

REPORT TO: Cabinet

MEETING DATE: 13 March 2018

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Bad Debt & Credit Balance Write Off Policy

1 PURPOSE

- 1.1 To seek Cabinet approval for a new Bad Debt & Credit Balance Write Off Policy.

2 RECOMMENDATIONS

- 2.1 That Cabinet approves the adoption of the new Bad Debt & Credit Balance Write Off Policy, as attached at Appendix 1.

3 BACKGROUND

- 3.1 The Revenues & Welfare Support Service has carried out a review of the existing Policy and has consulted with a range of Service Managers, Internal Audit and the Head of Council Resources.
- 3.2 The existing Policy needed to be expanded to include circumstances where accounts are closed with a credit balance, when there is no means of refunding those monies to the payee or when it is considered not to be cost effective to do so.
- 3.3 The powers for writing off debts are contained within the Council's Standing Orders and Scheme of Delegation.
- 3.4 The Council's Chief Financial Officer is responsible for the collection of all debt owed to the Council. A regular assessment of the outstanding debt is made and a list of debt that is not considered collectable is prepared.
- 3.5 It is proposed that write off of individual debts under £50,000 will be approved under delegated powers by the Council's Chief Financial Officer.
- 3.6 Individual debts of over £50,000 will require Cabinet approval prior to write off.

4 POLICY IMPLICATIONS

- 4.1 The new Policy will give assurance of compliance with legal requirements and the Council's Standing Orders and Scheme of Delegation.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – any bad debts are written off against a bad & doubtful debt provision which is reflected within the annual accounts and is used to recognise the value of debts which are deemed to be irrecoverable. This is based on an estimate of income which is unlikely to be realised based on previous experience. The total value of the bad debt provision which was reflected within the 2016/17 accounts was £11.6m and is reviewed on an annual basis. Scottish Water write offs will be borne by the water authority.
- 6.2 Personnel - none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Corporate Debt Write Off Policy – Cabinet 3rd May 2005.

| | |
|----------------------|---|
| AUTHOR'S NAME | Kenny Christie |
| DESIGNATION | Service Manager – Revenues & Welfare Support |
| CONTACT INFO | kchristie@eastlothian.gov.uk 01620 827431 |
| DATE | 1 st March 2018 |

Bad Debt & Credit Balance Write-Off Policy

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Bad Debt and Credit Balance Write-Off Policy

This policy replaces the Corporate Debt Write Off Policy approved by Cabinet on 3rd May 2005

**March
2018**

1. Introduction

East Lothian Council recognises the need for a clear, fair and consistent policy and robust procedures for managing bad debt and credit balance write offs.

The purpose of this document is to set out a framework for the authorisation and reporting of debt and credits to be written off.

The Council delivers a wide range of services which involve the recovery of debt. Implementing an effective working method for reporting and authorising the write off of irrecoverable debt will ensure that the debt management functions of the Council are carried out in an effective and efficient manner.

2. Objectives

East Lothian faces significant challenges over the coming years, including the Council's financial position; the impact of the economic recession; the projected growth in population and growing demand for services.

One of the key objectives of the Council Plan is to:

Grow the capacity of our Council

To deliver excellent services as effectively and efficiently as possible.

The Council will continue to take a strategic approach to its overall financial planning process through implementing the financial strategy to set balanced three-year budgets avoiding the use of reserves by the third year in order to ensure sustainability in revenue funding plans, and to set out longer term plans to deliver an ambitious capital programme.

As demand for quality services rises and resources are restricted we need to provide maximum value for money – better services at lower cost.

The key objectives of this Policy are to:

- Maximise the financial resources available to the Council
- To ensure that Council finances are managed in a manner which would be expected by the tax payer
- Identify the circumstances when it will be appropriate to write off debt and credit balances
- Summarise the steps which need to be taken before a debt or credit balance is written off
- Introduce a working method for authorising the write off of debt and credit balances that ensures the decision to write off is made by an appropriate officer of the Council
- Ensure that elected members are informed of the level of uncollectable debt owed to the Council, the position regarding debts written off and the impact on the Council's financial position
- Ensure that there is a co-ordinated approach to the sharing of debtor information across Council services and to the management and write off of debt and credit balances
- Ensure that credit balances are cleared within a reasonable time and in a consistent way and that there is an audit trail of action taken

3. Scope of Policy

The Council's Chief Finance Officer is responsible for the collection of all debt owed to the Council. A regular assessment of the outstanding debt will be made and a list of debt that is not considered collectable will be prepared. In making this assessment, account is taken of the Council's approved Bad Debt & Credit Balance Write Off Policy.

Bad debt lists are usually lengthy and can often contain between 500 and 1000 individual entries, although the value of the majority of debts are relatively low level.

The types of debt in scope within the new Policy are:

- Business Rates
- Council Tax
- Council Rent for Houses and Garages
- Sundry Debt
- Housing Benefit Overpayments

Also in scope, are circumstances where accounts are closed and there remains a credit balance.

4. Procedures for the Management of Bad Debt Write Offs

Before passing a case for write off consideration, each debt will be pursued using all available recovery methods within the particular category of debt and will usually include attempts to collect by Sheriff Officers or a Debt Collection Agency.

In circumstances where debts become extinguished by law, e.g. as a consequence of prescription, bankruptcy, liquidation, administration or receivership, the Council must write off any outstanding balances with effect from the date on which the legal action/change took place.

In all other circumstances, Council Services will only make a recommendation for write-off when it is considered that it is impossible, impractical or inefficient to collect the debt.

Relevant Service Managers and Team Leaders will review all recommendations for write off, carry out sample checks for additional background information and when satisfied that all debts are uncollectable, a detailed list will then be presented to the Chief Finance Officer for write off consideration and approval.

In the interests of cost efficiency, the Council does not initiate formal recovery procedures for residual account balances of less than £10 for all individual debts of the types listed at Section 3.

Where possible, system reports detailing debit balances less than £10 (excluding current financial year debts) will be produced on an annual basis and records will updated to write off these debts once approval is received from the Chief Finance Officer. This is the most efficient method of managing high volume, low value submissions for write off.

When recommending write off, all debts will be classified under one of the categories detailed in Appendix A.

5. Procedures for the Management of Credit Balance Write Offs

All closed accounts with a credit balance will be checked to identify the reason for the credit.

Where a credit balance exists but there are other debts owed to the Council by the same customer, this credit will be used to offset any other debt due.

Where a credit balance exists and no other debt is owed to the Council, attempts will be made to contact the customer in order that the credit may be refunded.

If the customer cannot be traced, then a recommendation for write off will be made.

In the interests of cost efficiency, the Council does not issue credit notices for individual account balances less than £2 (in credit) for the types of charges listed at Section 3. No credit notices are issued for Sundry debt but attempts will be made to refund or reallocate monies.

System reports detailing credit balances less than £10 (excluding current financial year credits) will be produced on an annual basis and records will updated within the current financial year once approval is received from the Chief Finance Officer. This the most efficient method of managing high volume, low value submissions for write off.

6. Legal Framework

- Local Government Finance Act 1988
- Local Government Finance Act 1992
- Housing (Scotland) Act 2001 and 2006
- Prescription and Limitations (Scotland) Act 1973
- Debtors (Scotland) Act 1987
- Bankruptcy and Diligence etc. (Scotland) Act 2007
- The Bankruptcy (Scotland) Act 2016
- Health & Social Services and Social Security Adjudications Act 1983
- Conveyancing & Feudal Reform (Scotland) Act 1970

7. Compliance

- A report of individual bad debts over £50k in value, which are deemed to be uncollectable, will be presented to Cabinet for write off consideration on an annual basis. A report will only be produced if there are debts >£50k requiring write off approval.
- A report of individual bad debts under £50k in value, which are deemed to be uncollectable, will be presented to the Council's Chief Finance Officer for write off consideration on a bi-annual basis.
- A report of individual credit balances which cannot be refunded will be presented to Council's Chief Finance Officer for write off consideration on a bi-annual basis.
- A summary report of all approved bad debt and credit balance write-offs will be reported through the Members' Library Service for information on a bi-annual basis. Information will be presented in the following format:

Bad Debt Written Off 20XX/XX

| | No. of Accounts | Amount to be written off | Value of Credit |
|---|-----------------|--------------------------|-----------------|
| Council Tax (including Scottish Water, if applicable) | | | |
| Business Rates | | | |
| Council House Rent - Current Tenants | | | |
| Council House Rent - Former Tenants | | | |
| Sundry Accounts (incl.VAT) | | | |
| Housing Benefit Overpayments | | | |
| Total | | | |

- Once all debts are written off on Council systems, each relevant Service will carry out a reconciliation exercise to ensure that procedures have been followed appropriately and accurately.
- The Council bills and collects water and sewerage charges on behalf of Scottish Water. A copy of approved bad debt and credit balance write off reports will be passed to Scottish Water on their request.
- Relevant Service Managers may authorise the resurrection of accounts which had been written off in circumstances where new information comes to light which may result in successful debt collection, within legal parameters.

8. Bad Debt Provision

Any bad debts are written off against a bad & doubtful debt provision which is reflected within the annual accounts and is used to recognise the value of debts which are deemed to be irrecoverable. This is based on an estimate of income which is unlikely to be realised based on previous experience. The total value of the bad debt provision which was reflected within the 2016/17 accounts is reviewed on an annual basis.

9. Monitoring of Policy

Relevant Service Managers will be responsible for ensuring that the Policy is applied correctly and is working effectively, in line with procedures.

10. Review of Policy

The Policy will be reviewed and amended, if required, on an annual basis by relevant Service Managers.

Appendix A

| Write Off Reason | Write Off Code | Description |
|--------------------------------|----------------|---|
| Small Balance | SBA | Where it is uneconomical to collect a debt due to the low value and there is no ongoing liability to the Council. |
| Sequestration | SEQ | Where the debtor's estate has been sequestrated or the debtor has granted a Trust Deed which has become protected and no further recovery action can be taken. Recovery of fraudulent housing benefit overpayments from a bankrupt individual can be made from ongoing housing benefit entitlement during the period of bankruptcy. |
| Deceased | DEC | Where either a sole liable person has died leaving no estate or no proceeds from the estate, or, in the case of a joint liability, where all persons have died leaving no estate or no proceeds from the estate. Debts are not discharged on death unless specific provision has been made for them to be discharged e.g. by an insurance policy. All debts that are not provided for must be met from the assets of the deceased debtor. |
| Recommended by Head of Service | HOS | Inappropriate to collect due to case circumstances. |
| Uneconomic to Pursue | ECO | Cost of collection is in excess of debt, or is deemed to render pursuit of debt not financially viable. |
| Absconded | ABS | Where all attempts to trace the debtor has failed. Attempts to trace debtors shall include: <ul style="list-style-type: none"> - Using the Councils own systems - Using in-house tracing techniques, including social media - Using Collection/Tracing Agencies to carry out trace - Using employment/bank/pension details - Using company searches - Performing Sasine/Land Register checks - Property visits by Revenues staff to try and obtain local knowledge If the debtor subsequently reappears, the debt will be written back on and recovery action recommenced. |
| Prescribed Debt | PRE | In cases where debt has exceeded the prescription period for property based and non-property based charges. |
| Aged debt | AGE | Not yet technically prescribed but 10 years past without activity and no prospect of collection. This is twice the length of normal prescription. |

| | | |
|----------------------|-----|--|
| Dissolved | DIS | On dissolution the company will have no legal identity and any assets of the company will become bona vacantia. There will be no prospect of recovery in these cases and the debt will be written off. |
| Outwith Jurisdiction | JUR | Cannot pursue debt using Scottish Court system or summary warrant. Where a debtor is outside the jurisdiction of Scotland and there is unlikely to be any prospect of recovering the debt, it will be written off. We can pursue it by converting the document of debt to, for example, an English one and use bailiffs but this is generally not cost effective. |
| Vulnerable Debtor | VUL | Not in best interest of Council to pursue as debtor considered to be vulnerable or at risk. There will be cases where it is not felt to be appropriate to continue with recovery action due to the debtor's mental or physical health or due to particular circumstances of the case. |
| Terminal Illness | TER | Not in best interest of Council to pursue as debtor terminally ill. There will be cases where it is not felt to be appropriate to continue with recovery action as the debtor has been diagnosed with a terminal illness and there is little prospect of recovering the debt. |
| Incarcerated | INC | Where a debtor sentenced to over 5 years in prison, the Council will not take any further action to recover the outstanding balance and the debt will be written off. |