

# Corporate Debt Recovery Policy

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### Revision History

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### Document Approval

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### Document Distribution

This policy is to be distributed to all staff and elected members of Copeland Borough Council and placed on the Council's Intranet Site. A copy must also be provided to contractors and 3<sup>rd</sup> parties undertaking work on Copeland Borough Council premises.

### Contributors

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## Purpose

This document provides the relevant statutory and non-statutory recovery methods used by the Council when recovering outstanding revenue.

## Policy Benefits

- To ensure timely billing, collection and recovery of outstanding revenue due to the Council;
- To recognise the various causes of debt, and apply recovery methods that are fair and proportionate;
- To identify deliberate non-payment and take appropriate action;
- To facilitate a co-ordinated approach to managing multiple debts owed to the Council.

## Introduction

For Copeland Borough Council, responsible financial management is critical to enabling the delivery of services.

Sums due to the Council can be a mixture of statutory and non-statutory charges. The method used for billing and collection of statutory charges is tightly prescribed by statute. This policy sets out the general principles applied regarding debt management across the Council and is used together with detailed procedural guidance for staff.

The management of income is a key business area for the Council, and income is collected from many streams. To ensure debt owed to the council is kept to a minimum, it is essential that all revenue due is collected effectively.

This policy has been written with due regard to the Local Government Association and Citizens Advice Council Tax Protocol, and the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

## Scope

This policy applies to the collection of:

- Council Tax
- National Non-Domestic Rates (Business Rates)
- Sundry Debts
- Housing Benefit Overpayments

## Definitions

### **An Adult at Risk or in Need of Additional Care and/or Support**

Copeland Borough Council will work sensitively and in a responsible and supportive manner with customers who may be experiencing forms of exclusion or who may be in need of additional care and support. We recognise that such factors often bring additional challenges for customers who are within the recovery process.

Staff are expected to liaise with residents and, where appropriate, their representatives and third party agencies to agree an appropriate means of coordinated recovery and to have regard to the Council's Safeguarding Adults Policy and Social Inclusion Policy in doing so. The Corporate Debt Recovery Policy reflects these policy aspirations together with the need to balance repayment profiles across all debts due to the Council.

### **Sundry Debt**

The term Sundry Debts covers the range of miscellaneous invoices raised by Copeland Borough Council in relation to many different council services.

## Roles and Responsibilities

Where the Council has a duty placed upon it to collect money, we will do so in a professional and timely manner. We will listen to the customer, consider their circumstances, and we will swiftly establish their ability to pay. We will also work with customers to support them and create a willingness to pay for non-payers.

This policy supports the objectives of Copeland Borough Council's Corporate Strategy 2020-2024:

***‘Making Copeland a better place to live, work and visit’***

***This Vision underpins 3 core ambitions – ensuring our communities thrive, maximising our opportunities for growth, and protecting and enhancing our environment.***

The Council will issue requests for payment promptly and accurately, along with clear information regarding payment methods.

We will eradicate barriers to the service by ensuring all available communication and payment options exist. Our interactions will be streamlined, necessary and simple to use.

We will provide advice and signpost to the relevant welfare agencies for support, where required, as the Council recognises the benefits that these organisations offer regarding prioritising repayments and maximising income. In addition, we will consult regularly with advice agencies and enforcement agencies to discuss practical and policy issues.

Authorised officers and Managers’ will intervene, where necessary, to deal with hardship and/or disputes. Managers will also respond accordingly to informal complaints received from advice agencies.

Where a statutory benefit or entitlement to a discount exists, staff will ensure advice is provided and will encourage residents to apply for these.

Staff will encourage the most cost effective billing and payment methods, with an emphasis being placed on electronic methods.

We will treat all customers with integrity, fairness and respect. We will strive to deliver first class customer care and we will swiftly identify those in need of additional care and support and respond appropriately. Furthermore, we will ensure our staff, external contractors and enforcement agencies are trained appropriately, particularly on vulnerability and hardship.

At all times distinctions will be made between advice and legal requirements.

**Responsibilities of Copeland residents:**

Where possible, the Council expects residents and businesses to pay on time.

Efficient income management processes are critical to the delivery of overall service objectives. Failure to pay impacts on the Council's ability to provide key services, which ultimately impacts on all residents of the borough.

If there is a dispute regarding a bill/invoice, residents are expected to notify the Council immediately.

If circumstances change, which impact on the bill/invoice or an entitlement to a discount/relief, it is expected that residents will notify the council as soon as is reasonably practicable.

## Policy Details including Procedures

### Council Tax

Council Tax is charged on all eligible domestic dwellings. The Valuation Office Agency determine the band of the property, and local authorities are responsible for issuing the demand to the correct legal entity, calculating any discounts, and collecting the revenue due. The full charge is due unless the property, owner or occupier is eligible for a reduction, exemption or premium.

Council Tax is payable in line with a statutory instalment plan or by agreement. When a demand is issued, there will be at least 14-days before the first instalment date.

Council Tax payers have the option to pay over 10 or 12 instalments, half yearly or annually. For council tax payers choosing to pay by Standing Order, at a Pay Point or by Cheque, the instalment date is the 1<sup>st</sup> of the month. For customers choosing to pay by Direct Debit, four payment dates are available: 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup>, and 22<sup>nd</sup>.

Councils have a legal duty placed upon them to collect outstanding debts in accordance with the Council Tax (Administration and Enforcement) Regulations 1992.

If payment is made in accordance with the statutory instalment plan, by the due dates, for the full financial year (or period billed), recovery action will not be necessary. However, if payment is not received in accordance with the demand

issued, the account will be subject to recovery action. If recovery action is necessary, the account will be subject to increased costs.

Statutory Council Tax recovery is applied as follows:

Document	Detail	No of Days to respond	Action Required by Council Tax Payer
Council Tax Statutory Demand Notice	Instalments requested in accordance with statutory instalment plan	At least 14	1 <sup>st</sup> of Month cash instalment date  1,8,15,22 DD instalment dates
Council Tax Reminder notice	Issued if payment is not made in accordance with the statutory Demand Notice	7	Bring account up to date within 7 days to avoid further recovery action
Council Tax Second Reminder	Issued if paid amount due on reminder, but failed to pay a future instalment by due date	7	Bring account up to date within 7 days to avoid further recovery action
Council Tax Final Notice	Issued if two reminders have been served during the financial year, or if failed to pay following reminder notice	7	Full amount due immediately. Recovery action will proceed unless contact with the team is made
Summons to appear before the Magistrates Court	Issued if fail to respond to reminder, second reminder or final notice  Served 14 days before the hearing.  Costs added	Before court hearing	Full amount due immediately  If unable to pay full amount, including costs, before the hearing, contact with the team must be made
Liability Order	Issued following confirmation being obtained from the Magistrates Court	14	Complete Request for Information on reverse of liability order notice. Repayment can be made by one of the following: <ul style="list-style-type: none"> <li>• Attachment of Earnings</li> <li>• Attachment of Benefits</li> <li>• Deduct from Members Allowance</li> <li>• Payment Plan</li> </ul>
Refer to Enforcement Agency (EA)	Referred if fail to respond to Request for Information, or arrange a satisfactory repayment plan, or recovery via Attachment Order is not	N/A	Council tax payer to deal with Enforcement Agency and repay debt direct to them.  Repay the debt if less than



	<p>possible. All debts greater than £100 will be referred. Debts less than £100 will be dealt with by issuing a small balance letter.</p> <p>Costs added by EA.</p> <ul style="list-style-type: none"> <li>• £75.00 compliance stage</li> <li>• £235.00 (+7.5% of any balance where the debt is greater than £1,500) enforcement stage</li> <li>• £110 sale or disposal stage</li> </ul>		£100 and have received a small balance letter.
Charging Order	<p>If fail to pay EA, and balance outstanding is at least £1,000, an application will be made to the court to add a charge on the residential property. Costs of £110 are added.</p> <p>The court is empowered to order the sale of the property if the account is not paid.</p>	N/A	Respond to Charging Order notice letter and pay account in full.
Insolvency or Bankruptcy	<p>If sufficient assets exist to meet the outstanding debt, the Council can petition for bankruptcy/Liquidation</p>	N/A	Respond to notification and pay account in full.
Committal to Prison	<p>If all other avenues are exhausted, an application to commit to prison can be made</p>	N/A	Respond to pre-committal notice and pay account in full

## Difficulty Paying:

Council tax payers experiencing difficulties are encouraged to contact the Council Tax team by emailing [ctax@copeland.gov.uk](mailto:ctax@copeland.gov.uk) or by telephoning 01946 598300. Appointments can also be made to speak to someone face-to-face, if required.

If payment in accordance with the statutory instalment plan has not been made, and the council tax payer is unable to bring the account up to date, a payment arrangement will be accepted as soon as the liability order has been obtained. This is because the powers for recovering the debt increase as soon as the liability order has been granted. Following a liability order, deductions from ongoing benefits can be made at a rate that is affordable to the council tax payer.

In addition, deductions from wages, members' allowances or repayment via an arrangement can also be considered. These options will be prioritised above the use of enforcement agencies, which add additional costs to the debt.

The Council reserves the right to pursue the most appropriate recovery method, factoring in the specific personal and financial circumstances of the debtor.

### **Arrangements**

A payment arrangement may also be considered at any stage of the enforcement process. If this is required, the Council will consider the individual's circumstances and ability to pay. An arrangement notice is issued, followed by a reminder and finally a default notice. If the council tax payer fails to pay in accordance with the arrangement notice and/or reminder, the arrangement will be cancelled, and the account will return to the relevant statutory recovery stage above.

Each case will be examined on its own merits and the council will make payment arrangements that are affordable and sustainable, while ensuring the debt is paid off within a reasonable period. Where appropriate, flexibility to spread repayments over more than a year, including beyond the end of the financial year, will be considered.

## **Debt Respite Scheme (Breathing Space) Applied to all Qualifying Debts:**

The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 came into effect on 4 May 2021. The legislation aims to give debtors who are struggling with their debts time to seek help from a qualified debt advice provider and provides legal protection from creditors. The aim is to find a resolution to the debt problem.

The relevant legislation is The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

There are two types of Breathing Space: a standard breathing space and a mental health crisis breathing space.

Standard breathing space is available to anyone with problem debt, providing they have taken advice from a qualified debt advice provider. It provides legal protections from creditors for up to 60 days. The protections include pausing enforcement action and contact from creditors, and freezing interest and charges on their debts.

A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment. It lasts for as long as the mental health crisis treatment, plus 30 days. It is irrelevant how long the crisis treatment lasts.

## **Creditors**

In this instance, Copeland Borough Council is the creditor. If the Council is told that a debt owed to the council is in breathing space, all action relating to that debt must cease immediately and the Council must apply the appropriate protections. The protections must stay in place until breathing space ends.

Notifications regarding breathing space are issued to the Council from the Insolvency Service. The date breathing space starts and ends features on the notification.

The council will apply the appropriate protections as soon as is reasonably practicable following the notification from the Insolvency Service.

## **The Insolvency Service**

The Insolvency Service maintain the electronic service used by Debt Advice Providers. The electronic service sends notifications regarding breathing space to Creditors. The Insolvency Service also maintain a private list of breathing space cases.

## **Debt Advice Providers**

Breathing space can only be started by a Debt Advice Provider who is authorised by the Financial Conduct Authority (FCA) to offer debt counselling, or a Local Authority (where they provide debt advice to residents).

Debt advice providers are the point of contact for the debtor, their creditors and appointed agents, and the Insolvency Service (who maintain the electronic notification service).

## Applying for Breathing Space

Anyone who cannot or is unlikely to be able to repay their debts can apply to a registered debt advice provider for a standard breathing space. All applications must be considered, however the debt advice provider may decide that breathing space is not appropriate. See sources of Help and Advice on page 26 for further information.

## Applying for Mental Health Crisis Breathing Space

If an approved Mental Health Professional (AMHP) certifies that a person is receiving mental health crisis treatment, the AMHPs evidence can be used by a debt adviser to start a mental health crisis breathing space.

In addition to the debtor, the following can apply to a debt adviser on behalf of the debtor for a mental health crisis breathing space:

- Debtor's carer
- Approved Mental Health Professionals
- Care co-ordinators appointed for the debtor
- Mental health nurse
- Social worker
- Independent mental health advocates appointed for the debtor
- A debtors representative

## Eligibility for Breathing Space

Before a debt advice provider can start breathing space, the debtor must:

- Be an individual
- Owe a qualifying debt to a creditor
- Live or usually reside in England or Wales
- Not have a Debt Relief Order or Individual Voluntary Arrangement
- Not be an undischarged bankrupt at the time they apply
- Not already have a breathing space or have had a standard breathing space in the last 12 months at the time they apply.

The debt advice provider must also be satisfied that their client cannot, or is unlikely to be able to, repay all or some of their debt and that breathing space is appropriate for their client.

To be eligible for a mental health crisis breathing space, the debtor must meet the same conditions, but they must also be receiving mental health crisis treatment at the time the application is made.

### Qualifying Debts Included in Breathing Space

- Council Tax
- Business Rates
- Housing Benefit Overpayments
- Sundry Debts
- Penalty Charge Notices

Other non-local authority debts likely to be included are:

- Credit and store cards
- Personal and pay day loans
- Overdrafts
- Mortgage and rent arrears
- Utility arrears

Joint debts can be included in breathing space, even if only one person applies for breathing space. The joint debt would become a breathing space debt and the council must apply the protections to all people who owe the debt.

Qualifying debts include any that the debtor had before 4 May 2021 (when Breathing Space legislation came into force). New debts incurred during a breathing space are not qualifying debts, neither are new arrears on a secured debt that arise during a breathing space.

### Excluded Debts

- Council Tax and Business Rates liabilities that have not yet fallen due
- Secured debts such as mortgages, hire purchase or conditional sale agreements
- Debts incurred due to fraud
- Liabilities to pay fines imposed by a court for an offence
- Child maintenance
- Crisis or budgeting loans from the social fund
- Student loans

- Advance payments of universal credit

Copeland Borough Council will do the following when a Person Enters Breathing Space:

- Search all records to identify the debts outstanding as soon as is reasonably practicable.
- Apply the 60 day (or longer in the case of the mental health crisis breathing space) protections to the account.
- If debts are located that are not listed on the notification, the council will apply the protections to all debts and will notify the debt advice provider of the additional debts. The debt advice provider will decide if the additional debt qualifies for breathing space.
- All interest, fees and penalties for that debt during the breathing space will be paused.
- Recovery or enforcement action by appointed agents will be paused for that debt.
- The council will not contact the debtor about the debt/s listed, unless permission from the courts has been granted.
- The council will also inform the Department for Working Pensions (DWP) if they are making deductions from Benefits in respect of the debt listed. This does not include Universal Credit deductions.

### When Breathing Space Ends

A standard breathing space ends:

- 60 days from the date it started
- The day after the debt adviser or court cancels it
- The day after the debtor dies, if they die during breathing space

A mental health crisis breathing space ends:

- 30 days after their mental health crisis treatment ends

After the above periods, the council is able to start taking action again and can apply interest, fees and charges to the debt from the date breathing space ends. The Council can also take any action to enforce the debt, including contacting the debtor or deducting debts from benefits.

The council cannot take these actions if the debtor has entered a debt solution. This could include a debt relief order or bankruptcy, or an individual voluntary arrangement.

## Council Tax Discretionary Relief

Section 13A of the Local Government Finance Act 1992 allows the Council to reduce the amount of Council Tax payable. Legislation does not dictate the circumstances in which reductions apply. The Council must therefore use its discretion in deciding whether to reduce or remit the amount of council tax due. The cost of any such awards has to be met in full from the Council's own funds. Therefore, awards made must offer value for money for all Council Tax payers.

Applications will be considered on a case by case basis. Full details, including how to apply, are available from Copeland Borough Council's S13A Discretionary Relief Policy.

## Council Tax COVID-19 Hardship

As part of its response to COVID-19, the Government announced it would provide grant funding to councils to support economically vulnerable people and households.

The Government's firm expectation was that councils would provide all recipients of working age Local Council Tax Support with a further reduction in their annual council tax bill. This discount was for 2020-21 only.

In addition, residents not in receipt of Local Council Tax Support, who are suffering from hardship as a result of COVID-19, are able to apply for a reduction of up to £300 on the 2020-21 council tax bill. Further information can be found here: [Council Tax Hardship Application | Copeland Borough Council](#)

## Business Rates

The collection of Business Rates is governed by the Local Government Finance Act 1988. Most non-domestic properties are subject to business rates. Bills are calculated based on rateable value. The Valuation Office Agency determine the rateable value of the property, and local authorities are responsible for calculating any reliefs, issuing the bill and collecting the revenue due.

Bills are issued annually to the ratepayer, requiring payment in ten or twelve instalments. For ratepayers choosing to pay by Standing Order, at a Pay Point or by Cheque, the instalment date is the 1<sup>st</sup> of the month. For customer choosing to pay by Direct Debit, four payment dates are available: 1<sup>st</sup>, 8<sup>th</sup>, 15<sup>th</sup> and 22<sup>nd</sup>.

Councils have a legal duty to collect business rates in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.

Statutory Business Rates recovery is applied as follows:

Document	Detail	No of Days to respond	Action Required by Ratepayer
Business Rates Statutory Demand Notice	Instalments requested in accordance with statutory instalment plan.  A different notice is served for each year.	At least 14	1 <sup>st</sup> of Month cash instalment date  1,8,15,22 DD instalment dates
Further Notice	Issued if payment is not made in accordance with the statutory Demand Notice	7	Bring account up to date within 7 days to avoid further recovery action
Reminder Notice	If fail to pay a second time, a reminder notice is served and the right to pay by instalments is lost.  N.B a Final Adjustment Notice is issued for closed accounts.	7	Bring account up to date within 7 days to avoid further recovery action
Summons to appear before the Magistrates Court	Issued if fail to respond to above notice/s issued.  Served 14 days before the hearing.	Before court hearing	Full amount due immediately, including costs.  If unable to make the payment in full, including costs, recovery action will continue unless contact with the team is made.
Liability Order	Issued following confirmation being obtained from the Magistrates Court	14	Pay the full amount inclusive of costs to avoid further recovery action, or make an arrangement to re-pay the balance outstanding.
Refer to Enforcement Agency (EA)	Referred if fail to pay balance outstanding or made a satisfactory	N/A	Ratepayer to deal with Enforcement Agency and repay debt direct to the



	arrangement to repay the balance. Costs added by EA. Debts greater than £100 referred.  Costs added: <ul style="list-style-type: none"> <li>• £75.00 compliance stage</li> <li>• £235.00 (+7.5% of any balance where the debt is greater than £1,500) enforcement stage</li> <li>• £110 sale or disposal stage</li> </ul>		agency instructed by the Council.
Bankruptcy & Winding up	Present a petition for bankruptcy order or an order to be made for the winding up of a company.	N/A	Respond to notification and pay account in full.
Committal to Prison	If all other avenues have been exhausted, an application to commit to prison can be made	N/A	Respond to pre-committal notice and pay account in full

## Arrangements

A payment arrangement may be considered at any stage of the enforcement process. If this is required, the Council will consider the individual's circumstances and ability to pay.

The Council reserves the right to pursue the most appropriate recovery method, factoring in the specific personal and financial circumstances of the debtor.

## Housing Benefit Overpayments

Overpayments of Housing Benefit are established through a change in benefit entitlement. An overpayment is any amount which has been paid but to which there was no entitlement.

Section 75 of The Social Security Administration Act 1992 provides councils with the powers to prescribe the circumstances when an overpayment is recoverable. This act underpins the Housing Benefit Regulations 2006 (HBR 2006) and outlines:

- Our right to recover
- Discretion to recover
- Whom to seek recovery from
- Methods of recovery

A non-recoverable overpayment as defined in HBR 2006 is one that:

- Has been caused by an official error where the claimant or recipient of the benefit did not contribute to that mistake; or
- The claimant or the recipient of the benefit could not reasonably have been expected to know that an overpayment was occurring at the time that payment was made or at the time of notification.

Where the overpayment has been identified as recoverable, the council will seek to recover overpaid housing benefit in the most cost effective manner, having regard to the statutory obligation to protect public funds, and the circumstances of the individual from whom recovery is sought.

When an overpayment is identified we will write to the claimant affected within 14 days of the decision being made, or as soon as reasonably practicable (HB Reg 90 & (SPC) 71). This notification provides 21 days for contact to be made to repay the debt. Failure to respond results in a final reminder being issued and provides a further seven days to respond. Following this period, the Council will opt to recover the debt by the most appropriate method.

Methods of Recovery:

Method	Detail
Instalment Recovery	Where the debtor has continuing entitlement to Housing Benefit, a portion of the weekly entitlement is withheld and offset from the debt until it has been fully recovered.
Offset of Entitlement (netting off)	We may offset some or all of the benefit owed if there is an advantageous change of circumstances
Recover from blameless tenants	Where an overpayment is recoverable from a third party, such as a landlord or agent, and Housing Benefit continues to be paid to that third party, we may recover the overpayment by deducting some or all of any due payments to the third party. Recovery may be made in

	this manner even if the third party is no longer receiving payment of benefit direct for the person in respect of whom the overpayment was made. In this case recovery is said to be being made from the entitlement of the third party's 'blameless tenants'.
Recover from other Social Security benefits	If recovery from ongoing entitlement to Housing Benefit is not available, we may seek to recover overpaid benefit from another social security benefits (as detailed in HBR 105(1) in payment to the claimant.
Deductions from earnings	We can apply to undertake a deduction of earnings without the need to go to court.
Collection Agents	Where no payment has been received, the council will instruct a Collection Agents to recover the debt on the Council's behalf.
Charging Order	We will register the debt at County Court. Cost will be added to the total debt owed. Once the charge has been obtained, the Council can seek to recover the debt by adding a charge to the property.

## Arrangements

A payment arrangement may be considered at any stage of the enforcement process. If this is required, the Council will consider the individual's circumstances and ability to pay.

The Council reserves the right to pursue the most appropriate recovery method, factoring in the specific personal and financial circumstances of the debtor.

## Sundry Debts

Sundry debts cover the range of miscellaneous invoices raised in relation to rechargeable Council services. Examples are commercial rent and waste collections.

In line with Council operating procedures, service providers must endeavour to obtain payment in advance or at the time of service delivery, wherever possible. Invoices should only be raised where payment in advance for a service is not possible.

If an invoice is required, this will be generated by the relevant department and produced by the Council's financial management system.

The invoice must detail the following:

- Full name/company name/organisation and contact name & address (see rules regarding legal entities below);
- Detailed information on what the invoice relates to, including any applicable periods and location of service provided;
- Payment amount and due date;
- Methods of payment;
- Purchase Order number, if applicable
- How to contact Copeland Borough Council in the event of a query regarding the invoice

Invoices are due in full, unless otherwise stated.

Sundry Debts Recovery Process:

Document	Detail	No of Days to Respond	Action Required by Person/s Invoiced
Invoice	Recharge for the service provided requesting payment within 21 days	21	Pay the invoice within 21 days
Periodic Invoice	Recharge for the service provided requesting payment within 21 days	21	Pay the invoice within 21 days
Reminder	Produced 7 days after the payment due date	7	Pay the invoice within 7 days
Final Reminder	Produced 7 days after the reminder	7	Pay the invoice within 7 days
Problem Case Letter	Produced 7 days after the final reminder	7	Pay the invoice within 7 days, or contact the sundry debts team to

			make a payment arrangement
<b>Collection Agent</b>	Issued to Collection Agent after a further 7 days, if payment has not been made or a satisfactory arrangement agreed	N/A	Pay the Collection Agent the balance outstanding

### High Value Debts

For debts of high value but less than £15,000 the County Court will be used. The Revenues team will seek permission from the originating department and will request all evidence to substantiate the claim being made for a County Court Judgement (CCJ). If the debt is in excess of £15,000 it will be dealt with in the High Court.

Service areas should, where appropriate, consider other methods of resolution rather than Court proceedings. Should a department not wish to pursue a debt through legal channels a provision for the lost income should be made immediately and the Section 151 officer notified accordingly.

### Arrangements

A payment arrangement may be considered at any stage in the process. If this is required, the Council will consider the individual's circumstances and ability to pay.

The Council reserves the right to pursue the most appropriate recovery method, factoring in the specific personal and financial circumstances of the debtor.

## Use of Enforcement and Collection Agents

The council uses Enforcement Agents and Collection Agents when all available methods to make contact with the debtor to resolve the outstanding debt have been exhausted.

Enforcement Agents are governed by Regulations made under the Tribunals, Courts & Enforcement Act 2007, The Taking Control of Goods Regulations 2013, The Taking Control of Goods (Fees) Regulations 2014 and The Certification of Enforcement Agents Regulations 2014. Our Enforcement Agents are members of the Civil Enforcement Association (CIVEA) and comply with the CIVEA Code of Conduct. Further information can be found here: [CIVEA  
www.civea.co.uk/assets/img/ss\\_CIVEA\\_Code\\_final.pdf](http://www.civea.co.uk/assets/img/ss_CIVEA_Code_final.pdf)

### **Raising of all Accounts to the Correct Legal Entity:**

All demands and invoices must be raised to a correctly named legal entity. In the event of non-payment, legal action cannot be taken against a non-legal entity.

Legal entities are:

1. Individuals
2. Sole Traders
3. Partnerships
4. Limited companies
5. Charities limited by guarantee
6. Clubs run by a committee
7. Trustees
8. Executors or Personal Representatives

### **Rules Regarding legal entities (All Debts):**

1. Individuals - This is usually someone living at a residential address. The person's full name (title, forename(s) and surname) must be obtained and stated. Initials are not sufficient. If the request is on behalf of more than one person, or more than one person is liable at the address then the full name of each person must be obtained and stated. The full correct postal address, including postcode, must be stated.
2. Sole Traders – Where an individual is trading in his or her own name the full name of the individual as well as the business name must be obtained e.g. Mr Joe Bloggs, trading as Bloggs Removals. Evidence of the name of the business could be in the form of a request for services on a business letterhead. The individual's full postal address must also be requested.
3. Partnerships - 'LLP' must be added where applicable, otherwise the full names of one, two or more partners must be stated, followed by 'trading as' (as above). If LLP is applicable the full correct business address,

including postcode, must be stated, otherwise the full correct postal address(es), including postcode of the partner(s) should be stated.

4. Limited Companies - the name must include 'Ltd' or 'Plc'. Demands and Invoices should be addressed to the current registered office or to a place of business of the company. Evidence of their Limited Company Status and registered office must be obtained here: [Find and update company information - GOV.UK \(company-information.service.gov.uk\)](https://www.gov.uk/company-information.service.gov.uk).
5. Charities limited by guarantee – companies which are charitable and also limited by guarantee can be exempted from using the term 'Ltd' Evidence of their charitable status must be obtained by requiring confirmation of the service request on their official letterhead. Further confirmation can be obtained from [About the register of charities \(charitycommission.gov.uk\)](https://www.charitycommission.gov.uk).
6. Clubs run by a committee – the full name(s) and address(es) of the treasurer and / or the secretary, or the trustees must be stated.
7. Trustees – the full name(s) and address(es) of the trustee(s) and the full name of the trust must be stated.
8. Executors or Personal Representatives – must be addressed e.g. 'Mr Joe Bloggs, Executor of Joe Bloggs Deceased or 'Personal representatives of Joe Bloggs Deceased. The full postal address(es) of the executors/personal representatives must be stated.

## Write Offs - All Debts

Where a debt is irrecoverable, prompt and regular write offs are necessary.

It is crucial that old debts do not block the system of debt recovery and regular reviewing of debts must be carried out.

We will seek to minimise the cost of write-offs by ensuring all avenues of recovery have been exhausted.

All debts will be subject to the billing, collection and legal procedures as outlined in this policy prior to write off.

The Council will resurrect the debt if circumstances that resulted in write off alter.

Irrecoverable debts will be referred to the Director of Financial Resources (Section 151 Officer) officer on a quarterly basis.

Limitations for writing off irrecoverable debts are those contained within the Financial Regulations:

- To £50,000 in each case and unlimited in respect of Bankruptcy – Director of Financial Resources – Section 151 Officer
- Over £50,000 – The Executive

Debts may be referred to the Director of Financial Resources (S151 Officer) for write-off in the following circumstances:

- Debt remitted by a Magistrate;
- The Council has evidence to confirm that the customer is suffering a severe physical or mental illness, which renders enforcement action inappropriate;
- The Council is unable to trace the debtor;
- The debt is uneconomical to pursue due to the small balance outstanding;
- The likelihood of payment balanced against the cost of proceedings is not cost effective;
- The customer is deceased and there are insufficient funds in the estate to settle the debt;
- The customer is subject to formal insolvency proceedings;
- The debt is statute barred;
- The debt has been recommended for write off by the Director of Financial Resources.

A write off request form should be completed for each write off, explaining the reasons for the decision and confirming all debt recovery procedures have been exhausted.

The write off request form should be authorised by the relevant Service Manager, and forwarded to the Revenues team to collate.

These will be referred to the Revenues and Benefits Manager and/or Team Leader, and referred to the Director of Financial Resources, if the write off is considered appropriate.

If the Revenues and Benefits Manager and/or Team Leader believes the justification for write off does not comply with the guidance procedures, or an invalid reason is given, the form will be returned to the service for



reconsideration or amendment. If the Revenues and Benefits Manager and/or Team Leader believes there is justification for the write off, the debt will be written off from the key application systems used for Revenues, Benefits and Finance.

The Director of Financial Resources (Section 151 Officer) will report all write offs to the Executive quarterly.

## Sources of Help and Advice

Email and Telephone	Website
<b>Copeland Council Tax:</b> <a href="mailto:ctax@copeland.gov.uk">ctax@copeland.gov.uk</a> T: 01946 598300	<a href="#">My council tax   Copeland Borough Council</a>
<b>Copeland Business Rates</b> <a href="mailto:business.rates@copeland.gov.uk">business.rates@copeland.gov.uk</a> T:01946 598300	<a href="#">Non-domestic rates   Copeland Borough Council</a>
<b>Copeland Sundry Debts</b> <a href="mailto:Sundrydebts@copeland.gov.uk">Sundrydebts@copeland.gov.uk</a> T:01946 598300	<a href="#">Pay an invoice   Copeland Borough Council</a>
<b>Copeland Housing Benefit Overpayments</b> <a href="mailto:Benefits@copeland.gov.uk">Benefits@copeland.gov.uk</a> T:01946 598300	<a href="#">Benefits   Copeland Borough Council</a>
<b>Copeland Benefits Team</b> <a href="mailto:Benefits@copeland.gov.uk">Benefits@copeland.gov.uk</a> T:01946 598300	<a href="#">Benefits   Copeland Borough Council</a>
<b>Copeland Discretionary Housing Payment:</b> <a href="mailto:dhp@copeland.gov.uk">dhp@copeland.gov.uk</a> T: 01946 598300	<a href="#">Discretionary Housing Payment Application   Copeland Forms</a>
<b>Complaints: Copeland Borough Council Customer Relations Team</b> <a href="mailto:Customer.relations@copeland.gov.uk">Customer.relations@copeland.gov.uk</a> T: 01946 598300	
<b>Copeland Social Inclusion</b> <a href="mailto:Info@copeland.gov.uk">Info@copeland.gov.uk</a>	<a href="#">Social inclusion   Copeland Borough Council</a>

T:01946 598300	
<b>Citizens Advice Copeland</b> <a href="mailto:advice@cacopeland.org">advice@cacopeland.org</a> T: 0808 278 7959	<a href="#">Debt and money – Citizens Advice Copeland</a>
<b>West Cumbria Community Money Advice</b> T: 01900 62677 T: 01900 821100	<a href="http://wccma.co.uk">West Cumbria Community Money Advice (wccma.co.uk)</a>
<b>Whitehaven Egremont and District Credit Union</b> <a href="mailto:info@wedcu.co.uk">info@wedcu.co.uk</a> T: 01946 66755	<a href="http://wedcu.co.uk">Whitehaven &amp; Egremont and District Credit Union (wedcu.co.uk)</a>
<b>Step Change</b> T: 0800 138 1111	<a href="#">StepChange Debt Charity - Free Expert Debt Advice.</a>
<b>National Debt Line</b> T: 0808 808 4000	<a href="#">Debt advice   Free debt advice   National Debtline   National Debtline</a>

## Monitoring of Policy Adherence

This policy will be reviewed on an annual basis or sooner if there is a change of legislation that would affect its operation.

## References

[Local Government Finance Act 1992 \(legislation.gov.uk\)](#)

[Local Government Finance Act 1988 \(legislation.gov.uk\)](#)

[Social Security Administration Act 1992 \(legislation.gov.uk\)](#)

[The Housing Benefit Regulations 2006 \(legislation.gov.uk\)](#)

[The Debt Respite Scheme \(Breathing Space Moratorium and Mental Health Crisis Moratorium\) \(England and Wales\) Regulations 2020 \(legislation.gov.uk\)](#)

[Debt Respite Scheme \(Breathing Space\) guidance for creditors - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Citizens Advice Council Tax Protocol 2017.pdf](#)

[www.civea.co.uk/assets/img/ss\\_CIVEA\\_Code\\_final.pdf](http://www.civea.co.uk/assets/img/ss_CIVEA_Code_final.pdf)

