

# FIFE COUNCIL

## INTEGRATED INCOME COLLECTION AND DEBT RECOVERY POLICY

### INTRODUCTION

- 1.1 This document details the Council's policies on the billing, collection and recovery of monies due to the Council.
- 1.2 This Policy sets out the general principles to be applied in relation to income collection and debt management across all services provided by the Council. The Council collects income from various streams; some of this activity is governed by legislation and others by sound principles of financial management. The policy is designed to provide support to customers where it is identified they require money advice and income maximisation. This support will be carried out by our partners such as CARF using the online FORT referral system.
- 1.3 The policy will apply to all Council Services and seeks to be fair but firm; it is essential that all monies due are collected effectively by the Council, and that debt owed to the Council is kept to a minimum. This is because the Council has both a legal duty and a responsibility to its citizens to ensure that income due is received promptly, and to allow for the re-investment of our income in Council Services whilst at the same time striking the balance where a customer is in genuine difficulty in meeting their obligations.
- 1.4 Sums due to the Council can be a mixture of statutory and non-statutory charges. The methods for billing, collection and recovery of the statutory debts are tightly prescribed by statute. Our recovery practices must take account of this diversity.
- 1.5 An effective debt management process is critical to the delivery of the Council objectives. This policy will be underpinned by the creation and maintenance of a clear framework setting out a consistent and sensitive approach to collecting debt, whilst at the same time ensuring the Council continues to maximise collection performance. A full range of recovery methods will be used as appropriate if debts are not paid.
- 1.6 In undertaking a collection function it is inevitable that Fife Council will be required to pursue the recovery of arrears from persons and or businesses who may experience difficulty in paying such accounts. An agreed policy of how the Council manages and collects debts is therefore key to ensuring consistency and best practice in such situations.

## **2 AIMS AND OBJECTIVES**

- 2.1 The aim is to maximise income collection to Fife Council and to minimise the cost of collection, while maintaining and improving the customer experience through collection and recovery.
- 2.2 The objectives of the integrated income collection and debt recovery policy in achieving that aim are to:
- (a) Bill, collect and recover charges and rents in an economic, effective and efficient manner that meets with legislation and best practice.
  - (b) Identify, where appropriate, support which may be required to those owing money to the Council, and ensure individual circumstances are taken into consideration safeguarding income maximisation.
  - (c) Encourage people to pay regularly; using the most cost effective methods provided that method meets the needs of the person.
  - (d) Promote early personal contact across all debt streams, recognising the need to prevent debts escalating.
  - (e) Standardise the approach to debt collection to ensure consistency of approach whilst complying with different legal aspects of the debt.
  - (f) Enter into sustainable arrangements for payment of debts at all stages of recovery recognising that where this cannot be achieved; we will take recovery action using the appropriate legal powers.
  - (g) Apply best practice to debt collection, to ensure all debtors are treated fairly and objectively, therefore minimising any potential disputes.
  - (h) Understand the requirements of client services within the Council including the need to protect vulnerable people and sustain persons in their homes.

## **3 SCOPE:**

3.1 The policy applies to the collection and recovery of all council debt and includes all income streams and debts owed to the Council including:

- a Council Tax
- b Rents, both housing and others, e.g. garages and commercial

- c Housing Benefit overpayments
- d Non Domestic Rates
- e Income Recovery, e.g. Invoices, fees and charges, overpayments of employees salary or expenses.
- f Legal costs
- g Other

3.2 There are specific rules and regulations which govern the recovery and collection of specific debts. While section 4 below sets out shared, general principles, Appendices 1 - 6 set out the differences in collection for each debt type in accordance with regulation and legislation.

## **4 GENERAL CUSTOMER PRINCIPLES**

4.1 Fife Council's customer service principles will be followed in implementing this policy.

4.2 When dealing with Income Collection and Recovery, the Council will follow the principles outlined below:

- (a) We will be courteous when dealing with customers including in written correspondence.
- (b) Our approach will be consistent and transparent at all times
- (c) We will be proportionate with the size and frequency of the debt
- (d) We will be to be firm and fair with each customer.
- (e) We will encourage customers to make early contact in respect of debt related matters.
- (f) We will take into account the current economic climate and individual financial circumstances to ensure the customer's needs are met
- (g) We will provide assistance for people who have language or sensory communication needs
- (h) We will ensure that all customers who require further assistance are provided with this.
- (i) Where disputes arise these will be investigated fairly and timeously with outcomes explained in full.
- (j) We will respect and protect the customer's rights throughout the recovery process

- 4.3 We will resolve debt problems pro-actively and at the earliest opportunity to help customers to maximise their income, and alleviate financial hardship.
- 4.4 We will take a firm but fair approach to recovery and enforcement, offering help and support to all customers experiencing financial difficulties at each stage of the collection and recovery process.
- 4.5 Wherever possible, we will seek a solution so the customer is better able to manage their finances and meet future liabilities. We will provide benefit and debt advice where appropriate and when necessary refer to third parties for specialist Money Advice e.g. CARF.
- 4.6 There may be instances where court action will be taken to allow legal diligences to be used to recover the debt. These include bank/wages arrestment's, sequestrations, inhibitions etc. These will only be invoked where the customer continually fails to maintain a pre-arranged agreement or will not engage with Fife Council.
- 4.7 Fife Council may appoint Sheriff Officers or Debt Collection Agencies to assist in recovering outstanding debt where it has been unable to enter into any repayment schedule with the customer. This will be done within the rules and regulations covering each debt stream.
- 4.8 If at any stage, a customer makes contact with the Council and arranges and maintains an affordable repayment arrangement, the recovery process will be suspended however any statutory penalties already applied will remain.

## **5 SEQUESTRATION (LIQUIDATION)**

- 5.1 In certain circumstances, and if sufficient assets exist to meet the outstanding debt the Council can petition for Sequestration/Liquidation. This is used where other methods of recovery are considered inappropriate or have failed and bankruptcy action appears to be a fair and proportionate course of action to recover from a particular debtor.

## **6 PRIORITISATION OF DEBT**

- 6.1 In the first instance an agreement will be sought from the customer to maintain current/future payments for on-going liabilities. Where this is not possible or where arrears have accrued for more than one debt stream then one affordable arrangement should be sought. The customer must be in agreement that they wish their payment to be split and the proportion for each debt.

- 6.2 The aim is to prioritise and support customers to reduce their rent arrears and maintain their tenancy, while at the same time allowing other Council debts to be reduced.
- 6.3 Priority debts are those debts owed to creditors who can take the strongest legal action against an individual who does not pay or where the action taken by a creditor may cause undue hardship.
- 6.4 Where on-going liability is being met, recovery of other Council debts in arrears will then be considered:
- Rent
  - Council Tax
  - Business Rates
  - Income Recovery (Invoices)
- 6.5 The above priority arrangement will be varied depending on the amount of debt or each debt stream and where Fife Council considers the split would be more fairly apportioned, as agreed with the customer.
- 6.6 Where an arrangement is in place and only partially paid, Rent and Council Tax will take priority over other debt types.
- 6.7 Housing Benefit overpayments will be recovered as per the statutory provisions laid down by the Department for Work and Pensions (DWP) as shown in appendix 5.
- 6.8 Where the corporate debt arrangement cannot be maintained and where re – negotiation has failed, then Fife Council has the right to pursue each debt using the recovery methods, procedures and legislation applicable to that debt stream.

## **7 WRITE OFF**

- 7.1 The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. Debts to the Council that are covered by this policy will be dealt with as follows, in line with the Write Off Policy:
- (a) Write off irrecoverable debt is kept to a minimum by early intervention and best practice in recovery.
  - (b) There is a framework of consistent guidelines and procedures to follow once every possible recovery process has been exhausted.
  - (c) There is a balance struck between protecting the Council's financial position and ensuring anti-poverty issues are addressed.
  - (d) Write offs are carried out in a regular planned process.

## **8 OFFSET CREDITS AGAINST COUNCIL DEBT AND REFUNDS**

- 8.1 The Council will adopt a corporate approach to refunding credits or making payments, in that wherever possible checks will be made for other outstanding debts due to the Council, prior to a refund or payment being made.
- 8.2 Where these checks identify outstanding debts and specifically where the debt is for a similar nature e.g. Council Tax / Rent arrears then the debt will normally be offset and the customer advised.
- 8.3 Where this is not the case then consultation and advice will be sought from legal services before any offset is invoked.
- 8.4 Where a customer continues to pay an arrangement which has been paid in full, and no other debt is identified, they will receive a refund.
- 8.5 Refunds will normally be made via bacs transfer, however on the occasion of an urgent credit being required a faster payment will be made.

## **9 PERFORMANCE MONITORING AND REVIEW OF POLICY**

- 9.1 Collection targets will be set annually and regularly monitored and performance reviewed against these targets.
- 9.2 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.

The following appendices highlight collection and recovery methods applicable to the individual debt streams which are not already covered in the main Corporate Debt Policy.

Appendix 1 – Council Tax

Appendix 2 – Business Rates

Appendix 3 - Rents

Appendix 4 – Sundry Debt

Appendix 5 – Housing Benefit Overpayment

Appendix 6 – Overpayment of Employee Salary or Expenses

Head of Revenue and Commercial Services

Fife House

Glenrothes

Date 29/08/2024

**Consultees:**

Citizens Advice and Rights Fife (CARF)

Finance Service

Housing Service

Trading Standards Service

**FIFE COUNCIL  
RECOVERY OF COUNCIL TAX**

**1. INTRODUCTION**

- 1.1 Council Tax is a tax levied on all eligible domestic dwellings. The amount of Council Tax levied is dependent on the Council Tax band that the property falls into and the amount of tax to be raised.
- 1.2 The full rate of Council Tax is liable to be paid unless the property, owner or occupier is eligible for a reduction or exemption.
- 1.3 Council Tax is payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council and its Officers to collect outstanding debts in accordance with The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992.

**2. COLLECTION & RECOVERY**

- 2.1 Fife Council will bill, collect and recover all debts for Council Tax purposes in accordance with legislation.
- 2.2 Demand notices and revised notices will be issued in accordance with regulations.
- 2.3 Each financial year a recovery timetable will be created detailing the relevant dates reminders will be produced.
- 2.4 Overdue notices shall be run any day after the instalment due date in accordance with legislation.
- 2.5 If an overdue notice is not paid in full by the due date a petition and a full list of debtors will be taken to the appropriate court and signed by a Sheriff authorising a 10% statutory penalty which is added to the outstanding balance. Summary Warrant reminders will then be issued to the customer detailing the total amount due including the penalty.
- 2.6 If the amount is not paid in full or a suitable repayment arrangement made then Fife Council may either take deductions from certain state benefits to clear the debt or the Sheriff Officer can enforce one of the diligences available to them e.g. earnings or bank arrestment.

2.7 On receipt of any of the above reminders from Fife Council or Sheriff Officers a debtor can contact the team to make arrangement for payment of any balance or to notify of any discrepancies.

**FIFE COUNCIL  
RECOVERY OF BUSINESS RATES**

**1.0 INTRODUCTION**

- 1.1 Business (Non Domestic) Rates is a tax levied on business properties which Fife Council statutorily administers on behalf on the Scottish Government.
- 1.2 Billing is carried out annually in April and monthly thereafter. Bills contain all statutory data together with details of common reliefs' available and promotional information.
- 1.3 Non-Domestic Rates will be administered and collected using the guidance set out in the legislation as detailed in Local Government Scotland Act 1947.

**2.0 COLLECTION & RECOVERY**

- 2.1 Demand notices and revised notices will be issued in accordance with regulations.
- 2.2 Each financial year a recovery timetable will be created detailing the relevant dates reminders will be produced.
- 2.3 Overdue notices shall be run in accordance with legislation.
- 2.4 If an overdue notice is not paid in full by the due date a petition and a full list of debtors will be taken to the appropriate court and signed by a Sheriff authorising a 10% statutory penalty which is added to the outstanding balance. Summary Warrant reminders will then be issued to the customer detailing the total amount due including the penalty.
- 2.5 If the Summary Warrant notice is not paid in full a pre sheriff notice is issued, thereafter it may be passed to a nominated Sheriff Officer for collection.
- 2.6 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.

- 2.7 The ratepayer or their nominated representative can contact the Council and/or Sheriff Officers 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.
  
- 2.8 Where the debt is not passed to a Sheriff Officer then debt analysis is carried out to determine the appropriate action required e.g. liquidation, sequestration etc.

**FIFE COUNCIL  
MANAGING RENT DEBT**

**1.0 INTRODUCTION**

- 1.1 Fife Council is a social landlord for approx. 32,000 properties in Fife.
- 1.2 The tenancy agreement between the Council and its tenants explains the tenant's responsibility to pay rent in advance. When this fails early intervention is paramount in engaging with the tenant to provide advice and support to sustain their tenancy and prevent home loss due to rent arrears.

**2.0 COLLECTION OF RENT**

- 2.1 Ensure effective debt recovery is balanced with the Council's aims of improving quality of life, reducing poverty, promoting a sustainable society and delivering excellent services.
- 2.2 Provide a staged, but escalated, process to recover rent arrears with legal action only taken where there is an intention to seek Decree for Eviction, Expenses and Payment.
- 2.3 Ensure that all seven Pre-Action Requirements (PARs) are met before we formally serve Notice on tenants that we intend to take court action which could end their tenancy.
- 2.4 Make use of appropriate legal remedies to recover rent, and former tenancy arrears to ensure that eviction is only used as a last resort.
- 2.5 Evict tenants for rent arrears within 3 months of the Decree being awarded by the Court, unless the Head of Housing decides that eviction should be deferred based on consideration of individual circumstances
- 2.6 Advise any person who has been evicted for rent arrears of any statutory obligations the Council has toward them in terms of homelessness and other relevant legislation.
- 2.7 Where appropriate, withhold non-statutory, optional or discretionary housing services until rent debt has been cleared or reduced by a reasonable amount depending on the individual circumstances.

2.8 When a tenant terminates a tenancy if there is an outstanding rent balance due to Fife Council, the council will collect any monies due using the normal debt collection policy

**FIFE COUNCIL  
INCOME RECOVERY (INVOICES)**

**1. INTRODUCTION**

- 1.1 Fife Council is responsible for billing and collection of all charges levied by the Council for services provided and plays a significant part in funding the Council's overall budget.

**2. CHARGING**

- 2.1.1 The responsibility for charging lies with the relevant issuing service that will:-

- 2.1.2 Ensure whenever possible that collection of the fee or charge involved takes place prior to the service being provided.

- 2.1.3 The charge must be collectable e.g. requiring evidence to support the issue of the invoice being raised.

- 2.1.4 Invoices will be raised ASAP when the charge is due and payable and no later than 10 days of the goods or service being supplied.

**2.2 Invoices will not be raised:-**

- 2.2.1 For less than £10. This will be reviewed on a regular basis.

- 2.2.2 Where there is no written agreement or the debt cannot be substantiated.

- 2.2.3 Where the current address is not known, debtor unknown and/or the amount due is unknown

- 2.2.4 If an invoice has been raised in any of these circumstances they will be cancelled by the Income Recovery or Corporate Debt team.

**2.3 Disputes**

- 2.3.1 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. Where a dispute cannot be resolved within 20 working days, the issuing service must notify the Income Recovery or Corporate Debt team of the reason; indicating when the dispute should be resolved. If the team are not notified after 20 working days have expired, invoices will be cancelled in full.
- 2.3.2 The issuing Services will assist the collection of debt by attempting to resolve disputes as quickly as possible.

## **2 COLLECTION & RECOVERY**

- 3.1 Reminders will be issued when an invoice is overdue and customers will be contacted by telephone where possible.
- 3.2 The council will use External Collection agents, Sheriff Officers and Council Solicitors to recover debts as appropriate.
- 3.3 Income Recovery team will work with issuing services to ensure the debt is recoverable.
- 3.4 Customers who receive on-going services from the council may have these services suspended or withdrawn if they have unpaid invoices relating to these services.

## FIFE COUNCIL

### HOUSING BENEFIT OVERPAYMENT RECOVERY

#### 1 INTRODUCTION

- 1.1 Fife Council is responsible for the administration of housing benefit. The Council is committed to protecting public funds and will take all possible steps to recover overpayments of these benefits.
- 1.2 Customers are encouraged to prevent overpayments occurring by notifying the council as soon as possible of any changes that may affect the amount of benefit that they are entitled to.

#### 2 RECOVERY

- 2.1 Where it has been identified that a claimant of housing benefit has been overpaid, and the overpayment is recoverable in accordance with the relevant statutory provisions, Fife Council will consider on a case by case basis whether it is reasonable to recover the overpayment, from whom it can be recovered and the appropriate means of recovery.
- 2.2 All legally available methods of recovery will be employed to recover outstanding overpaid benefit. These methods include:-
  - Direct deductions from on-going housing benefit or arrears of housing benefit.
  - Direct deductions from landlords payments of housing benefit.
  - Recovery from on-going housing benefit in another local authority area.
  - Recovery from Department for Work and Pensions (DWP) benefit.
  - Invoice
  - Attachment of Earnings
- 2.3 Overpayments will be recovered from on-going entitlement to Housing Benefit at a rate advised by the DWP, dependent on the type of income the claimant receives and the reason for the overpayment. Consideration will be given to individual financial circumstances and deductions reduced where appropriate.
- 2.4 If there is no on-going entitlement to Housing Benefit direct deductions can be taken from a DWP benefit. These rates are set by the DWP and based on the type of benefit being received. Any reductions to these set amounts require the customer to negotiate direct with the DWP.

### 3 **APPEALS**

A person can appeal an overpayment decision in accordance with the HB and CTB (Decisions and Appeals) Regulations 2001. Recovery of the overpayment is suspended pending the outcome of an appeal.

**FIFE COUNCIL**  
**RECOVERY OF EMPLOYEE SALARY OR EXPENSES (PY06)**

**POLICY**

Where an overpayment of salary or expenses has been identified, any excess payment will normally be recovered.

**Scope**

This policy and procedure applies to all Fife Council employees.

**PROCEDURE**

**Guidelines**

- Recovery of overpayment will be the normal approach.
- The principles of the Corporate Debt Recovery Policy will apply.
- There may be circumstances when partial repayment or writing off the overpayment are considered.
- Transactions will provide a written explanation of the overpayment. This will detail, where relevant:
  - How the overpayment occurred.
  - Over what period overpayment occurred.
  - The total amount overpaid.
  - The net amount to be repaid once deductions for tax and NI contributions are taken into account.
- A meeting will be held with the employee who has received the overpayment unless the overpayment is minor (less than 5% of gross annual salary and identified within 6 months).
- Deductions from salary will not normally be more than 10% of the gross salary due in each pay period.
- While legislation does not require written consent (for example, a signed “mandate”), efforts will be made to obtain agreement in writing for overpayments. Where there is a failure to reach agreement, the recovery process should still proceed.
- In all cases of recovery, the amount being repaid must not result in the employee’s basic hourly rate being less than the national minimum wage.

**Repayment**

A meeting should be held with the employee to discuss the detail of the overpayment and how this will be recovered. The employee is entitled to be accompanied at this meeting.

Repayment will be sought in full where the overpayment:

1) Is the result of incorrect information submitted by the employee

**OR**

2) The error was known to the employee or was apparent from information supplied to the employee

**OR**

3) The amount of overpayment was such that a reasonable employee would have suspected an error had occurred.

Repayment may be made in instalments over a reasonable period not exceeding 12 months or the period equivalent to that during which the error occurred, whichever is longer.

### **Factors Impacting Recovery of Overpayments**

Where the overpayment was not known to the employee, and could not reasonably have been suspected, then providing the overpayment was not the result of incorrect information provided by the employee, consideration will be given to whether, in all the circumstances, it is reasonable to seek repayment.

Where an employee can show that they have spent the money received under a genuine belief that it was theirs and that it would cause undue hardship if full repayment were made, the Head of Revenue & Commercial Services, in consultation with Legal & Democratic Services and Human Resources may agree to waive all or part of the repayment due.

### **Failure to Agree Repayment Plan**

If there is a failure to agree a repayment plan the employee, or their representative, may ask for the matter to be referred to the Head of Revenue & Commercial Services and Head of HR on behalf of the Executive Director Finance & Corporate Services.

The Head of Revenue & Commercial Services and the Head of HR, or their nominees, will meet with the employee and/or their representative and review the case. Their decision will be final and should agreement still not be reached then action to recover the overpayment shall proceed in the normal way. An employee retains the right to raise a grievance against recovery of overpayments.

Where a grievance is raised it will be referred to the Appeals sub-committee. No action to recover will proceed until the decision of the Appeals sub-committee is known.