



*Dunbartonshire and Argyll & Bute
Valuation Joint Board*

Corporate Debt Policy

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Contents

- 1. Introduction..... 3
- 2. Background 3
- 3. Objectives..... 4
- 4. The Benefits of a Corporate Debt Policy 4
- 5. Code of Practice for Collecting Debts..... 5
- 6. Communication and Contact with the Board..... 5
- 7. Collection and Recovery Process..... 6
- 8. Repayments 6
- 9. Employees as Debtors to the Board 6
- 10. Debt Collection Agents and Sheriff Officers..... 7
- 11. Late or Missed Payments 8
- 12. Payment Arrangement..... 8
- 13. Evasion and Fraud. 8
- 14. Write Offs..... 8
- 15. An Effective Policy 10
- 16. Recovery Processes..... 10
- 16.1 Recovery of Civil Penalties 10
- 16.2 Collection of Sundry debts..... 12
- 17. Review of Policy 13

1. Introduction

- 1.1 This policy defines Dunbartonshire and Argyll & Bute Valuation Joint Board's ("The Board") approach to debt collection in relation to monies owed to the Board.
- 1.2 Implementing a Corporate Debt Policy ("the Policy") was identified as an essential element for local authorities in the coherent management of debt in terms of Regulations under the Debt Arrangement and Attachment (Scotland) Act 2002.
- 1.3 The Policy aims to ensure a joined-up debt management approach which gathers together all debt owed to the Board by an individual to streamline recovery and provide a fair and equitable treatment in dealing with the individual's debts.
- 1.4 The Policy is the Board's statement on how it will work with its residents, customers and partners to collect debt. It outlines what it will do to help those who are in debt to manage their payments whilst paying their debts. The Policy is in recognition that it is important to communicate our approach to debt management to key stakeholders as it promotes efficiency and consistency in the raising and collection of debt.
- 1.5 The aim of the Policy is to achieve good practice in collection of monies due. Good practice is considered to be the achievement of the best possible recovery for the Board whilst ensuring liability to pay is calculated correctly, enforcement action is reasonable and those who are vulnerable are assisted in meeting their financial obligation to the Board.

2. Background

- 2.1 The Board has a duty to collect all debts due as quickly and economically as possible.
- 2.2 The Board is committed to promoting financial inclusion and capability and in doing so recognises the problems of multiple indebtedness, poverty and deprivation, and the need to break the poverty trap by helping debtors to meet their liabilities in a supported, controlled and managed manner.
- 2.3 Under the terms of a support services agreement, debt recovery services are carried out on the Board's behalf by West Dunbartonshire Council (WDC).

3. Objectives

3.1 The Board's aim is to maximise income collection, whilst maintaining a fair and consistent approach to debt collection and write-off.

3.2 The Board considers that individuals and companies have a responsibility to pay all amounts properly due to the Board. To achieve this, the Board will:

- Encourage individuals and companies to contact the Board as soon as they have problems paying,
- Encourage individuals and companies to pay on time and, where relevant, regularly to prevent a culture of non-payment,
- Offer a range of easily accessible payment methods,
- Offer a sensitive and flexible approach to debt collection whilst ensuring monies due are effectively and efficiently recovered,
- Take account of the whole financial situation of the debtor and collect debts in a sympathetic and efficient way while ensuring our approach is transparent, consistent and equitable,
- Aim to achieve a fair balance between the claims of competing creditors, in recognition of the need for the individual to maintain an acceptable standard of living,
- Offer specialist, independent debt advice by referral to the Advice Partnership,
- Recognise the debt advice provided by advice agencies as best practice,
- Treat all debtors as individuals and consider, wherever possible, individual circumstances when taking action to recover debt,
- Try to reach satisfactory arrangements for payment of debt at all stages of recovery recognising that, where this cannot be achieved, we will take recovery action using the appropriate legal powers.

4. The Benefits of a Corporate Debt Policy

4.1 The policy will help ensure that:

- individuals can come to realistic repayment agreements,
- where appropriate the Board takes enforcement action,
- employees take a holistic approach to corporate debt,
- individuals are offered appropriate advice as early as possible to attempt to manage debt better and facilitate better collection rates by the Board,
- compliance with the Board's Financial Regulations and Standing Orders.

5. Code of Practice for Collecting Debts

- 5.1 This Policy applies to all debt owed to the Board. The policy will seek to ensure that vulnerable individuals are not harmed by the implementation of this policy.

Those who might be potentially vulnerable include:

- the elderly
- lone parents and their children
- those with additional support needs
- people with a chaotic lifestyle e.g. in prison, etc.
- people with disabilities or a long-term illness and their carers
- unemployed people and others reliant on benefit
- young people
- people on low incomes.

6. Communication and Contact with the Board

6.1 The Board will:

- Ensure all invoices are raised as soon as practicable, and will include clear, relevant and full information as to:
 - What the invoice is for,
 - When payment is due,
 - How and where to pay,
 - How and who to contact for further information and/or advice.
- Provide interpreting facilities for non-English speaking customers.
- Encourage individuals to make contact at an early stage of the recovery process.
- Provide clear information about all aspects of collection and debt recovery including where advice and help is available.
- Communicate clearly and without jargon.
- Attempt to respond to any debtor's correspondence within 10 working days. If we cannot do this, we will contact the debtor and tell them why and who is dealing with their query, and when they can expect a full response.
- Handle all complaints in line with the Board's complaints handling procedures.

7. Collection and Recovery Process

7.1 The Board will:

- Promote an approach within the Board that goods and services provided by the Council are paid prior to or on provision/delivery,
- Provide a variety of efficient payment methods,
- Provide, and make widely available, clear and concise information about the statutory recovery processes available to us and our approach to and provisions for people with financial difficulties,
- Use the full range of statutory powers available to us to obtain payment,
- Make every effort to adhere to the timetable/limits we set for recovery procedures.

8. Repayments

8.1 The Board will:

- Negotiate with debtors for repayments, taking account of personal circumstances, where appropriate and making reference to the requirements under the Bankruptcy and Debt Advice (Scotland) Act 2014,
- Recognise payment proposals from money advice agencies, when negotiating repayments with all debtors in line with the requirements in utilising The Common Financial Statement (CFS),
- Acknowledge the distinction between 'can't' and 'won't' pay. The Policy will seek to promote financial inclusion and early intervention by recognising that debtors may have underlying problems with money management or may not be receiving all the financial assistance to which they are entitled,
- Use a variety of collection methods including attachment of earnings, court orders, bankruptcy and sequestration, deductions from income support, job seekers allowance and employment support allowance and alternative payment arrangement (APA) for UC claimants.

9. Employees as Debtors to the Board

- 9.1 It is expressly stated in the terms and conditions of employment that employees have a duty to make any payments due to the Board in good time. If a debt is owed by an employee and no sustainable payment arrangement is in place and maintained, the Board will be entitled to make appropriate deduction from employee's pay without the employee's further agreement. The employee will be notified of any such arrangement being put into place.

10. Debt Collection Agents and Sheriff Officers

- 10.1 When WDC, on the Board's behalf, have exhausted in-house arrears procedures the debt is passed to the Council's Sheriff Officers for attempted collection. The Sheriff Officers will attempt to collect the debt using a variety of approaches and solutions which are appropriate to each individual case, such as:
- Issuing letters, SMS text campaigning, outbound telephony campaigning,
 - Conclude payment arrangements,
 - Issue notice of legal proceedings letters,
 - Undertake visits to commercial premises and issue Charges for Payment together with Debt Advice and Information Packs served where appropriate,
 - Take enforcement action in terms of Debtors (Scotland) Act 1987 in line with legislation.
- 10.2 It is vital for agents undertaking any collection activity on behalf of the Board to work to a clear strategy for how these externally provided activities are selected, implemented and managed. The Board will at all times retain responsibility for any debt passed to a collection agent or sheriff officer.
- 10.3 The Board will also ensure that external agents are made aware of vulnerable situations and treat all debtors with respect.
- 10.4 Enforcement agents/agencies must recognise that each has a role in ensuring that the vulnerable are protected and that their recovery process is as agreed between the agent/agency and the Board.
- 10.5 Wherever possible, enforcement agents should have arrangements in place for rapidly accessing translation services when these are needed, and provide, on request, information in large print or in Braille for debtors with impaired sight.
- 10.6 Collection agents and sheriff officers appointed by WDC on behalf of the Board will operate within the Code of Practice set by WDC, which is provided during the tendering process.

11. Late or Missed Payments

- 11.1 Payment arrangements will be closely monitored by WDC, with appropriate recovery action being taken for late or missed payments.
- 11.2 All Invoices are due for payment by their stated due date. Failure to pay by the due date will result in the issue of reminders.
- 11.3 Individuals and companies are responsible for ensuring payments are made by the due date. Those who anticipate problems in making payment on time will be actively encouraged to contact the Board to discuss alternative payment arrangements.

12. Payment Arrangement

- 12.1 All payment arrangements will be made on the basis that payment will be made as agreed. While entering into a payment arrangement, staff will ensure that the debtor can afford the arrangement. This is to ensure unrealistic arrangements are not entered into which may lead to additional work for the Board and WDC, and inconvenience for the Debtor.

13. Evasion and Fraud.

- 13.1 Unlawful evasion or fraud to avoid payment will not be tolerated. Where this is identified, in addition to taking action to enforce payment, the Board will seek to impose such further penalties or sanctions as the law allows. Where debts arise through evasion or fraud, the Board will seek to recover payment in full as quickly as possible and will only agree payment arrangements in exceptional circumstances.

14. Write Offs

- 14.1 The Board recognises that where a debt is irrecoverable, prompt and regular write off of such debts is appropriate in terms of good accounting practice. The Board will seek to minimise the cost of write-offs by taking all necessary action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures as outlined in our write off guidelines below.
- 14.2 Where it has not been possible to collect a debt, authorisation to write these debts off will be per the Board's Financial Regulations.
- 14.3 Write offs will be requested in the following circumstances:

14.3.1 Deceased

When a person dies and leaves no estate. Before seeking write-off approval records are checked to determine whether any estate exists against which a claim could be made.

14.3.2 No Forwarding Address

Many people in arrears leave their property leaving no forwarding address. Prior to seeking write-off approval every effort is made to trace the debtor(s). Records are checked and outside agencies are contacted to try to ascertain the debtor's address.

14.3.3 Prescribed

A debt cannot be enforced after 5 years from the date it became due. The period applies in the absence of a relevant claim e.g. summary warrant or court decree, or acknowledgement of the debt via letter or payment. Where a relevant claim has been made (Summary Warrant or Decree), statute advises that all debts cannot be legally collected after 20 years of the last payment or acknowledgement of the debt and a debt automatically becomes prescribed at that point. The relevant law is contained within the Prescription and Limitation (Scotland) Act 1973.

14.3.4 Unreasonable to Pursue

There are various reasons why it may be unreasonable to pursue a debt. Examples include:

- Where a person is permanently hospitalised, or goes into residential care, their income is used firstly towards the cost of their care, as is any capital which the person may have. It is often unreasonable to pursue any debt from people in this category due to personal financial circumstances.
- People who cannot deal with their debt problems due to mental illness, dementia or learning disability.

14.3.5 Uneconomical to Pursue

Where the debt is below £75, The Board will not pursue this through court proceedings.

15. An Effective Policy

15.1 For the Policy to be effective The Board will endeavour to ensure:

- Maximisation of payment for services and goods ahead or on provision.
- Accurate, clear and prompt billing arrangements.
- Quick response to changes in circumstances.
- Fast and accurate delivery of entitlement to any benefit, discount or charge reduction.
- Offers of referral to advice partnership as early in the process as appropriate.
- An ability to follow through on publicly known enforcement actions within previously publicised timescales.
- The sharing of relevant information between services, subject to the General Data Protection Regulation (GDPR) and the Data Protection Act requirements.

16. Recovery Processes

16.1 Recovery of Civil Penalties

- 16.1.1 The Non-Domestic Rates (Scotland) Act 2020 (“The Act”) introduced Civil Penalties in the case of failure to comply with Assessor Information Notices.
- 16.1.2 Under section 30 of the Act, a penalty is recovered as a civil debt due to the assessor.
- 16.1.3 Monies collected by the assessor are paid in to the Scottish Consolidated Fund, less an amount for any reasonable expenses incurred in relation to administering penalty notices. This would include the cost of any debt recovery action.
- 16.1.4 A Civil Penalty Notice (“CPN”) is served in the case of non-compliance with an Assessor Information Notice (“AIN”). A person has 28 days to comply with an AIN.
- 16.1.5 An appeal against a CPN may be made to the First-tier Tribunal (“FTT”) for Scotland before the end of 28 days beginning on the date the CPN is given.
- 16.1.6 An appeal may only be made on the grounds that:
- The person appealing had a reasonable excuse for not complying with the AIN,
 - That the information required by the notice is not in the persons possession or control.

- 16.1.7 The FTT may mitigate or remit any penalty.
- 16.1.8 A penalty is due immediately on issue of a CPN. The amount of the penalty is determined by a formula based on rateable value, being the greater of £200 or 1% of the Rateable Value ("RV") of the property, or £1,000 if it is not yet in the Valuation Roll.
- 16.1.9 Where the AIN is complied with within 14 days of issue of the CPN, the penalty will be remitted in full.
- 16.1.10 In practice, the first invoice will be issued 14 days after the date of issue of the CPN. This will reduce administration costs during the 'grace period'.
- 16.1.11 If the AIN has not been complied with within 42 days of the issue of the CPN, a further penalty will become due. The penalty will be the greater of £1,000 or 20% of the RV, or £10,000 if the property is not yet in the Valuation Roll.
- 16.1.12 Again, the invoice will be issued 14 days after the second penalty becomes due.
- 16.1.13 Where the AIN has not been complied with within 56 days of the issue of the CPN, a further penalty of the greater of £1,000 or 50% of the RV, or £50,000 if the property is not yet in the Valuation Roll.
- 16.1.14 The third invoice will be issued 14 days after the third penalty becomes due.
- 16.1.15 The paying of a penalty does not negate the need for the original AIN to be returned.
- 16.1.16 The Assessor may mitigate or remit any penalty at any time.
- 16.1.17 Whilst the primary aim of this process is to maximise the AINs being properly completed and returned, the process of administering CPNs is very time consuming and costly. It is therefore the aim of the Board to collect Civil Penalties from which reasonable expenses incurred by the Board can be retained.
- 16.1.18 Where a CPN has been properly served by registered mail, it will be policy that only the last penalty invoice will be remitted on receipt of an AIN. For example, in the case of an AIN returned 50 days after issue, the penalty incurred at day 42 would be remitted, but the penalty incurred at day 28 would remain outstanding and payable.
- 16.1.19 Where a person fails to pay a Civil Penalty, a standard debt recovery action will be raised, and a payment decree sought from the Court.

- 16.1.20 If the outstanding amount is not paid in full the debt is passed to the Sheriff Officers for collection.
- 16.1.21 The debtor will be liable for the Assessors costs in bringing the debt recovery action, to the extent decided by the Court.
- 16.1.22 The Sheriff Officer may enforce payment of the arrears by various forms of diligence available to them e.g. bank arrestment, money attachment, sale of attached goods. The Board also has the option once an account is at summary warrant stage to raise an action to petition the ratepayer for sequestration/liquidation.
- 16.1.23 The debtor can contact the Board at any stage of recovery to enter into a payment plan for repayment of the sum due or to discuss issues in relation to the amount charged. Debtors can only contact the Sheriff Officer where a court judgement has been issued and it has been passed to the Sheriff Officer for collection to discuss repayment plans or issues in relation to the amount charged.

16.2 Collection of Sundry debts

- 16.2.1 The Board is responsible for billing and collection of all charges levied by the Board for goods and services.
- 16.2.2 The responsibility for charging lies with the relevant issuing service who will ensure, wherever possible, that collection of the fee or charge takes place prior to the service being provided.
- 16.2.3 Invoices will be raised as soon as possible when the charge is due and payable no later than 10 days after the goods or service are supplied.
- 16.2.4 Where a debt is in dispute, the debt will remain the responsibility of the issuing service. The dispute must be resolved within 20 working days of the receipt of the complaint. Where a dispute cannot be resolved within 20 working days, the issuing service must notify WDC's Finance Service Centre or Corporate Debt team of the reason, indicating when the dispute will be resolved. This will allow a hold to be placed on the account or the debt being passed to Sheriff Officer.
- 16.2.5 Debtors are advised on the invoice that payment is due immediately and payable no later than 10 days after the goods or service are supplied or payment plan instalment date commences.
- 16.2.6 Where an account remains unpaid 21 days after the date of issue debtors will be issued with a legal proceedings letter giving a further

14 days to make payment. This will indicate that failure to settle the account within a further 14 days will result in the matter being referred to Sheriff Officers for collection and/or considered for court action. The process for accounts outstanding depends on the value of the account and the cumulative value of all accounts outstanding for that particular debtor.

- 16.2.7 Where the debtor is unable to settle the required outstanding balance by the due date, an arrangement can be made to pay by instalments. In all cases the repayment period will be for the shortest term possible.

17. Review of Policy

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