

Local Taxation Debt Management Policy

1. Introduction

- 1.1 The procedures for recovery of Council Tax are laid out in the Council Tax (Administration & Enforcement) Regulations 1992 and subsequent amendments.
- 1.2 The procedures for recovery of National Non-Domestic Rates are laid out in the Non-Domestic Rating (Collection & Enforcement) Regulations 1989 and subsequent amendments.
- 1.3 The Council employs two firms of bailiffs in the collection of Ctax & NNDR. The powers of bailiffs are statutory and clearly defined in Law. In addition the bailiffs employed by the Council are governed by a code of practice specified by the Council.
- 1.4 The enforcement regulations for local taxation detail precisely the powers available to Local Authorities in the collection of Local Taxation. This document does not seek to expand upon such issues, since they are matters of law, rather than of Council policy.
- 1.5 This document does define the circumstances under which due balances are to be considered irrecoverable and therefore to be written off. The policy is also intended to formalise levels of responsibility required in determining these matters.
- 1.6 Except where deemed irrecoverable the Council will explore all possible methods of recovery under the prevailing enforcement legislation. Rossendale Borough Council has a legal duty to collect Ctax & NNDR. The council also has a duty, on behalf of all it's customers who do make payment, to ensure that the due contribution towards the cost of local services is made be all liable parties.

Council Tax Guidelines

Council Tax may be written off in the following circumstances:

2. Customer Deceased

2.1 Outstanding balances may be written off where evidence is received that no estate exists. This provision will not apply where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

2.2 If no such evidence is received a decision may be taken on a case by case basis of the likelihood of successful recovery. It must however be noted that any recovery against the administrator or executor of an estate must be taken via the High Court or County Court, rather than through application for a Liability Order via the Magistrates Court. Therefore it would be extremely unusual that such action would be considered reasonable or economic to pursue.

3. Chargepayer Absconded

3.1 Outstanding balances may be written off where all trace procedures have been exhausted. However a record of all write offs will be maintained in the event that there is a future opportunity for collection.

4. Bankruptcy

4.1 If evidence is received that a customer is made bankrupt then all Council Tax which has fallen due at the date of the bankruptcy is to be written off. This provision will not apply where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

4.2 It should be noted that where ongoing recovery action means that the whole years charge has now fallen due, the full charge should be included in the bankruptcy.

5. Small Balance

5.1 Council Tax balances may be considered irrecoverable as uneconomic to collect where they fall below the following thresholds:

5.1.2 Demand Notice (Bill) Guidelines:

Council Tax balances of £1.99 or less are to be written off as the issuing of bills and subsequent recovery action is deemed to be uneconomical and inappropriate.

5.1.3 Subsequent to the issue of a Demand Notice, outstanding balances of £4.99 or less are to be written off where the amount will not be picked up on future notices, i.e. where accounts have ceased and there is no ongoing Liability in Rossendale. Such balances are to be written off after at least 90 days has elapsed from the issue of the Demand Notice.

5.2 Summons Guidelines:

5.2.1 Where a Reminder Notice has been issued for sums of 29.99 or less, and the amount will not be picked up on future bills, i.e. ceased accounts then no Summons will be issued. In these circumstances the due balance is to be written off.

5.2.2 Subject to this restriction, where a Summons is issued for less than the amount of costs associated with the issue of a Summons (currently £65.00) then Summons costs may be waived where the due Council Tax is paid prior to the Hearing Date.

5.3 Bailiff Guidelines:

5.3.1 Cases will not be passed for bailiff action for less than the amount of Summons costs (currently £65.00). If all other possible methods of recovery have been considered then and exhausted then such balances should be written off.

5.4 Committal Guidelines:

5.4.1 In order to pursue proceedings which may lead to committal to prison, the Council must demonstrate that it has attempted to recover the due balance through bailiff action and that this has proved unsuccessful. It must also be demonstrated that other possible methods of recovery have been considered.

5.4.2 Once other options have been considered and exhausted, then committal proceedings must be explored. Exact guidelines in this area are difficult to define, since detailed consideration of individual cases should be carried out before action is taken. However it would be unusual for Committal proceedings to commence where:

- The account is closed and the debt is more than 6 years old
- The total debt for the account is £299.99 or less
- The customer is currently in receipt of Job Seekers Allowance/Income Support

5.4.3 Selection of cases for committal proceedings will be made jointly by the Council Tax and Service Assurance Teams.

5.4.4 Where all other possible methods of recovery have been exhausted, and it is determined that committal proceedings are either inappropriate or unlikely to succeed then the outstanding balance should be written off.

5.4.5 During Committal proceedings the Magistrates Court may give instructions the part, or all, of a debt should be remitted. In such circumstances the debt should be written off immediately in line with the instruction of the Court.

5.4.6 Where a custodial sentence has been imposed for non-payment of Council Tax then no further recovery action may be taken in order to force payment. Therefore the outstanding balance is irrecoverable and should be written off.

5.4.7 Where evidence has been received that a customer has been committed to prison for a period of more than 6 years the outstanding balance should be deemed irrecoverable and written off. This provision will not apply either:

where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

or:

where the customer maintains a main residence in Rossendale to which they will return.

6. Statute Bar

6.1 Under the Limitations Act 1980 a billing authority has the power to backdate Council Tax liability for a period of up to 6 years from the date of issue of the Demand Notice.

6.2 Notice should also be taken of the implications of case law, *Encon Insulation Ltd v. Nottingham City Council (1999)*. This suggests that if Demand Notices have not been issued as soon as is practicably possible, due to billing authority error, then this is a valid defence against the granting of a Liability Order.

7. Levels of Authority

7.1 Under the above conditions the write off of debts of less than £100.00 may be processed on system without prior approval of a Team Leader. Balances of £100.00 or above are to be authorised by a Team Leader prior to Write Off.

7.2 A record of all wrote offs will be maintained which includes the relevant authorisation depending on the balance written off.

7.3 Once every 3 months the Council Tax department will produce a schedule of all write offs, to be reviewed by the Service Assurance Team. Where the balance is due is less than £2000.00 the schedule of is to be counter signed by the Head of Financial Services as indication that all Financial Procedures have been dealt with.

Any debts of more than £2000.00 can only be written off with Cabinet Approval. A report will be presented to the Cabinet seeking wrote off of those debts over £2000.00 on at least a six monthly basis.

N.N.D.R Guidelines

N.N.D.R may be written off in the following circumstances:

2. Customer Deceased

2.1 Outstanding balances may be written off where evidence is received that no estate exists. This provision will not apply where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

2.2 If no such evidence is received a decision may be taken on a case by case basis of the likelihood of successful recovery. It must however be noted that any recovery against the administrator or executor of an estate must be taken via the High Court or County Court, rather than through application for a Liability Order via the Magistrates Court. Therefore it would be extremely unusual that such action would be considered reasonable or economic to pursue.

3. Chargepayer Absconded

3.1 Outstanding balances may be written off where all trace procedures have been exhausted. However a record of all write offs will be maintained in the event that there is a future opportunity for collection.

4. Insolvency/Liquidation

4.1 If evidence is received that a customer/company is made insolvent then all Council Tax which has fallen due at the date of the bankruptcy is to be written off. This provision will not apply where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

4.2 It should be noted that where ongoing recovery action means that the whole years charge has now fallen due, the full charge should be included in the bankruptcy.

5. Small Balance

5.1 N.N.D.R balances may be considered irrecoverable as uneconomic to collect where they fall below the following thresholds:

5.1.2 Demand Notice (Bill) Guidelines:

N.N.D.R balances of £1.99 or less are to be written off as the issuing of bills and subsequent recovery action is deemed to be uneconomical and inappropriate.

5.1.3 Subsequent to the issue of a Demand Notice, outstanding balances of £4.99 or less are to be written off where the amount will not be picked up on future notices, i.e. where accounts have ceased and there is no ongoing Liability in Rossendale. Such balances are to be written off after at least 90 days has elapsed from the issue of the Demand Notice.

5.2 Summons Guidelines:

5.2.1 Where a Reminder Notice has been issued for sums of 29.99 or less, and the amount will not be picked up on future bills, i.e. ceased accounts then no Summons will be issued. In these circumstances the due balance is to be written off.

5.2.2 Subject to this restriction, where a Summons is issued for less than the amount of costs associated with the issue of a Summons (currently £65.00) then Summons costs may be waived where the due N.N.D.R is paid prior to the Hearing Date.

5.3 Bailiff Guidelines:

5.3.1 Cases will not be passed for bailiff action for less than the amount of Summons costs (currently £65.00). If all other possible methods of recovery have been considered then and exhausted then such balances should be written off.

5.4 Committal Guidelines:

5.4.1 In order to pursue proceedings which may lead to committal to prison, the Council must demonstrate that it has attempted to recover the due balance through bailiff action and that this has proved unsuccessful. It must also be demonstrated that other possible methods of recovery have been considered.

5.4.2 Once other options have been considered and exhausted, then committal proceedings must be explored. Exact guidelines in this area are difficult to define, since detailed consideration of individual cases should be carried out before action is taken. However it would be unusual for Committal proceedings to commence where:

- The account is closed and the debt is more than 6 years old
- The total debt for the account is £299.99 or less
- The customer is currently in receipt of Job Seekers Allowance/Income Support

5.4.3 Selection of cases for committal proceedings will be made jointly by the N.N.D.R and Service Assurance Teams.

5.4.4 Where all other possible methods of recovery have been exhausted, and it is determined that committal proceedings are either inappropriate or unlikely to succeed then the outstanding balance should be written off.

5.4.5 During Committal proceedings the Magistrates Court may give instructions the part, or all, of a debt should be remitted. In such circumstances the debt should be written off immediately in line with the instruction of the Court.

5.4.6 Where a custodial sentence has been imposed for non-payment of N.N.D.R then no further recovery action may be taken in order to force payment. Therefore the outstanding balance is irrecoverable and should be written off.

5.4.7 Where evidence has been received that a customer has been committed to prison for a period of more than 6 years the outstanding balance should be deemed irrecoverable and written off. This provision will not apply either:

where more than one party is jointly and severally liable for an outstanding balance. In such circumstances appropriate recovery action will be taken against the other liable person(s).

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