt that arises and taking all necessary action to recover sums that become due. All debts will be subject to the full recovery, collection and legal procedures as outlined in this policy.
- 7.3 Irrecoverable debts will be referred to the Councils Section 151 Officer (The Assistant Director Finance & Corporate Services) on a monthly basis.
- 7.4 The limitations for writing off irrecoverable debts are those contained within the Councils Financial Procedure Rules and are listed at Appendix A.
- 7.5 Debts may be referred to the Section 151 Officer for write-off in the following circumstances;
- Debt remitted by a Magistrate.
  - The Council has evidence to confirm the claimant is suffering a severe physical or mental illness which renders enforcement action inappropriate.
  - The Council is unable to trace the debtor.
  - The debt is not cost-effective to pursue due to small balance.
  - The debt is not cost-effective to pursue due to the likelihood of payment balanced against the cost of proceedings.
  - The claimant has died and there are no or insufficient funds in the estate to settle the debt.
  - The claimant is subject to formal insolvency proceedings and there is little likelihood of a dividend.

## **8. Procedure for raising an invoice**

- 8.1 Full names, contact addresses and telephone numbers will be established wherever possible prior to a service provision or invoicing/billing. When dealing with companies, local authorities etc, it is important to obtain the contact details of the person/department who will be arranging payment of the invoice, this information will not be held on CedAr , but should be held by the service and given to Legal Services on request of information. Legal proceedings cannot be issued on 'care of' addresses, and so should be avoided wherever possible.
- 8.2 All Council bills and invoices will be raised as soon as possible, but no later than 5 working days from the delivery of the goods supplied or the services provided, unless specific terms have been agreed by the Assistant Director Finance & Corporate Services. The invoices will include clear, relevant and full information as to:
- What the invoice is for, including any period(s) applicable
  - When payment is due
  - How to pay
  - How to contact us if there is a query in relation to the invoice or on relation to making a payment.
- 8.3 All letters and reminders will:
- Be written in plain English
  - Explain what has been agreed and the consequences of non-payment
  - Include appropriate contact details
- 8.4 Debtors will be encouraged to make prompt contact if they disagree with an invoice or have difficulty in making payment. Contact can be made by:
- Telephone
  - Letter
  - Email
  - In person at any Council Office
- 8.5 Any problems and invoice discrepancies will be resolved or responded to within 2 working days to prevent unnecessary delays in payment. From time to time sundry debtor invoices are disputed and if this occurs they will be referred back to the originating department for resolution. It is not an effective use of the Exchequer team's time to act as go-between. However, Exchequer Team may need to ensure disputes are resolved.
- 8.6 If it is found that the debtor has the ability to pay, but refuses to pay, then recovery action will continue promptly.

## **9. Council Tax Policy**

### **Issue of Reminder/Final Notice**

Where payment has not been received on an instalment date then a reminder notice is issued.

The amount demanded must then be paid within 7 days of the date of the reminder notice.

After a further 7 days if no payment or only part payment is received then an application for a Liability Order to be granted for the total remaining balance and associated costs can be made.

After two reminders and in the event that a third final reminder is due the customer will lose their right to pay by instalments and the full amount for that financial year will become payable.

In each case 7 days is given before application is made to the Magistrates for a Liability Order.

All notices will:

- Be written in plain English
- Explain what is owed and the consequences of non-payment
- Include appropriate contact details
- Include how to pay

Customers will be encouraged to make prompt contact if they disagree with the amount owed or have difficulty in making payment. Contact can be made by:

- Telephone
- Letter
- Email
- In person at any Council Office

### **Issue of Summons**

If the debt is not paid or a satisfactory arrangement made then a summons is issued to the taxpayer advising them of an application to the Magistrates Court for a liability order. A court hearing date is given when the liability order will be applied for at the Magistrates Court. The issue of the summons incurs additional costs and these are determined by the Council in agreement with the magistrates' court annually.

Taxpayer's are encouraged to contact the Council to make arrangements for repaying the amount owed.

## **Granting of Liability Order**

If full payment is not received prior to the court hearing the Council will continue to apply to the Magistrates to issue a liability order.

The Liability Order will include the amount outstanding plus reasonable costs which are agreed between the Council and the Magistrates Court annually.

Once a liability order is obtained the recovery options available to the Council are as follows:

### Agreements

If the customer has entered into an arrangement to repay the debt with the Council then no further action will be taken unless they default on the agreement. If an arrangement is defaulted on then the debt will be passed directly to the Councils appointed bailiffs.

### Appointed Bailiffs

After the liability court hearing if a suitable arrangement has not been entered into then the debt will be passed to the Councils appointed bailiffs. The bailiff will add additional costs according to the schedule of charges agreed between the Council and bailiff company.

On receipt of the case the Councils appointed bailiff will issue a letter giving the taxpayers 14 days to contact them. All contact regarding the debt should now be directly between the taxpayer and the bailiff. Where a taxpayer makes contact with the council within the 14-day period, there is discretion to accept payment in full including all costs incurred and to recall the liability order from the bailiff.

On contact from the customer the bailiff is able to make an arrangement to:

- Receive payment in full
- Receive payment in full within 3 months, backed by a Walking Possession (WP) agreement
- Receive payment in full within the existing financial year, backed by a WP agreement
- In cases where there are extenuating circumstances to make an arrangement for an extended period of time at the Company's discretion (backed by a WP agreement).

After the 14 days has elapsed, and no payments have been received or an arrangement made, the bailiff will carry out a visit.

The bailiff is then able to levy distress which is the seizure of goods and chattels of the debtor in order to settle outstanding debt plus costs incurred.

### Attachment to Earnings

Action may be taken by means of an Attachment to Earnings where the debtor is in employment.

A copy of the order is sent to the debtor and his /her employer and the employer must comply with the order by making deductions in accordance within the percentages laid down in tables within the schedule to the regulations

Where a deduction is made the employer may deduct an additional £1 per deduction in respect of an administration fee this will be met from the debtor's wages/salary.

### Attachment to Benefit

Where a liability order has been obtained and a debtor receives Income Support / Job Seekers Allowance /Pension Credit or Employment & Support Allowance the Council may apply to the Secretary of State for deductions to be made to secure payment.

Deductions are requested for the whole amount outstanding including costs incurred in obtaining the Liability Order. If there is sufficient benefit then 5% of personal allowance is deducted.

### Attachment to Members Allowances

The Council can apply for an attachment to a member's allowance. The application is made to the Authority to which the debtor is an elected member. The order shall remain in force until the debt is discharged. The deduction rate is 40%.

### Write Off

If all recovery possibilities have been attempted and the Council is unable to recover the debt it will follow the write off policy as detailed in this document.



## **10. National Non-Domestic Rate Policy**

### **Issue of Reminder/Final Notice**

Where payment has not been received on an instalment date then a reminder notice is issued to the ratepayer.

All unpaid instalments must then be paid within 7 days of the date of issue

If no payment is received then an application for a Liability Order for the total remaining balance can be made.

There is no legal requirement to serve a further reminder notice. If more payments are missed a final notice is served cancelling the remaining instalments to be paid. The full amount for the remainder of the year is due-

In each case 7 days is given before application is made to the Magistrates for a liability order.

All notices will:

- Be written in plain English
- Explain what is owed and the consequences of non-payment
- Include appropriate contact details
- Include how to pay

Customers will be encouraged to make prompt contact if they disagree with the amount owed or have difficulty in making payment. Contact can be made by:

- Telephone
- Letter
- Email
- In person at any Council Office

### **Issue of Summons**

If the debt is not paid or a satisfactory arrangement made then a summons is issued to the ratepayer advising them of an application to the Magistrates Court for a liability order. A court hearing date is given when the liability order will be applied for at the Magistrates Court. The issue of the summons incurs additional costs and these are determined by the Council in agreement with the magistrates' court annually.

Ratepayers are encouraged to contact the Council to make arrangements for repaying the amount owed.

## **Granting of Liability Order**

If full payment is not received prior to the court hearing the Council will continue to apply to the Magistrates to issue a liability order.

The Liability Order will include the amount outstanding plus reasonable costs which are agreed between the Council and the Magistrates Court annually.

Once a liability order is obtained the recovery options available to the Council are as follows:

### Agreements

If the customer has entered into an arrangement to repay the debt with the Council then no further action will be taken unless they default on the agreement. If an arrangement is defaulted on then the debt will be passed directly to the Councils appointed bailiffs.

### Appointed Bailiffs

After the Liability Order Court Hearing, if a suitable arrangement has not been entered into then the debt will be passed to the Councils appointed bailiffs. The bailiff is able to add additional costs according to the schedule of charges agreed between the Council and appointed bailiff company.

All contact regarding the debt should now be directly between the ratepayer and the bailiff.

The bailiff is able to make an arrangement to:

- Receive payment in full
- Receive payment in full within 3 months, backed by a Walking Possession (WP) agreement
- Receive payment in full within the existing financial year, backed by a WP agreement
- In cases where there are extenuating circumstances to make an arrangement for an extended period of time at the Company's discretion (backed by a WP agreement).

### Write Off

If all recovery possibilities have been tried and the Council are unable to recover the debt it will follow the write off policy as detailed in this document.

## 11. Housing Benefits Policy

Where an Overpayment is created the claimant will be advised by a decision notice and/or summary of overpayment letter via SSDC's Northgate/Comino system.

If the debtor is still in receipt of Housing Benefit payments, the Overpayment will be recovered direct from Housing Benefit by making weekly deductions direct from ongoing entitlement.

The DWP standard rate for deductions will be deducted on a weekly basis. These rates are reviewed annually by the DWP and updated on the Northgate System.

Recovery rates that are less than the standard rate are reviewed by the Overpayments Officer on a 6 monthly basis.

Sundry Debtor invoices are raised when Housing Benefit is no longer in payment and overpayments are still outstanding.

Sundry Debtor invoices are monitored by the Overpayments Officer as per the Sundry Debtor Recovery Process. Exchequer Services provide a Weekly Recovery Report detailing the reminders issued on accounts.

The Overpayments Officer also reviews plans agreed below £20.00 per month or that will take in excess of 12 months to repay.

Recovery of an invoice can also be referred to the DWP or another Local Authority for recovery on our behalf from other benefits.

### Referral to DWP

This can be done at any time if requested by the claimant but will be referred prior to legal action being taken if able to do so.

Not all welfare benefits can be used for recovery.

The DWP will advise SSDC and the claimant if they are able to recover, the value of the recovery and the date the deductions will start

Payments are transferred monthly from the DWP to SSDC – monitored by the Overpayments Officer

If the DWP are no longer able to recover the invoice goes back into the normal recovery process or may be considered for write off.

### Referral to other LAs

This can be done at any time but will be referred prior to legal action being taken under the following regulation. Housing Benefit Regulation 102 for recovery from Social Security Benefits subject to the provisions of Housing Benefit Regulation 105.

Payments will then be transferred to SSDC when full recovery of the overpayment has been made or monitored by the Overpayments Officer to request transfer of funds 6 monthly.

If the other Local Authority is no longer able to recover the Overpayment, the invoice will follow the Sundry Debtor recovery process or may be considered for write off

## **12. Parking Enforcement Policy**

The statutory recovery process a Penalty Charge Notice must follow:

A Penalty Charge Notice is issued by a Civil Enforcement Officer and either affixed to the windscreen or handed to the driver. If this is not possible because the vehicle drove away or the Civil Enforcement Officer was threatened, then the Penalty Charge Notice may be sent by post.

The charge must be paid within 28 days from the date of issue of the Penalty Charge Notice. If the charge is paid within 14 days, a discount of 50% is offered and the case closed.

Drivers who receive a Penalty Charge Notice and wish to query the issue with the Council may write in to the address shown on the back of the Penalty Charge Notice. If a driver does so, no further action will be taken until the matter has been considered and a reply sent. If the driver writes within the 14 day period allowed for payment of the discount, and the Penalty Charge Notice is not cancelled, a further 14 days will be allowed for payment of the discounted amount.

If the charge is not paid within the 28 day period a Notice to Owner is issued to the registered keeper of the vehicle. This gives the keeper the opportunity to either pay the charge, or make formal representations.

The Council will consider all representations received and issue either a Notice of Acceptance or Rejection of Representations. If representations are rejected, the vehicle owner will be allowed to appeal to the Traffic Penalty Tribunal, an independent appeals body. An adjudicator will consider the case and make a decision that is binding on both the Council and the appellant.

If no representations are made, or representations are made and rejected by the Council, or an appeal is made subsequently to rejected representations and refused by the Traffic Penalty Tribunal and no payment is then received within 28 working days, a Charge Certificate is issued. This increases the charge by 50%.

If payment is not made within 14 working days of receipt of the Charge Certificate, the Council will apply to the Traffic Enforcement Court to register the charge as a civil debt. The Traffic Enforcement Court is a special court which only deals with civil traffic contraventions.

The Traffic Enforcement Court will then authorise the Council to issue a Notice of Unpaid Penalty Charge, which increases the outstanding charge by £7.00 (as Court fees are added to the amount payable). On receipt of the Notice of Unpaid Penalty Charge, either payment of the full amount due must

be made, or a Witness Statement may be submitted to the Court on certain grounds (this is explained in the Notice of Unpaid Penalty Charge),

If payment is not made within 21 days of the receipt of this Notice an application is made to the Traffic Enforcement Court for a Warrant to be issued to recover the debt.

The Traffic Enforcement Court then authorise the Council to issue a Warrant of Execution. This is valid for one year and a day and is passed to a Certified Enforcement Agent (Bailiff). The bailiff is appointed by a Court and will add his charges to the outstanding debt. These are strictly controlled by the Department for Justice as are the actions he can take to recover the debt. After the Warrant of Execution is issued, no correspondence or communication will be dealt with by the Council. These can only be directed to the bailiff.

## 13. Sundry Debtor Policy

- 13.1 Service providers must endeavour to obtain payment in advance or at the time of service delivery wherever permissible, and must ensure that they have adequate controls in place to limit the amount of debt that arises. Sundry Debtor invoices should only be raised where payment in advance for a service is inappropriate.
- 13.2 When a service is provided, goods delivered or other debts to South Somerset District Council are identified, an invoice will be produced via the Councils financial system.
- 13.3 A Debtor Invoice Request form, which is held on the intranet, will need to be completed in full. This can be either e-mailed or printed out and given to an Officer who can input the information onto the Financial System. If there is not an officer within the appropriate service/group it can be e-mailed to [exchequerservices@southsomerset.gov.uk](mailto:exchequerservices@southsomerset.gov.uk).
- 13.4 The request will be processed to ensure that the invoice has been raised within 5 days of the goods or services being provided.  
All invoices are printed overnight and posted when produced.
- 13.5 Reminders will be issued **21** days after the invoice was raised if any of the debt remains, unless a payment plan has been agreed. During the period of the first reminder and the second reminder being issued, a member of the service team, will contact the debtor by phone to seek payment of the outstanding debt or to establish if the debtor is experiencing difficulty paying the invoice.
- 13.6 After **35** days, should any of the debt remain then a second reminder is produced.

### Aged Debt Report

- 13.7 The Aged Debt report is produced on 1<sup>st</sup> of each month and is sent to the relevant Service Managers. It is the responsibility of Service Managers to ensure that sundry debtor accounts for their service are monitored correctly and to ensure that overdue accounts are pursued directly with the debtor. As the debtor will have already had an invoice, a 1<sup>st</sup> reminder and possibly the 2<sup>nd</sup> written reminder, the Service must try and contact the debtor by telephone.

- 13.8 Where outstanding accounts relate to the supply of goods/services, no further goods/services should be supplied until the overdue account is cleared.
- 13.9 Should there be a valid reason why a debt will not be paid immediately, Exchequer Services should be notified to prevent further reminders being sent to the debtor and/or legal action being taken.
- 13.10 If it is found that the debtor has the ability to pay, but refuses to pay, then recovery action will continue promptly.
- 13.11 If the Debt remains unpaid after 49 days it will appear on a Stage 3 Recovery Report. This will be the last point at which Service Teams will try to contact the debtor to arrange payment of the debt either in full or by a payment plan. At this point, service teams should also check that the information held in relation to the debt is up to date and accurate to ensure the file is ready to be passed to legal should recovery be unsuccessful.
- 13.12 Whilst recovery of an outstanding balance is ongoing, officers must ensure notes are entered on the Financial System against the relevant invoice regarding what action has been taken to recover the debt.
- 13.13 Where a debtor has multiple debts across various Council Services the Exchequer Team will liaise with the relevant Service Teams and recover the monies centrally.
- 13.14 If the debt remains outstanding after 56 days it will appear on the Stage 4 Recovery Report. At this point debts over £100 will be referred to Legal Services for action.
- 13.15 Once the debt has been passed to the Legal Services for action, all queries/agreements and correspondence relating to the debt, should only be dealt with by the Legal Services Team.



## Summary of Sundry Debtor Recovery Process

<b>No. of days</b>	<b>Recovery Action</b>	<b>Action to be taken by</b>
Within 5 working days of delivery of goods/service, unless specific terms have been agreed by the Assistant Director Finance & Corporate services	Sundry debtor Invoice to be raised.	Service Team
21 days after invoice has been produced	Automatic Reminder to be issued.	Exchequer Team
21 days	Contact made with Debtor by phone chasing payment.	Service Team
35 days	2 <sup>nd</sup> Automatic Reminder to be issued.	Exchequer Team
49 days	Debt will appear on Stage 3 Recovery Report – Last point in which the service team will try and contact the debtor.  Service Teams to check information held in relation to the debt is accurate and up to date.	Service Team
56 days	Debts over £100 will be referred to Legal Services and files will be requested from Service Teams.	Exchequer Team/Service Team
56 days +	Legal Services Team to recover debts over £100 according to procedures.	Legal Services Team

## **14. Sundry Debtor Payment Plan Policy**

- 14.1 All invoices are payable immediately, however we do recognise that sometimes a debtor's circumstances are such that they cannot afford to repay the debt in one instalment. We then offer the opportunity to pay by agreed instalments to clear the debt.
- 14.3 When an instalment plan is agreed, it is preferable for the outstanding amount to be settled within the current financial year. If this is not possible, then try to arrange the debt to be paid off within 12 months (it is appreciated that sometimes this cannot be accommodated due to affordability issues).
- 14.4 The standard procedure will be for a financial "means test" to be undertaken and assessed for all instalment arrangements lasting longer than 12 months or where repayments are less than £20 per calendar month. The assessment must be carried out before a instalment plan is agreed. It is important when carrying out the financial 'means test' that all income and expenditure information is obtained such as income, regular out-goings, employment status and details, up to date address and phone no (s). If the officer is unable to reach a suitable repayment agreement within these criteria, the case should be escalated to a higher level for a decision by an appropriate officer with delegated responsibility.
- 14.5 Debtors with instalment arrangements lasting longer than 12 months or where repayments are less than £20 per calendar month should be reviewed annually. The Exchequer Team will forward an annual report to Services detailing payment plans, which need to be reviewed.
- 14.6 On occasions debtors do not adhere to the agreed payment plan. Where an instalment is missed a letter is written to ask the debtor to bring their account up-to-date. They are also asked to contact us should they be unable to keep to the original payment plan, so a new plan can be negotiated.
- 14.7 Should a second instalment be missed, the account not be brought up-to-date, or no new plan negotiated after the first missed instalment letter, the plan will be cancelled to allow the normal recovery process to take place.
- 14.8 If after the two letters the payment plan is still in arrears then normal recovery action will be taken.

Summary of Sundry Debtor Payment Plan Recovery Process

<b>No. of days</b>	<b>Recovery Action for unpaid instalments</b>	<b>Action to be taken by</b>
3 days	Automatic reminder sent	Exchequer Team
Days will be variable dependant on instalment plans – outstanding instalments will be detailed on a weekly report.	1 <sup>st</sup> Instalment – Letter sent requesting payment to bring account up to date	Exchequer Team
	Should a second instalment be missed, the account not be brought up-to-date, or no new plan negotiated after the first missed instalment letter, the plan will be cancelled to allow the normal recovery action to be taken.	Exchequer Team

## 15. Legal Process

- 15.1 The success of the legal process is heavily reliant on originating departments providing Legal Services with a file of relevant and complete evidence, a current address and being up-dated with any change of address and relevant information.
- 15.2 Only outstanding debts greater than £100 are passed to Legal Services.
- 15.3 A letter is sent to the debtor, on Legal Services headed paper asking them to pay the debt within 14 days. After receiving this letter the debtor can do one of four things:
- Pay the debt
  - Question the debt
  - Arrange an instalment plan
  - Ignore the letter

15.4 Questioning the debt:

Legal Services will ask the relevant department for their file providing evidence that the debt is owed and that there are signed agreements and/or relevant legislation allowing the Council to recover the debt. Once this is received a reply to the question is sent or a telephone call made. The debt is either confirmed as being correct and payment is requested in full or an instalment plan arranged. A letter is sent to the debtor advising of the agreed plan and an email sent to the Finance Team to set up the plan on CedAr. Legal Services then update their database and the debt remains on the database until paid. If a debtor still disputes the debt, they will be advised that the matter will be resolved by the court.

15.5 Arrange an instalment plan:

Once full 'Income and Expenditure' information has been received the Legal Services Team arranges a suitable instalment plan with the debtor, which is set up on CedAr and monitored by the Legal Services and the Finance team. Should the debtor default on this plan then a letter is written asking for full payment or for the debtor to contact South Somerset District Council. If no payment or contact is made then legal proceedings will commence.

15.6 Ignore the letter:

If the first letter from the Legal Services receives no response, or a payment plan fails, then the details of the debt are either

passed to a collecting agent or court proceedings are commenced.

- 15.7 The debtor can chose to defend the matter at court, but if no defence is made or is unsuccessful then the court issues a County Court Judgement (CCJ), which can be enforced. If the court proceedings are unsuccessful, the debt will have to be written off.
- 15.8 Any write off's are referred back to the relevant department advising why the invoice should be written off and informing them that the Legal File is closed.
- 15.9 Reason for write off's include:
  1. There is not sufficient evidence to prove the case.
  2. It is not cost effective to pursue which includes:
    - The debtor has no prospect of paying
    - The invoice is not economical to pursue
    - All avenues exhausted
- 15.10 A letter is issued by Legal Services advising the debtor to make payment or make contact other wise further legal proceedings will be taken to enforce the judgement.
- 15.11 Enforcement of the Judgment include:
  - Debtor to Attend Court for Questioning
  - Bailiff Warrant
  - Attachment of Earnings Order
  - Charging Order
  - Third Party Debtor Order
  - Bankruptcy
- 15.12 If payment agreements are made then the process continues until the invoice is paid in full or the issuing department agrees a write off.
- 15.13 No further action should be taken after Legal has closed the file – if new information has come to light the file should be passed back to Legal Services to pursue.
- 15.14 Debts should be written off within 1 month of the legal file being closed.

## Appendix A

### 8.3 Writing Off of Debts

- a. Any debts written off shall be in accordance with procedures approved by District Executive. Debts of less than £100 can be written off with the approval of the Finance Manager (Deputy S151 Officer). Debts over £100 (including cumulative invoices) but less than £20,000 can be written off with the approval of the Assistant Director Finance & Corporate Services; Write off of debts over £20,000 shall require approval of the Portfolio Holder- Finance & Support Services after liaising with the relevant Ward Member. The Assistant Director Finance & Corporate Services is responsible for reviewing these procedures annually with the Portfolio Holder- Finance and Support Services and advising District Executive of any recommended amendments.