

Policy Review and Development Panel

Grand Jury Room, Town Hall
9 February 2009 at 6:00pm

The Policy Review Panel deals with reviewing policies and issues at the request of the Cabinet or Portfolio Holder, or pro-actively identifying issues that may require review; dealing with those issues either directly or by establishing Task and Finish Groups, monitoring progress of these Groups and assessing their final reports.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

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The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings with the exception of Standards Committee meetings.. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices or at www.colchester.gov.uk .

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

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There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone (01206) 18001 followed by the full telephone number you wish to call, and we will try to provide a reading service, translation or other formats you may need.

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Terms of Reference

Policy Review and Development Panel

- To review strategies and policies at the request of the Cabinet either directly or by establishing Task and Finish Groups, and to make recommendations back to Cabinet for decision.
- To review issues at the request of a Portfolio Holder either directly or by establishing Task and Finish Groups and to make recommendations back to the Portfolio Holder for decision.
- To monitor progress of Task and Finish Groups and assess their final reports prior to their submission to either the Cabinet or the Portfolio Holder.
- To proactively identify issues that may require review and improvement and to seek Cabinet's agreement as to whether and how they should be examined.

**COLCHESTER BOROUGH COUNCIL
POLICY REVIEW AND DEVELOPMENT PANEL
9 February 2009 at 6:00pm**

Members

Chairman : Councillor Julie Young.
Deputy Chairman : Councillor Nick Barlow.
Councillors Kevin Bentley, Beverly Davies, Mike Hardy and Justin Knight.

Substitute Members : All members of the Council who are not Cabinet members or members of this Panel.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and the last Agenda Item is a standard one for which there may be no business to consider.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

6. Minutes

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To confirm as a correct record the minutes of the meeting held on 19 January 2009

7. Debt Management Policy

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See report by the Head of Resource Management

8. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

POLICY REVIEW AND DEVELOPMENT PANEL

19 JANUARY 2009

Present:- Councillor J. Young (Chairman)
Councillors Barlow, Bentley, Davies, Hardy and Knight.

20. Minutes

The minutes of the meeting held on 3 November 2008 were confirmed as a correct record.

Councillor J. Young, (in respect of her membership of Essex County Council) declared her personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3).

21. Residential 20 mph Zones

The Panel considered a report by the Head of Strategic Policy and Regeneration, providing information on the potential introduction of 20 mph zones across the town.

The report explained that there had been a growing interest in reducing speed in urban areas from the 30mph limit which dominated in most of urban areas. Reducing speed in certain areas was seen by many as 'reclaiming the streets' for those who lived, worked and played in an area. Additionally, recent evidence had proved that the severity of injuries sustained by casualties involved in road traffic accidents was directly related to the speed at which the vehicle was travelling.

As a consequence, 20mph was seen as the appropriate speed for the type and nature of residential roads and its introduction would improve safety for pedestrians and cyclists, particularly for children and other vulnerable road users.

It was explained that a number of towns across the country had introduced or were considering introducing 20mph zones in residential areas. Portsmouth introduced 'signed only' 20mph limits across many of its residential areas in June 2007, Newcastle had also announced the introduction of signed only 20mph zones following a trial in a number of areas and Norwich had considered a blanket 'signed only' scheme initially limiting the extent of zones to a number of trial areas.

Various 20mph zones with complementary physical measures had been introduced in Colchester in the early 1990's, including New Town (Winnock Road and Canterbury Road areas), Castle (Dutch Quarter), St Anne's (North of Harwich Road), and Berechurch (Lethe Grove). A non residential 20mph zone had also been introduced in the Town Centre.

The report referred to Collingwood Road, Lexden as being one of the residential 20 mph zones and, although this had been the intention, it had never been fully implemented.

Essex County Council policies were in place which allowed this to happen but currently included a requirement for physical measures and enforcement. However, a consultation exercise had been commenced by Essex County Council on a revised Speed Management Strategy reflecting latest Government Guidance requiring a speed policy that takes into

account the contribution of appropriate speeds to environmental and social objectives as well as road safety at a national and local level. The closing date for comments was 13 February 2009 and a response to the document was due to be prepared for determination by the Portfolio Holder.

The report proposed the setting up of a Task and Finish Group to review and produce a strategic report on the applicability of 20 mph speed limits in the urban areas of Colchester, with the following terms of reference:

Potential Objectives:

- To reduce speed to improve quality of life and reduce perceptions of danger;
- To encourage alternative modes of transport especially walking and cycling;
- To reduce the dominance of the motor vehicle in residential areas;
- To improve road safety through the reduction of speed;
- Environmental issues such as noise and air quality.

Consultation to be Undertaken:

- Essex County Council as the Local Highway Authority with the powers to change and implement speed restrictions;
- Essex Police as the body responsible for enforcing speed restrictions;
- The local community, such as resident associations and parish councils.

Issues to be addressed in final report:

- Objectives for introducing the policy;
- Results of consultation;
- Benefits that can be achieved;
- Current Highway Authority policy;
- Current National policy;
- Physical infrastructure required;
- Legal aspects;
- Geographical extent;
- Costs of delivery;
- Identification of funding opportunities;
- Framework for prioritising delivery.

Paul Wilkinson, Transportation Policy Manager, attended the meeting to assist members in their discussions.

He provided further information in relation to:

- The results of a study in Graz, Austria where the introduction of a signed only scheme accompanied by a thorough public relations exercise had produced dramatic reductions in accidents and casualties with only minor reductions in speeds;
- The results of schemes in numerous London Boroughs with various levels of success;
- Killed and Seriously Injured data for Colchester, broken down in respect of various criteria, including comparisons with other Essex Districts.

Councillor Fisher, attended and, with the consent of the Chairman, addressed the Panel, explaining that New Town had the benefit of reduced parking zones for some time and, in her view, many people were in support of the introduction of signed 20 mph zones elsewhere. She had taken the opportunity to speak to Inspector Brewer at Stanway Traffic Police Division and repeated to the Panel his view that anything which reduced the number of people killed and seriously injured was to be supported and, although 20 mph zones would create difficulties in terms of enforcement, he was in favour of their introduction.

Councillor Spyvee, the Deputy Mayor, attended and, with the consent of the Chairman, addressed the Panel, in support of the introduction of 'signed' 20 mph zones and suggesting that residential areas be given the opportunity to vote to accept or reject a speed reduction scheme in their neighbourhood on the grounds that it may more readily lead to a change in behaviour. He also referred to the many new housing developments in the Borough whose roads had yet to be completed to the necessary standard to enable adoption by the Highway Authority. He was of the view that pressure on the developers to complete to required standards was a further objective worthy of consideration.

Councillor Smith, the Portfolio Holder for Business and Resources attended and, with the consent of the Chairman, addressed the Panel. He welcomed the introduction of a Task and Finish Group, especially in the light of the results of the schemes introduced in the various London Boroughs. He referred to three health profiles in respect of which Colchester Borough was currently rated below average, one of these being the number of road injuries and deaths. He was keen that the Task and Finish Group included more members, especially from rural areas. He also asked that the Task and Finish Group consider the argument that 20 mph limits should be imposed outside all schools in the Borough.

The Panel gave particular consideration to the following issues:

- The need for the Task and Finish Group's work to encompass the rural areas of the Borough, possibly by consultation with or inclusion of representatives from residents groups and parish councils;
- The need to accept the fact that 'urban' can apply in villages as well as in towns and the scope of the Task and Finish Group needed to include the whole of the Borough;
- The restriction placed by Essex County Council on the introduction of speed reduction schemes, as driven by the County Council Road Hierarchy;
- The benefit of Killed and Seriously Injured statistics being presented which excluded major routes such as the A12 and which were in respect of wards or individual neighbourhoods;
- The potential effectiveness and cost of a public relations campaign advocating reduced speed schemes;
- The possibility of utilizing one or two of the Parish Council representatives on the Local Highway Panel and also some of the members of relevant Neighbourhood Action Panels for the purpose of this Task and Finish Group;
- The mechanism by which areas for zoning would be identified and prioritized;
- The need for consideration to be given to the causes of accidents in order to be sure that the reduced speed solution was in fact the most appropriate one.

RESOLVED that –

- (i) A 20 mph Speed Limit Task and Finish Group be set up comprising Councillors Ford, Hardy, Offen and G Oxford with Terms of Reference including the potential objectives,

consultation and issues to be addressed as identified above, subject to:

- The remit of the Group extending to all parts of the Borough;
- Representatives from the Local Highway Panel and Neighbourhood Action Panels being invited to participate, as appropriate, in order to incorporate views from parish councils and residents groups;

(ii) The Task and Finish Group be set up as soon as possible with a view to the work being completed within a period of approximately three months and a final report being submitted to this Panel for consideration.

22. Work Programme 2008/09

The Panel considered a report by the Head of Corporate Management giving details of the work programme for 2008/09 which had been updated to reflect the need to reschedule items on Neighbourhood Working, Waste and Recycling and Climate Change deferred from this meeting. These items were now intended for consideration at the Panel's meeting on 2 March 2009, together with the Review of the Equality and Diversity Policy.

It was explained that the Debt Management Policy had recently been updated and, given the current economic climate, the Panel may wish to take the opportunity to consider the Policy's revisions.

RESOLVED that the revised Work Programme for 2008/09 be noted and arrangements be made for a special meeting of the Panel to be held in February 2009 to consider the contents of the revised Debt Management Policy.

9 February 2009

Report of	Head of Resource Management	Author	Debbie Greenwood
Title	Debt Management Policy		☎ 282522
Wards affected	All Wards		

This report concerns the Council's Debt Management Policy.

1. Action(s) Required

- 1.1 To review the Council's Debt Management Policy as proposed in Appendix A.

2. Reasons for Action(s)

- 2.1 The Council first adopted a formal Corporate Debt Policy in 2002, following comments in our annual Audit Letter. A revised policy was presented to the Policy and Review Panel on 14 February 2007. We have now reviewed and strengthened the procedures in reference to changes in legislation and best practise.
- 2.2 We have included procedures to be followed when a debt is put forward for write-off, so that a consistent approach is adopted throughout the Council and all possible opportunities are taken to recover the debt.
- 2.3 Procedures have been included to help customers who are suffering from financial difficulties. Appointments can be made at our Debt Clinic, held once a week at the Customer Service Centre.

3. Alternative Options

- 3.1 The Council could adopt various alternative approaches to debt management. This policy presented offers the best balance between the need to collect all debts and the need to be sensitive to those who cannot pay.

4. Supporting Information

- 4.1 The Debt Management Policy is attached in Appendix A.
- 4.2 The first part of the document covers the general procedures to be followed, whilst appendices have been added to cover detailed actions to be taken for each service or type of debt. The intention is that the individual appendices will be reviewed and revised as necessary.
- 4.3 A Corporate Debt Working Group has been established to look at common issues and to work at improving recovery procedures and includes all services and Colchester Borough Homes. Areas for further work already identified by the group include joint tracing arrangements and devising methods of sharing information obtained.

5. Proposals

- 5.1 The proposal is to review the Debt Management Policy as the accepted guidance for the collection of all types of income owed to the Council.

6. Strategic Plan References

- 6.1 This Debt Policy meets our objective to listen and respond. We are aware of the financial downturn and this policy addresses best practice to help those customers in need of our help.
- 6.2 A good Debt Policy is an essential part of sound budget management, which underpins all of the Strategic Plan priorities. The policy also sets out how the Council can provide advice and assistance to residents in managing their own finances, which supports the aim of people being able to remain in their own homes or other tenancies.

7. Consultation

- 7.1 Formal consultation with members of the public is not appropriate for this policy.
- 7.2 A task group of all council departments has been set up and chaired by Resource Management, in order to keep under review the Council's Debt Management Policy And related procedures.
- 7.3 It is felt that the Corporate Debt Working Group reflects the needs of a wide range of stakeholders.

8. Publicity Considerations

- 8.1 It is intended to hold a Debt Advice Week, week commencing 16 March 2009. A press release will be issued to encourage the public to contact us.

9. Financial implications

- 9.1 The prompt collection of money owed to the Council helps reduce borrowing, by maintaining healthy cash flow. Failure to maximise collection can adversely impact on financial resources and has budgetary implications.

10. Equality, Diversity and Human Rights implications

- 10.1 All debtors are treated equally and fairly. A Debt Clinic is available each Wednesday morning for customers who need detailed support and advice. An Equality Impact Assessment has been completed and is available on the Hub.

11. Community Safety Implications

- 11.1 None.

12. Health and Safety Implications

- 12.1 None.

13. Risk Management Implications

- 13.1 The Council's Internal Auditors have recommended that outstanding debts should be regularly reviewed along with policies and procedures. Not to do so could result in an adverse comment in the annual report.

DEBT MANAGEMENT POLICY

**Revised
January (2009)**

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1. Introduction

- 1.1 The Council has annual collectable income in the order of £125m. It is vital for public services that this money is collected effectively and efficiently.
- 1.2 Council Rent debt is managed on behalf of the Council by Colchester Borough Homes, the Arms length Management Organisation, but the procedures to be followed will be agreed with the Council.
- 1.3 This document sets out how the Council aims to do this in a reasonable and responsible manner.

2. Billing and Invoicing Arrangements

- 2.1 Bills, accounts, invoices and all similar documents will be issued promptly in accordance with the Council's service standards. Upon issue those documents will:
 - Be accurate
 - State clearly what payments are required
 - State clearly when payment should be made
 - Include a list of the payment methods that can be used, and if appropriate, a direct debit instruction form.
 - List the locations where payments can be made
 - Include, where appropriate, a statement advising those having difficulty making payment, to contact the Council
 - Include, where appropriate, the consequences of payment being late or not made
 - Include a contact point, and a purchase number where appropriate, where advice can be obtained or a query resolved
 - (Where appropriate) VAT status and VAT charged
- 2.2 The situation can be different for sundry debts and miscellaneous income. Where possible individual Services should follow the principles as below:
 - Does an invoice have to be sent – if goods or services are being provided, payment should be requested in advance.
 - Where the full cost may not be known in advance – such as hire of premises – substantial deposits will be required on booking for the hire charge and for potential damage, with the balance of the cost due before the day of the hire.
 - When arrangements are made for costs to be recharged, the service must establish on what basis and when the costs will be recovered must be built into the procedures in advance according to the Corporate Debt Policy.
 - Internal recharge will be dealt with by journal transfer.

Services are advised to discuss these issues with their Service Accountant or Accounts Receivable Manager.

3. Methods of Payment

- 3.1 The Council will encourage and promote the use of Direct Debit, BACS transfer, "Touch Tone" telephone payment, Internet and other electronic systems, as the most efficient and secure options, and also to protect those involved in the handling of cash against the risk of crime.
- 3.2 Although electronic media forms the basis of the Council's preferred payment methods, the widest possible range of alternatives will be offered, subject to the existence of sufficient demand and an appropriate balance of resource required to support any particular payment method.
- 3.3 Where regular debts are created, details of how payment by direct debit can be made will be provided at an early stage. The Council has developed easy methods of setting up direct debit, including by telephone and over the Internet. Facilities are available for monthly payment dates, depending on service, to be chosen by the customer and these will be developed further.

4. Reminders

- 4.1 For a variety of reasons monies or revenue due to the Council will not be paid as requested. It is important that recovery action is commenced as soon as possible to maximise the probability of debt recovery.
- 4.2 In general terms recovery of an unpaid debt will commence with a reminder.

Reminders will:

- Be issued promptly
 - Comply with any legislative requirements.
 - State clearly the amount outstanding.
 - State clearly the consequences of the payment not being made as requested.
 - List the options for payment.
 - List the locations where payment can be made.
 - Include a contact point for any query or issue arising from the reminder.
 - Include a statement, requesting the recipient to make contact immediately if payment cannot be made or will be delayed.
- 4.3 Later stages of reminders will recognise the specific legal remedies that must be pursued, or where a service is provided, the withdrawal of the service.

5. Enforcement

5.1 The Council will use all means at its disposal to ensure that monies due to the Authority are recovered. The Council will follow the relevant statutory or civil process to enforce payment.

5.2 There are a core of regular routine actions which will be used to secure payment as detailed in Appendix A.

These routine recovery actions will be reviewed regularly and revised as appropriate.

5.3 Additionally there are a range of other remedies that the Council Officers will consider and use where appropriate in order to secure payment. These include, but are not limited to:

Attachment of Earnings, Fees or Benefits - Potentially used where the debtor is employed or in receipt of other regular income.

Bankruptcy Proceedings/Liquidation - This is a recovery tool, potentially used when the debtor is a property owner and it is thought that there will be sufficient equity within the property to support full or partial repayment of the debt. The Enforcement Manager should consider the debtor's age, employment status and mental health state before starting proceedings. Adequate written warning, detailing the consequences and costs associated with Bankruptcy must be sent by the Enforcement Officer and when appropriate an officer will attempt to visit the debtor. A full record of contact and written correspondence must be recorded.

Charging Orders on Property - Used where the debtor owns a property. It may be some years before the property is sold and the Council recovers its debt.

Committal Proceedings (only available for Council Tax and Business Rates) - Will be used where there is no evidence of hardship or extenuating circumstances. This will be used as a last resort as it is not generally accepted by the local magistrates' court as appropriate

5.4 As the enforcement process progresses, cases of payment difficulty will be revealed. Those cases will be approached positively and constructively, to achieve a manageable and effective solution. In reaching a decision the Council will work to

the following principles. The debtor will be encouraged to make an appointment at the Debt Advice Clinic, held weekly at the Customer Service Centre. If the debtor has severe financial problems an appointment with a money advisor at the Citizens Advice Bureau is recommended.

- The enforcement process will normally be held at the point reached when contact is made. This will reward early contact. However the Council may take action to protect its interests as part of any payment agreement.
- Voluntary solutions will always be considered in preference to statutory or civil remedies as a first stage.
- Past history of payment will be a factor in any decision.
- Extenuating or household circumstances will be taken into account in any decision.
- Where payment solutions are agreed, confirmation of the agreement will be made in writing and include the action that may be taken in the event of non-payment. Once bankruptcy and other remedies have commenced these will follow a strict timetable until completion, any contact at this point may not permit the Council to hold recovery proceedings.
- Where a payment solution cannot be agreed, the debtor will be advised of the reason for that outcome, and that the recovery process will continue, if an alternative cannot be agreed.

6. Extenuating Circumstances

6.1 There will be occasions where the Council must look beyond the debt itself and take account of the potential impact upon the individual's family, household or business concerned, either to protect vulnerable people, to avoid the transference of a problem elsewhere or impact upon the local community.

Examples of this are:

- The presence of very young or elderly people in the household
- Chronic or terminal illness
- Recent bereavement of a spouse or member of the household
- Potential homelessness
- The ability of the individual, household or business to make payment.

These situations may apply to business debts, but with the added dimensions of:

- Potential loss of employment for employees of the business
- Loss of key facilities for the local community
- A payment option is the only choice because the business has no assets
- Impact upon the local community in some cases if the business were forced to close

The list is not exhaustive.

- 6.2 Officers making decisions on the recovery of debt will ensure that consideration has been given to issues of this nature and that action taken is proportionate to the situation.
- 6.3 Where decisions are made, the reasons will be documented and the individual or business will be made aware of those reasons.
- 6.4 Where appropriate, individual services will contact each other to discuss action to be taken.

7. Debt Advice

- 7.1 In the process of achieving payment solutions, debtors may look to the Council to provide or encourage obtaining debt advice or even full debt counselling. An appointment can be made for the debtor to come to the debt clinic held once a week at the Customer Service Centre. This can be made using the Achieve bookings system.
- 7.2 In this context staff involved in negotiations with debtors are trained to ensure that:-
 - Any benefits or entitlements, over which the Council has direct control, are made available or taken up.
 - Debtors are directed to other agencies or organisations who offer support or assistance suitable to their needs, including the Citizens' Advice Bureau and Council services such as Welfare Rights and the Housing Advisors.
 - Debtors are alerted to the availability of other benefits generally which may alleviate their situation.
 - Debtors are aware of both their rights and responsibilities and the consequences of not meeting the required level of payment.
- 7.3 It is important to recognise however that in this situation the Council may face a possible conflict of interests. While advice given will be as impartial as possible, the Council cannot offer advice which may prejudice recovery of its own debts. If that situation arises the debtor will be advised to take independent advice such as the Citizens Advice Bureau or a registered debt practitioner.
- 7.4

8. Use of Bailiffs and Tracing Agents

- 8.1 It is standard practice for the collection of certain types of income, such as Council Tax and Business Rates and Penalty Charge Notices for bailiffs to be appointed. In these cases, the Council's constitution covers the procedures to be followed. However, the relevant Head of Service will ensure that codes of practice are included in the contract and are regularly monitored.
- 8.2 For other debts, debt recovery agents may be appointed, but similar arrangements will apply as in 8.1 above.
- 8.3 In many cases, debtors will owe money to several different services. Resource Management will undertake to maintain a register of information relating to debtors that have been subject to a trace already. Appointment of tracing agents will be co-ordinated by Resource Management.

9. Bad Debts

- 9.1 The Council, like any organisation, whose business involves the recovery of monies due, will inevitably encounter "bad debts".
- 9.2 For the purposes of this policy a "bad debt" is classified as:

(I) Money due when there is little or no likelihood of recovery

Examples of this are:

- The debtor has absconded and current address is unknown
- The debtor resides outside the UK and is unlikely to return.
- The debtor has been declared bankrupt and the debt in question forms part of the bankruptcy proceedings
- A company that has ceased trading
- The debtor has died and there is insufficient equity in the estate to cover the debt
- A report has been received, for example from a bailiff, that there are no effects available for distraint and there is no income.
- Where there is insufficient evidence, or no evidence has been provided, for court instructions to be considered.

(II) Money due where it is uneconomic or inefficient to recover the sum due

Examples of this are:

- A small balance outstanding.
- A balance outstanding where the expenses of recovery in terms of fees, staff time and other charges, balanced against the likelihood of recovery (including all additional expenses and charges) outweigh the prospect of full or partial success.
- Where enforcement of the debt involves an arguable point of law and for that reason enforcement action could fail, with the imposition of costs or charges upon the Council.

(iii) Money due where the Council does not wish to pursue recovery because the circumstances of a case would attract well-founded adverse publicity or public reaction, or the concept of natural justice would be compromised

Examples of this are:

- A long period of time before the debt was brought to the notice of the individual concerned (Council procedure should prevent this from occurring)
- Incorrect information or advice being given by a person within the organisation, again the Councils procedure should prevent this happening.
- The individual being entitled to help or assistance with the debt, which are no longer available, but would have cancelled or reduced the debt had they been granted or applied for at the time the debt occurred or was created.
- Where there is insufficient evidence or where no evidence has been provided, for court proceedings to be instigated.

It should, however, be noted that the examples listed are not exhaustive, and are not absolute or definitive classifications.

All decisions on individual debts are decided on the circumstances that exist, at the time.

Where unusual circumstances exist, decisions will have to be referred to Heads of Service, or portfolio holders, but should be within the spirit of the Debt Management Policy.

- 9.3 The Council will make suitable and adequate provision for the incidence of bad debts in its accounts to accord with Chartered Institute of Public Finance and Accountancy (CIPFA) recognised best practice and Audit Commission recommendations.
- 9.4 The policy of the Council is to minimise the incidence and impact of bad debt and it will use all means at its disposal to achieve this objective.
- 9.5 Those debts will be identified in the Council's accounts. This is to ensure that accurate records are maintained, which reflect recoverable revenue, and both accounting and statistical information, which may be used for reporting and management purposes.
- 9.6 Immediately a bad debt is identified it will be written off promptly, to preserve and maintain the principle of accurate and up to date information.
- 9.7 All write-offs must be processed according to the Council's constitution,
- The appropriate authorisation must be obtained for the transaction. Requests for authorisation must be made in writing using the standard investigation form provided by Resource Management.
 - Authorisation for a write off includes the responsibility to ensure that all appropriate methods of recovery have been considered or used, suitable research has been undertaken, the logic used to reach any conclusion is

sound, and the circumstances and evidence are appropriately documented and sufficient.

- There should not be any delay completing the write-off once authorisation has been obtained.

The cumulative total of debts written off will be monitored by the Enforcement Manager to ensure that the incidence of bad debt remains consistent with the Council's estimates and projections. Periodic checks will be made to ensure that authorised write-offs equal cumulative total within the Council's systems and that the correct procedures are being followed and work is to the appropriate standard.

Debts written off do not close the Council's intention to recover or to resurrect the debt, if further information comes to light.

The Council will maintain a record of significant bad debts which will be regularly reviewed against ongoing changes to resident's accounts and other records.

The Council has a strong commitment to eliminate fraud and other activities which impact upon the public purse. Where debts have deliberately or unwittingly created a situation whereby there is perception of gain from the outcome, the debt concerned, subject to any legal constraints, will be resurrected and recovery recommended.

10. Complaints and Errors

- 10.1 Errors or mistakes made in the process of collecting monies and revenue due to the Council will normally be resolved using the Council's established complaints process.
- 10.2 However, in the process of enforcing payment of outstanding debts it is possible that facts, unknown at an earlier stage but which nullify or influence the situation only, emerge after proceedings have been taken or have been completed.

In the event of that situation occurring the Council will take appropriate action to remedy the situation as far as possible.

- Proceedings will be stopped immediately
- The debtors account will be noted to reflect the revised situation
- Where appropriate the Court involved will be advised

- 10.3 Although the Council will make every effort to resolve a misrepresentation of the true situation, some issues can only be resolved by reference to the Courts.

Routine Actions for Debt Recovery

Standard Enforcement Actions for Benefit Overpayment

Where benefit overpayment recovery is not possible from existing benefit payments the following standard procedure is used:

- An invoice is sent
- 28 days later a reminder is sent
- 14 days later a final notice is sent
- 14 days later a pre-legal letter is issued
- Contact is attempted either by telephone or by a visit by an appointed Collection Agent
- 28 days from the pre-legal letter “an order” is sought from the court
- 28 days later a County Court Judgement is sought

Court Bailiff’s are used where appropriate to collect money subject to a Court Order or County Court Judgment.

Collection agents will be used prior to County Court Action.

Write Off Procedure

Please see Appendix E for the write off procedure.

Rent Management Service – Sequence of Recovery Actions

Number : A/2

Issue Date : Revised August 2008

1 week's arrears

A letter one (ARR01 printed from Academy) sent to each tenant separately.

2 weeks' arrears

Community Housing Officer to make personal contact with the tenant either by telephone or a home visit to discuss payment.

Remember to check for an A (advisory note) on Academy and any issues that may be covered in the Disability Discrimination Act . Your tenant may have mobility, language, sight, mental health or other needs. You will need to choose the best communication method to suit the needs of your tenant. For example if your tenant has a visual impairment a phone call or visit would be more appropriate. You should then consider having all correspondence produced in large print.

The aim is to encourage payment in full or to set up an instalment plan and to maximise income by offering benefit advice. When an agreement is made an Instalment Plan (APR81) and letter (IT) 78 **must** be used. Copies to be provided for tenant, and the house files.

Every effort must be made to make personal contact with the tenant at this stage to establish a good customer relationship to provide advice and support to prevent the arrears increasing. At this stage an awareness of the tenants needs should be made and signposting to any relevant support agency should be made.

4 weeks' arrears

Community Housing Officer to contact tenant to arrange an appointment to serve Notice of Seeking Possession, full payment can be made by the tenant at this stage or an instalment plan agreed. See Procedure Note A/5 "Deductions from Income Support". **Remember A.**

5 weeks' arrears Notice of Seeking Possession (earlier if agreement broken)

If all attempts to contact the Tenant have not achieved either payment in full or an instalment plan then a Notice of Seeking Possession (ARR6) must be served on each tenant separately. When the Notice of Seeking Possession is served, an interview **must** be carried out.

An income and expenditure sheet (ARR7 visit sheet) will be completed with the tenant and an Instalment Plan will be entered into for the repayment of the arrears. Where appropriate a referral will be made to the CAB where there is multiple debts. It is important that the Notice of Seeking Possession is served in person to enable a thorough interview to take place. If the tenant is not at home then at least one attempt should be made by the Community Housing Officer before the Notice of Seeking Possession is left at the property and a record kept of the times visited with no contact. A calling card will be left. *Remember A.*

If the Instalment Plan is broken the next recovery stage must be taken.

Only in exceptional circumstances will the Notice of Seeking Possession not be served, for example:

- The tenant has made and is keeping to an Instalment Plan.
- Where the Community Housing Officer is confident that a housing benefit claim will succeed and clear the arrears.
- Your manager approves exceptional circumstances which are noted on diary pages.

10 weeks' arrears

Community Housing Officer to contact the tenant to advise of forthcoming action to request court hearing and give the tenant an opportunity to clear the account. Check tenant's circumstances have not changed since the Notice of Seeking Possession was served. *Remember A.*

11 weeks' arrears

Assistant Manager to contact the tenant by telephone or standard letter (ARR27) to prompt payment on receiving pre-court checklist from the Community Housing Officer, before Particulars of Claims (ARR09) are completed. If the account is not cleared or an Instalment Plan agreed, a request for a court hearing will be made by completing the Particulars of Claim and the pre-court checklist (ARR08). A Community Care Assessment should be requested where the tenant may have issues or require support in respect of DDA. *Remember A.*

- This will be done as soon as possible after 28 days following the date entered on paragraph 4 from the date the NSP was served.
- Where no satisfactory agreement has been made.
- Where one agreement has been broken.
- Where you cannot get payments direct from the DWP.

Unless : Your manager approves exceptional circumstances, e.g. there is written confirmation from Benefits that an HB appeal is outstanding.

Community Housing Officers will send letter (ARR10) **to each tenant separately** to confirm that a court hearing has been requested. The Community Housing Officer will continue to make efforts to contact the tenant either by telephone or visit and encourage the tenant to pay as well as providing appropriate advice and support and recording all attempts. *Remember A.*

The Court Officer is responsible for updating the Academy Housing System when a hearing is requested. Court Officer to update legal screen on Academy on receiving notification from the Court of the hearing date and notify Community Housing Officer by using an outlook calendar invitation to the hearing.

All reports of contact prior to the court hearing should be passed to the Court Officer.

14 days before the date of the Court Hearing

The Community Housing Officer and the manager should specify the type of court order they would like the Court Officer to request from the court. (See What orders can be made? for a full list of orders.)

A pre court visit will be made by the Court Officer to hand deliver letter ARR20 which will state the date of the court hearing and confirm the rent, the arrears and the housing benefit situation and the type of order being sought. The Court Officer will update any changes on the tenant's income and expenditure & advice will be given about the tenants rights to apply to postpone the hearing. The tenant will be encouraged to attend the hearing.

After the Court Hearing

The Court Officer will update the computer system to reflect the court decision. The court costs should be entered onto the tenant's sub-account. Following the Court Hearing the Court Officer will notify the Community Housing Officer of the outcome of the Hearing. Court Officer will write to each tenant advising them of details of Court Hearing and terms, copy of letter to Community Housing Officer. *Remember A.*

Postponed possession orders

Within two weeks of the term being broken each tenant must be sent a letter advising we are applying to Court to ask for a date for Possession to be set. Tenant is given 14 days to reply to this letter ARRXXX, it should be sent with addressed reply envelope and copy rent statement. A copy of this letter and any reply should be sent to the Court by Court Officer when requesting date for Possession will be set. Once date is set by the Court then a Warrant can be requested / applied for.

If an Outright Order is granted the following will apply:

Outright orders forthwith

Community Housing Officer will complete the Possession Warrant request with immediate effect. Court Officer will apply for warrant and inform Community Housing Officer of date. Community Housing Officer to continue to monitor, e.g. abandoned property.

Outright orders suspended (for 7, 14 or 28 days)

If Outright Order is obtained then Community Housing Officer to write to each tenant separately (ARR23) to invite pre- eviction interview. (See below)

The purpose of the Pre- eviction interview is:

- To ensure that all the tenants are aware of the situation and the consequences of not catching up with the court order quickly (not applicable for Outright Orders).
- To check that there has been no change of financial circumstances.
- To explain that if an Outright Order has been granted that an eviction warrant will be applied for unless the tenant(s) can clear the rent arrears plus court costs.
- To advise the tenant that they have the right to appeal against the warrant and to seek independent legal advice from a solicitor, CAB, Shelter or Homechoice Shop.

Preparing for the Pre-Eviction Interview

Community Housing Officers will prepare the pre-eviction checklist (ARR29). The ARR07 will be used again to check there has been no significant change in finances. *Remember A.*

Suspended Possession Order – within two weeks of breach of court order

Unless with discussion and agreement of your Area Manager it is felt that due to **exceptional** circumstances this action is not appropriate, the following procedure should be followed:

A pre-eviction appointment will be arranged by the Community Housing Officer will send (ARR023) to each named tenant separately for an interview at the tenant's home.

Advice will be given to the tenant to seek independent legal advice such as Citizens Advice Bureau, Home Choice or Shelter. The Community Housing Officer will record the interview on the Pre-Eviction Checklist (ARR029) and the tenant(s) should be encouraged to complete a Data Exchange Consent Form (HD091).

The tenant(s) in exceptional circumstances will be offered one "catch up" arrangement in agreement with the Area Manager where the tenant is behind on the order by less than £500 which would need to be re-paid within 3 months. Where there has been a change of circumstances a variation order may be considered, after a further investigation has been made into the tenant's income. Community Housing Officer to send "catch up" letter (ARR24) to confirm arrangement with a copy of the catch up agreement (ARR25).

Where the tenant is behind by more than £500 no arrangement will be made tenants should be required to pay the entire balance or bring the court order back into line immediately, to prevent eviction action being taken. If the tenant fails to pay the CHO should proceed to next stage and prepare Possession Warrant Request (see below for instructions).

Within 2 weeks of breach of the catch up agreement

The Community Housing Officer will discuss with their Line Manager whether to commence the pre-eviction process. This will be appropriate where:

- The tenant is in breach of a "catch up" agreement.
- A variation order with a money judgment is not appropriate.
- There are no exceptional circumstances.
- There is no Housing Benefit outstanding: to be confirmed by contacting the Landlord Liaison Officer.

- Direct deductions from the tenant's benefit are not applicable.

Possession Warrant Request

Referrals should be made in writing by email, fax or letter to all relevant support agencies. i.e.

- GP (ARR26) together with copy of data exchange consent form.
- Social Services (ARR30) include copy of data exchange consent form .
- Probation (letters ARR28) together with copy of exchange consent form.

To let them know that the eviction is to go ahead and asking if there are any circumstances we need to be aware of.

If this is appropriate the pre-eviction checklist (ARR29) and Possession Warrant Request including Bailiff Risk Assessment Form will be prepared by the Community Housing Officer. This will then be passed to the Manager. If the recommendation to apply for a warrant is authorized by the Line Manager a letter ARR83 will be sent by the line Manager enclosing a rent statement to each tenant.

The Community Housing Officer will then ensure that :

- Possession Warrant Request is saved in Court Officer's electronic in-tray.
- Court Officer sends copy of Possession Warrant Request to Colchester Borough Council.

Only in very **exceptional** circumstances will a further agreement be entered into. Normally, tenants should be required to pay the entire balance or bring the court order back into line immediately, to prevent eviction action being taken. Advice can be given about seeking independent legal advice either with the Citizen Advice Bureau, Shelter Housing Aid or Colchester Borough Council Housing Options Team.

When the final order for possession has been made the Court Officer is responsible for arranging the eviction. See procedure note A/8 Eviction.

Former Tenant Arrears

Number : A/11

Issue Date : (revised) August 2008

1. PURPOSE OF PROCEDURE

- 1.1 The purpose of the procedure is to maximise the recovery of debt from former tenants and to ensure that every effort is made to recover former tenant arrears.

2. RESPONSIBILITIES

2.1 Rent Collection Officer

It is the Rent Collection Officer's (RCO) responsibility to follow these procedures in order to recover Former Tenant Arrears (FTAs) which have accrued at properties within the borough.

2.2 Rent Management Team

The Rent Management Team, including Community Housing Officers (CHOs) and Assistant Housing Officers (AHO's) are responsible for taking every opportunity to obtain information which may be useful in the recovery of any subsequent FTAs. Any opportunity to reach an arrangement before termination for the payment of arrears should be taken.

3. STANDARDS

- 3.1 All contact with former tenants or their representatives whether by telephone or mail should be courteous but robust.
- 3.2 Nationally agreed guidelines on the payment of non-priority debts in cases where individuals are in receipt of income support, job-seekers' allowance or housing benefit should be followed.
- 3.3 Where enquiries are being made to the estate of a deceased former tenant, an approach appropriate to the sensitivities of the family may be required whilst maintaining procedural requirements in attempt to recover public monies.

4. PROCEDURES

4.1 Before the Tenancy is Terminated

In most cases other than eviction or abandonment, notice will be given by the tenant which will allow details of a forwarding address of the person responsible for the debt to be obtained. In cases of eviction, the CHO will attempt to obtain a “care of” contact address and complete correctly the relevant field on Academy.

4.2 Seeking payment

Forwarding Address Available

- 4.2.1 If the whereabouts of the tenant themselves, next of kin, personal representative or other individual responsible for the debt is known, a letter requesting immediate payment should be sent within a fortnight of termination in a style appropriate to the circumstances (Academy Letter PFT1?ARR53). Telephone contact numbers should also be used to prompt a positive response from the former tenant.
- 4.2.2 If the former tenant contacts us but is unable to pay in full, an arrangement form will be sent, to be completed, signed and returned by the former tenant. This will detail the agreement to pay the debt and should be kept on file by the Rent Collection Officer, the terms of the agreement being entered onto the “arrangement screen” on Academy.
- 4.2.3 If no payments or arrangement is made following the first letter, a second letter will be sent out within 3 weeks requesting payment and explaining the next step being referral of the matter to Debt Recovery Agents (Academy Letter PFT2/ARR54).
- 4.2.4 If no payments or arrangement is made following the second letter, the case will be referred to Debt Recovery Agents within 4 weeks as in 5.4 (below).
- 4.2.5 If the arrangement is not adhered to, a letter will be sent out within 2 weeks, stating that the case will be referred for collection (4.4 below) if payments are not received (Academy Letter “FTA Legal Recovery”/AAR51).

4.3 Referral for Tracing

Forwarding Address Unavailable

- 4.3.1 If the whereabouts of the tenant is unknown, and the debt is under £50.00, the debt will be submitted for write-off as it is uneconomical to pursue the matter further.
- 4.3.2 If the whereabouts of the tenant is unknown, and the debt is £50.00 or more, an Experian check will be undertaken by RCO and details of either a positive or negative trace will be recorded. Where a positive trace has been achieved the RCO will update the computer system and start the appropriate recovery action. Where the trace is negative the tenants details will be added to a tracing request and forwarded to the collection agency for a further trace.
- 4.3.3 Invoices for charges relating to successful traces will be forwarded on by the RCO to the Administration Team.

4.3.4 In cases which have been referred for collection by Debt Recovery Agents (under procedures 4.4 below) but have been returned with the advice “debtor absconded”, cases will be submitted for tracing if the debtor has not already been traced.

4.3.5 Following a successful trace, a case will be re-referred for collection (if the address is different) or referred to Legal Services, Colchester Borough Council, for legal recovery.

4.4 Referral for Collection

4.4.1 If the whereabouts of the tenant is believed to be known, but payments have not been made despite efforts taken in 4.2 (above), cases will be referred direct to Debt Recovery Agents for collection within 4 weeks of the latest appropriate action. Cases will be referred for collection on a monthly basis.

4.4.2 Debt Recovery Agents will pay Colchester Borough Homes all monies collected with a report on a monthly basis. The RCO will pass all invoices for collection charges to the Admin Team.

4.5 Referral to Legal Services, Colchester Borough Council

4.5.1 Where the Debt Collection Agents have been unsuccessful in recovering the debt, each case should be assessed individually to decide whether it is appropriate to take legal action.

4.5.2 Where the former tenant is believed to be working and employer details are known, or it is known that the former tenant has significant assets (e.g. owns their own home), the outstanding sum should be treated as a sundry debt and recovery referred to Legal Services for legal action. The action that may be taken may include an Attachment of Earnings Order or a Charging Order against property. Alternatively, a money judgment may be obtained and enforced.

4.5.3 Where a money judgment or suspended money judgment has already been recorded against the debtor, cases will be referred direct to the Legal Services team of Colchester Borough Council with instructions to enforce.

4.5.4 Where there is no knowledge of the former tenant’s employment or assets, and where it is considered uneconomical to pursue the debt further, the debt should be referred for write off.

4.6 Deceased former Tenants

4.6.1 On the death of a tenant, CHO’s and AHO’s shall make every effort to confirm the name of the next of kin, executor or solicitors handling the estate, if applicable, and enter these details onto Academy. Discretion may be exercised in regard to the early termination of a tenancy where there is vacant possession but where a Death Certificate is unavailable due to unavoidable delay, e.g. because of an inquest. This step may be important in preventing the accumulation of arrears prior to actual termination.

4.6.2 The RCO shall pursue the estate of a deceased former tenant by sending Academy letter “FTA Bereavement LR1” (ARR55) where the debt is £25.00 or more. A second letter, “FTA Bereavement LR2” (ARR56) will be sent if there is no reply after 2 weeks.

4.6.3 Cases will be submitted for write-off where : (a) there is written confirmation that there is no estate, (b) there is no reply to letters sent, (c) the debt is under £25.00, (d) no contact details can be obtained.

4.7 Write-off Procedures

4.7.1 When a case has reached a stage where it is no longer appropriate to continue to pursue the debt, it should be referred for write off without delay. The RCO will prepare schedules of cases to be written off on an Excel spreadsheet on a monthly basis.

4.7.2 Schedules will be checked by the Assistant Housing Manager, then the Director of Housing Management Services and then passed to Colchester Borough Council’s Head of Resource Management for final authorisation. Once the write-off schedules have received final authorisation, the RCO will pass them to the Business Finance Team for processing.

4.7.3 Debts in excess of £5,000 can only be written off with the approval of Colchester Borough Council’s Portfolio Holder for Communities. In these cases, individual reports will be prepared by the RCO and submitted to the Head of Resource Management, Colchester Borough Council.

4.7.4 Should it become possible to recover former tenant arrears previously written-off, the debt should be written back on to the system and pursued as above.

5. RECORD-KEEPING

5.1 The RCO will keep comprehensive records of all referrals for tracing and collection, results, invoices and statistical reports. All action will also be recorded on Academy.

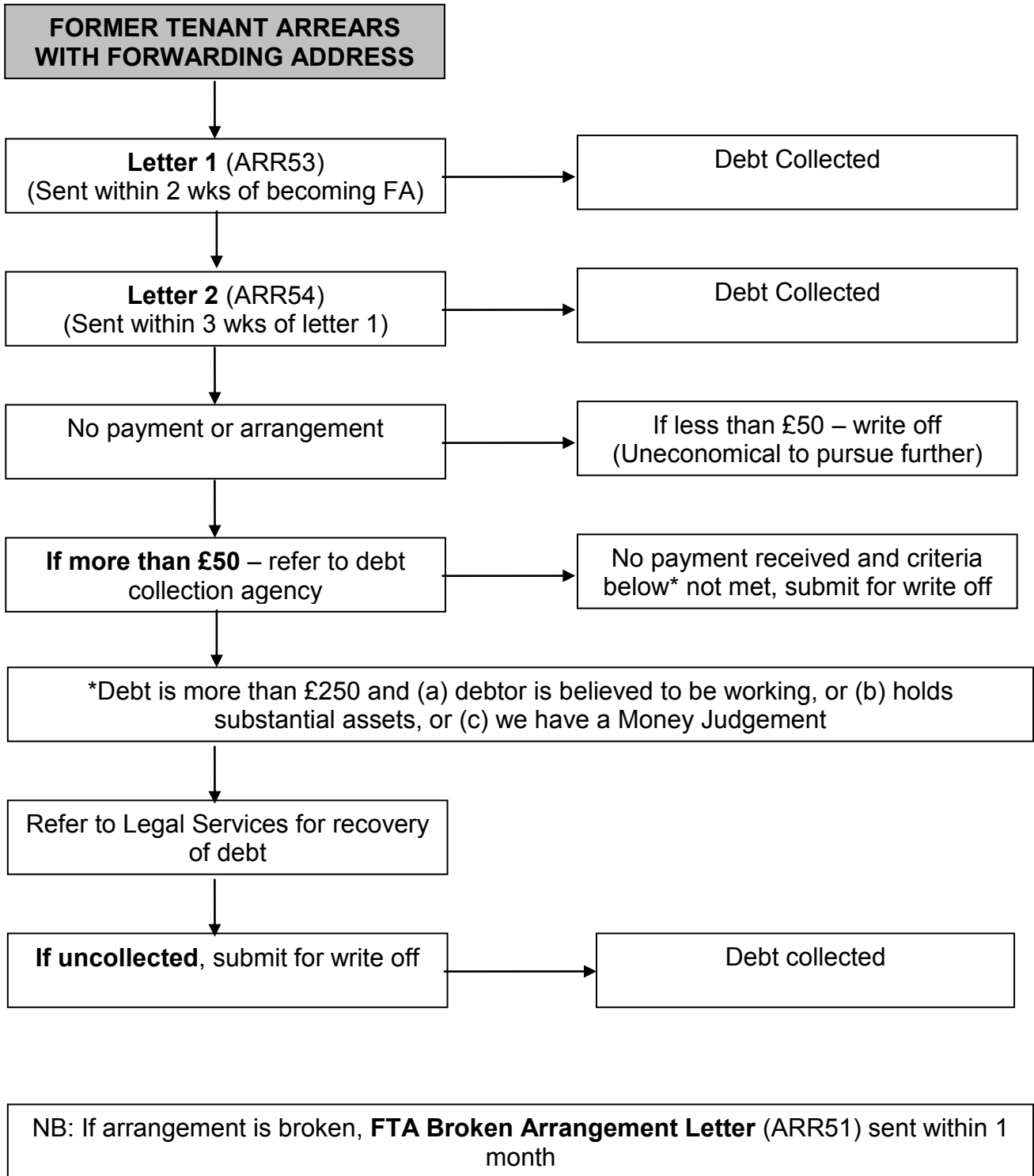
6. MONITORING AND CORRECTIVE ACTION

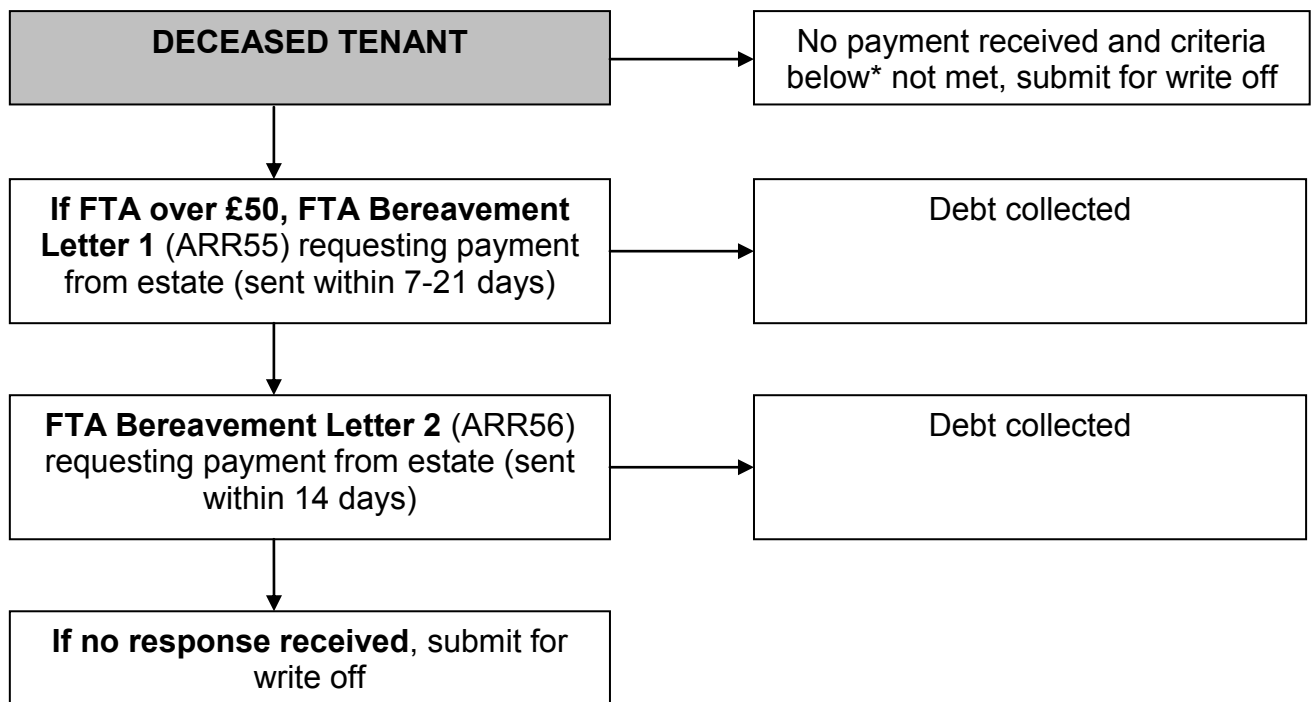
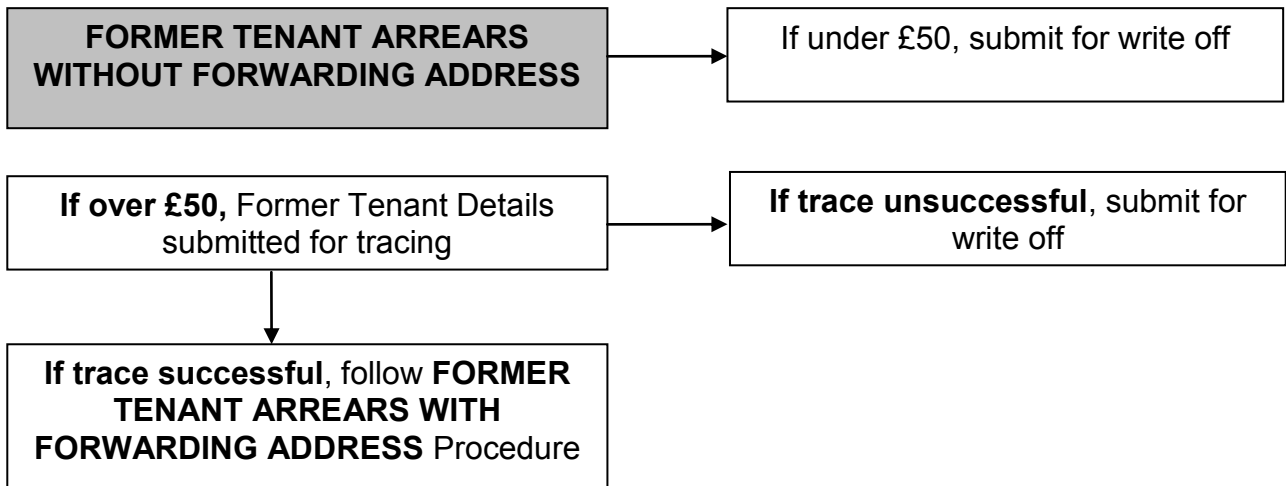
6.1 The Assistant Housing Manager should check on a regular basis that the procedures are being followed.

6.2 Quarterly reports of collection, tracing and write-off figures should be submitted by the RCO to the Assistant Housing Manager.

6.3 In all cases, Academy should be updated according to Latest Action taken.

Procedures for Former Tenant Arrears





Routine Actions for Debt Recovery

Standard Enforcement Actions for Sundry Debt

- Invoices raised with appropriate payment terms.
- 30 days after payment due date first reminder sent.
- 14 days later final settlement sent threatening court action.
- 7 days later evidence is sought from the issuing department and passed to Legal Services.

Legal Services Actions:

- Upon receiving instructions, acknowledge instructions and send standard letter before action giving debtor 7 days to pay, failing which Court proceedings to be commenced.
- If no response received to letter, issue Court proceedings within 14 days.
- If no Defence filed, enter default Judgement 14 days after deemed service date by Court.
- Once Judgement entered, give attention to means of enforcement.
- If Defence filed, seek instructions on Defence and file allocation questionnaire with the Court within time specified by Court.
- Once Hearing date obtained, liaise with instructing department for witness attendance and prepare case.
- Attend at Hearing with witness(es) and notify instructing department of result of Hearing, setting out breakdown of Judgement amount.
- Thereafter consider within instructing department means of enforcement (first step, probably an Oral Examination).
- Proceed to enforce Judgement debt.

Routine Actions for Debt Recovery

Standard Enforcement Actions for Council Tax

A bill is issued to all council taxpayers advising of payments over 10 months, April to January, or over a reduced period as the year progresses or, if requested, over another time period (say quarterly).

Where a taxpayer fails to pay an instalment a reminder notice is issued allowing 7 days to make payment.

Where the first reminder is paid up and a need arises later in the year to send a further reminder a “second reminder” is sent. This again asks for payment in 7 days but makes it clear that no further reminders will be sent before summons action is taken.

Where either reminder is in default a decision will be made regarding issuing a final notice before proceeding to summons. Where a taxpayer has vacated a property and failed to pay the closing bill a final notice will be sent before a summons is issued.

Where a summons is issued the taxpayer is summoned to appear in court and give reasons why a liability order should not be made. In the event that the summons is paid with costs accrued to date the matter is closed and does not proceed to court.

Where on the day of the court the summons remains unpaid the Council requests from the Court that they “make a Liability Order” in respect of each unpaid debt.

The Council is then required at this point to issue a letter (known as the 14 day letter) advising the taxpayer that unless payment is made within 14 days further enforcement action will be taken, which may result in the use of bailiffs. At this point an official request for information is also sent, requiring the taxpayer to make known information such as their employment. This information is used when provided to determine whether distress with a bailiff or an attachment of earnings is the best way to collect the debt.

Where an attachment of earnings, fees or benefits is considered appropriate arrangements are made to recover the money due by this method.

Where it is considered that the bailiffs should be used to collect the money the liability order is forwarded to the bailiff for them to execute. The actions the bailiff must take are contained in the bailiff contract held in Resource Management and monitored by the Finance Manager (Collections and Control). The bailiff contract requires a bailiff to first attempt to come to agreement with the taxpayer before he can levy distress, as this is considered to be the last resort for him to collect payment.

Where the bailiff is unable to make arrangement or levy distress they are required to return the liability order to the Council nulla bona (no effects).

At this stage further contact is made with the taxpayer to encourage payment and further attempts to collect payment using attachment of earnings, charging orders or bankruptcy are considered.

Where payment cannot be made because the taxpayer has absconded or there is no ability to pay the debt in a reasonable time (between 2 and 5 years depending on the level of debt and circumstances) a request to write-off the debt will be made. However, where the debt has not been paid as a matter of principle or in the circumstance of can pay/ won't pay a warrant of commitment may be sought.

Write Off Procedure for Council Tax, National Non Domestic Rates and Housing Benefit Overpayments.

This procedure will look at debts to be considered for write off from returned documents for which no forwarding address can be found.

The treatment for write off is dependant on the size of the debt itself.

If any debt is under investigation as a possible write off the circumstance code “GA” should be used to prevent any further action being taken while tracing action is under way.

Debts to the value of up to £5.00

Any member of the collection division in Resource Management can write these debts off using the system and write off code.

Debts over £5.00 and up to £20.00

A screen print is acceptable showing the amount to be written off. This print must be signed and dated and authorized by a Team Leader or Manager.

Debts over £20.00 and up to £100.00

Detailed system checks are carried out and utility agents contacted. An investigation form to be completed, showing full address, name, stage of recovery and amount to be written off. A detailed report as to reason for write off is completed and any supporting evidence attached to the document. This form is signed by the officer and authorised by a senior officer.

Debts over £100.00 up to £5,000

All above checks to be carried out. Authorised officer to complete an Experian and a LOCTA search to check for forwarding address. If this is unsuccessful the account is passed to a tracing agent co-ordinated by Resource Management. No further action is taken until a reply is received from the agent. If all searches are unsuccessful all supporting evidence is attached to the investigation form, signed by the proper officer and is put forward for write off. A detailed report is completed, detailing action taken. Each case is looked at in detail. Paying particular attention to the age and size of the debt involved. The Head of Resource Management will sign the completed schedule.

Debts over £5,000

A Council Tax or a National Non Domestic Rate debt over £5,000 to be written off must receive the approval of the Council’s Cabinet Portfolio holder in accordance with the Council’s standing financial regulations.

The background paperwork to the write off will be prepared in the normal way and is passed to the Revenues Manager. He will co-ordinate with Committee Services to have the debt listed at the next available Cabinet Meeting. The summary sheet will be passed to the Head of Resource Management for signing and dating.

The list will then be passed back to the collection team to be written off.

Bankruptcy Debts to be written off

In the event of an individual being made Bankrupt an investigation form is completed and the following points noted:

Date of the Bankruptcy.

The specific County Court or London High Court the order was made.

The Court Bankruptcy Order Number.

Supporting letter from the Official Receiver, stating there are no dividends to be paid.

Preparing an account for write off

Once all the appropriate checks have been carried out the accounts can be listed for write off.

Each account over £20.00 should have a completed investigation form and supporting evidence. The forms are passed to the Enforcement Team for regular scheduling. The lists are totaled and individually numbered together with all supporting paperwork. The summary of schedules will include the list number, the total value of the individual lists and the number of debts on each list.

The summary sheet will be passed to the Collection and Control Finance Manager who will check and counter sign and date the individual lists and summary sheet. This is passed to the Head of Resource Management for signing and dating.

The lists are returned to the officers for write off.

General Points to remember while tracing absconders

It is important to confirm what stage of Recovery the debt is at. The Enforcement section must be made aware of any debt that is with the Bailiff so that appropriate action is taken. Open accounts must be referred to a Team Leader so that the inspector can visit the property to establish current occupiers.

Routine Actions for Debt Recovery

Standard Enforcement Actions for Business Rates

A bill is issued setting out payments over 10 months.

Where payment is not received a reminder/ final notice is issued giving 7 days to make payment of the instalment and advising not to do so will result in the balance of the charge becoming due.

Failure to make the payment as outlined on the reminder/ final notice results in a summons being issued for the whole year's charge.

Any other failure to pay an instalment during the year results in the whole years charge becoming due and a summons being issued for non-payment.

Where a summons is issued this requires the ratepayer to appear in court and defend why payment has not been made or to make payment in full with costs before the said hearing.

Where payment is not made on the summons a liability order is made.

The Council checks for payments and if not paid the account is passed to the bailiff and in the case of sole traders or partnerships follows the same enforcement process as for council tax. In the case of limited companies, Plc's or other organisations the liability order is passed to the bailiff to enforce.

Where the bailiff returns the liability order "nulla bona" liquidation proceedings will be considered.

Write off procedure

Please see Appendix E for the write off process.

Routine Actions for Debt Recovery

Standard Enforcement Actions for Penalty Charge Notices

- Penalty Charge Notice issued.
- DVLA enquiry made if no correspondence received or payment received within 31 days.
- Notice to Owner sent if full payment is not received within 31 days of issue.
- Charge Certificate sent and charge increased by 50% if full payment, or representation against Notice to Owner, is not received within 31 days.
- Debt registered at County Court and fees added if full payment is not received within 17 days of Charge Certificate being sent.
- Notice of Debt Registration sent.
- Apply for a Warrant of Execution and instruct bailiffs if full payment or Statutory Declaration is not received within 21 days of Notice of Debt Registration being sent. A Warrant of Execution has a lifespan of 12 months only and cannot be reissued thereafter. If the Council has been unsuccessful in recovering the penalty charge by means of a Warrant within 12 months and wishes to pursue, the Council must ask the Traffic Enforcement Centre (Northampton County Court) for authorisation to prepare another Warrant. Warrants that have been returned from the Bailiff after a period of 6 months because the debtor could not be traced or there are no funds or goods to seize can be sent to other Bailiff companies for collection.

N. B. Parking enforcement is carried out in accordance with the provisions and procedures laid out in the Road Traffic Management Act 2004. This means that Colchester Borough Council has to operate within the legal framework. It should be noted that a parking penalty is not a debt until the motorist has exhausted all avenues of appeal.

Routine Actions for Debt Recovery

Standard Enforcement Actions for Mortgages and Shared Ownership Scheme Debts

Monthly

Individual cases will be monitored to ensure that regular monthly payments are received, and reminders sent. Where all or part of the debt is paid by the Pensions Service or the Benefits Division, the receipt of these sums will also be monitored. Whilst standard reminders are available, a more personal approach will often be required.

Failure to maintain regular payments

Resource Management will attempt to obtain a meeting with the debtor. Should this not prove possible, or if arrangements are not adhered to, then the following action will be taken.

Mortgages

Legal Services will be approached and given sufficient information to allow for the preparation of a possession order to be requested from the District Judge. Whilst Court papers are being prepared, Legal Services will warn the debtor of the implications of non-payment.

If a possession order is obtained, Resource Management will monitor the arrangement made. Should payment cease, a portfolio holder decision will be required if it becomes necessary to implement the order.

Shared ownership cases

Where a mortgage is held on the property, then the lender will be advised that rent is not being paid and that forfeiture proceedings are being considered. If the lender will not make payment on behalf of the borrower, or if there is no lender, a decision will have to be made whether to pursue forfeiture or to attempt to obtain a money judgment for the County Court.

ARREARS RECOVERY PROCESS

