



Debt Recovery Policy

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Owner: Alison Ballingall, Senior Revenues Manager

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Introduction

The purpose of this policy is to provide information on how East Renfrewshire Council's Revenues Services Teams seek to manage and recover debt which is due to the Council, but which has not been paid. East Renfrewshire Council has a wide range of debt types, with this policy specifically focussing upon the following income streams:-

- Council Tax Charges and Arrears
- Non Domestic Rates Charges and Arrears
- Sundry Debt Charges and Arrears
- East Renfrewshire Culture and Leisure Trust (ERCLT) Charges and Arrears
- Housing Benefit Overpayments

Debts which are excluded from this policy document include, but are not limited to Rents and School Meals Debt. Separate Policies currently exist for these and moving forward where possible, we will look to consolidate this to further strengthen the collaborative approach taken across all Council service areas, providing for consistent and commensurate recovery practices being applied.

As highlighted above, the Council has different income streams and recovery of these may be governed by legislation, statutory obligations or sound principles of debt management. Residents and Businesses (collectively referred to as customers) within East Renfrewshire have a responsibility to pay for services and goods they receive and Revenues Services is committed to maximising recovery of debt due, to help protect provision of these public services.

The policy is also designed to outline the approach, support, guidance and advice both undertaken and available to customers where they may be facing financial hardship or in a vulnerable position. This is reflected within the recovery process and involves collaboration with appropriate internal and external parties including Money Advice and Rights Team (MART) and East Renfrewshire Citizens Advice Bureau (CAB).

East Renfrewshire Council will pursue debts which have not been paid and remain outstanding. A number of recovery methods are available and these will be used proportionately within the framework set out in this policy.

Individual areas are responsible for developing and maintaining their own detailed procedures to support application of this policy.

Policy Aims

The aim of the Policy is to maximise collection of debt due to East Renfrewshire Council, ensuring the processes are efficient, cost effective and reflect both the level of debt and individual customer circumstances. In doing so, the desired outcome is to break the customer's cycle of debt.

More specifically, aims include:

- To complement the Council's Income Management Strategy, which aims to offer the right payment channels for the service, based on customer needs, whilst maximising income and minimising arrears;
- To complement Fairer East Ren, which is the Local Outcome Improvement Plan for the East Renfrewshire Community Planning Partnership, defining how partners will work together to reduce socio-economic inequality and also adhering to the principles of the Child Poverty Act (Scotland) 2017;
- To set out a clear and transparent approach for maximising recovery of the debt types covered by the policy and protecting income streams;
- To ensure the approach taken to managing debt is fair, reasonable and proportionate, recognising that debt which remains outstanding will impact the Council's ability to provide goods and services;
- To provide a clear framework for managing each debt type, to help ensure consistency in approach, recovery methodology is fair and equitable and is reflective of customers individual circumstances and means for payment;
- To consider, in cases where the customer is experiencing severe financial difficulty or hardship, whether the provision of a payment arrangement may provide the right outcome for both the Council and the customer;
- To outline other internal and external parties who are able to provide support, guidance and assistance on financial wellbeing to customers;
- To ensure the Policy adheres to the Council's values, together with Legislative and Statutory requirements;
- To adhere to best debt recovery practice, through collaborative working with other council departments, councils, Government bodies and relevant agencies;
- To ensure through completion of appropriate Equality, Fairness and Rights Impact Assessments that any potential impacts are considered;
- By adhering to the above, to maximise recovery of the income which is due to East Renfrewshire Council.

Principles

East Renfrewshire Council's vision is to be a modern, ambitious council creating a fairer future with all and our ultimate aim is to make people's lives better.

We work together with our partners to achieve the best outcomes for early years and vulnerable young people; learning, life and work; the economy and environment; to deliver safe and supportive communities and for older people and people with long term conditions.

We achieve these outcomes by focusing on 5 capabilities: prevention, empowering communities, data, modernisation and digital.

And in everything we do, we seek to live by our values of Ambition, Kindness and Trust.

Through our Debt Recovery Policy, our guiding principles are to:-

- Seek recovery of income which is rightfully due to East Renfrewshire Council, to help secure revenue streams and protect provision of goods and services to all council customers;
- Take customers' individual circumstances into consideration to ensure a compassionate and reasoned response to debt collection;
- Direct customers who may be experiencing financial hardship or are in a vulnerable position, to other internal or external parties where additional assistance and guidance can be provided and may benefit;
- Be fair, firm and consistent when dealing with our customers and take into account any additional needs which they may have when dealing with the Council;
- Every effort will be made to contact our customers (including letter, phone, text, email) and engage with them to find an acceptable solution;
- Take reasonable and proportionate steps to recover monies due, consistent with the amount of debt, cost involved and time outstanding;
- Adhere to Legislative and Statutory requirements in place at the time together with good debt management practices;
- Consider where, dependent upon the type, level of debt and customer financial situation, whether a payment arrangement would provide a fair and reasonable outcome, with affordable and sustainable payments within an agreed period of time;
- In the event of a complaint or dispute arising, this will be dealt with in accordance with the Council's practices;
- Monitor Policy to identify where either improvements can be made arising from internal or external factors i.e. system changes or economic environment.

Scope

The following income streams are within the Scope of this Policy:

- Council Tax charges / arrears
- Non Domestic Rate charges / arrears
- Sundry Debt charges / arrears
- ERCLT charges / arrears
- Housing Benefit Overpayments

For other Debt types (e.g. Housing and Commercial Rents), reference should be made to relevant Department Policies.

The previous section sets out the general principles which are applied. However there are specific Regulations and Legislation governing the different debt types and these are outlined within this policy.

Income Stream and Recovery Method Framework

Council Tax

Council Tax is levied on all eligible domestic properties. The amount of Council Tax due, is dependent on the Council Tax band of a property. The owner or occupier is responsible to pay the full amount, unless entitlement of a reduction, discount or exemption is applied. Council Tax rates are set following Government/Council annual financial budgeting. East Renfrewshire Council will bill, collect and recover all Council Tax income and debts in accordance with Legislation (Local Government Finance Act 1992 and Council Tax (Administration and Enforcement) Scotland Regulations 1992).

As part of this process, the Council also bills and collects for Scottish Water.

East Renfrewshire Council Tax debt recovery is based on a staged escalation process, which ensures legislative requirements are adhered to and helps provide the customer with every opportunity to repay or reach agreement. These stages are as follows:-

- The Council is obligated to bill and recover Council Tax in accordance with Scottish Legislation;
- Billing: Timetable is set out annually, with bills issued (customers have option to pay over 10/12 month period by various payment methods). Bills include details of discounts and exemptions possible, together with details of where help can be obtained should the customer be concerned they will be unable to make payment;
- Internal/External Assistance: Customers are strongly encouraged to engage with our services as early as possible in the process and pay what they can, and to seek support from either MART or CAB if they are struggling to pay their bills. MART and CAB consider the individual circumstances and review all applicable discounts/exemptions and whether the customer is receiving appropriate benefits;
- Council Tax payment not made: 1st reminder notice is issued and if not paid will move to final notice stage;
- Further payments fall due: Where following the 1st reminder, payment is made, however the customer falls behind again, a 2nd reminder will be issued prior to commencing final notice. Reminders issued, provide 7 days for payment to be made;
- Engagement: Throughout the process the customers will be encouraged to engage by whatever means (phone, email etc.) to discuss and reach resolution;
- Payment arrangement: A Payment arrangement will be considered where it has been identified customers are experiencing exceptional financial hardship with internal and external teams working together, to help identify the right solution, including how the arrangement will be managed;
- Summary Warrant: Legislation is in place which dictates the process which must be adhered to when recovering Council Tax debt. This includes a petition to be presented to court, which if signed by the Sheriff, provides the Council with a Summary Warrant. When a summary warrant is granted a statutory penalty of 10% of the unpaid charge is added to the balance. Other diligence may also be considered as outlined within this Policy;

Income Stream and Recovery Method Framework

Council Tax (cont.)

- **Sheriff Officers:** The customer is advised that Sheriff Officers may be engaged in recovery of the debt and that in addition they will be liable for costs incurred (in addition to the 10% referred to above). Sheriff Officers will then pursue the debt and may agree a suitable payment plan. It has been agreed with the Sheriff Officers that they will accept the “common financial statement” (the Common Financial Statement is the budgeting tool used by advice agencies and insolvency practitioners in Scotland to produce an accurate overview of debtors' income and expenditure. It is then used to determine the amount of contribution a debtor must pay if they are in a statutory debt solution or debt management product in Scotland) which is used by MART and CAB when considering these plans. In addition they will accept plans proposed by Council advice services when they have been used. Further as part of the Sheriff Officers process they will serve a Charge for Payment and at this point the customer is also provided with a Debt Advice and Information Pack should the customer wish to seek further financial assistance;
- **DWP:** In the event the debt remains unpaid, the case may be referred to the DWP where a deductible benefit exists;
- **Water Direct:** A scheme is available called Water Direct, whereby water and sewerage debt may be collected from customers in receipt of Council Tax Reduction, direct from their benefits, at source by DWP. Should this scheme be adopted, this would provide a further means for recovery;
- **Debt Enforcement:** As set out within this Policy there are Legal remedies available and dependent upon circumstances, may include earnings or Bank arrestment and for larger debt cases potential option of petitioning for sequestration (bankruptcy).

Non Domestic Rates (NDR)

Business (Non-Domestic) Rates is a tax levied on business properties, which is classed as a local form of taxation. Similar to Council Tax, the full rate is liable to be paid unless the property, owner or occupier has applied and succeeded in obtaining a reduction or exemption. Exemptions may include for example empty properties and charitable relief.

The types of properties for which non-domestic rates may be payable include:

- Hotels,
- Offices,
- Public houses,
- Schools,
- Shops.

At present Renfrewshire Council administer all collection activity for NDR on behalf of East Renfrewshire Council. A Service Level Agreement is in place covering the delivery of billing and recovery services (which statutory recovery service includes issue of reminders, final notices, petitions, summary warrants, while at all times adhering to applicable statutes, subordinate legislation, regulations, guidance and common law). Quarterly review and ad-hoc meetings are held between East Renfrewshire Council and Renfrewshire with these covering but not limited to, localised operational matters, debt recovery activities, National Agenda and potential future legislative changes.

Income Stream and Recovery Method Framework

Charges for Services ('sundry debts')

East Renfrewshire Council provide a range of chargeable services, with examples of these including Community Alarms, Factoring fees and Commercial Rents.

The Council's preference is that payments for these services must be obtained prior to the service being provided, unless due to circumstances of the charge, it is not possible to do so. For charges that cannot be paid in advance, managers must take cognisance of any existing outstanding debt and consider as to whether the services should still be provided, with at all times taking into consideration the customers vulnerability and financial hardship situation.

All billing, collection and recovery must be undertaken both efficiently and in accordance with legislation. East Renfrewshire Council's preferred payment method is Direct Debit which will facilitate this.

The stages for Sundry Debt recovery are as follows:-

- Invoice raised: Departments providing the service are responsible for the raising and issuing of invoices. Invoices will only be raised for amounts in excess of £10;
- Supporting documentation: Departments must ensure sufficient evidence of the service is held, the invoice is accurate and contains sufficient information for both customer and Council purposes including date the debt became due and detailed description. This is key, should it become necessary for enforcement action to be taken;
- Payment Due: Invoices must be issued promptly for the service being provided. Once issued, the sum becomes due and payable within 28 days;
- Internal/External Assistance: Customers are strongly encouraged to engage with our services and pay what they can, and to seek support from either MART or Citizens Advice Bureau (CAB) if they are struggling to pay the debt which is due;
- Payment Arrangement: Consider where, dependent upon the type and level of debt and customer financial situation, a payment arrangement would provide a fair and reasonable outcome, with affordable and sustainable payments within an agreed period of time;
- Debt Enforcement: In the event payment is not made in full or an acceptable payment arrangement cannot be made, consideration will be given to engaging with Internal Legal and/or External parties and proceeding with various forms of Diligence available, to assist with recovery of the debt;
- Ongoing Engagement: While Revenue Services are involved in the recovery of the debt, the responsible Department has a critical role to play in minimising sundry debt which includes stopping service, or the non supply of a future, non statutory Council service. Revenue Services will provide departments with Management Information on a regular basis to show the debt outstanding which they are responsible for;
- Departments should take pro-active action to engage with customers to aid recovery;
- Dispute: In the event of a dispute arising on the debt, the Department responsible should again assist wherever possible to facilitate recovery of the outstanding debt

Income Stream and Recovery Method Framework

East Renfrewshire Culture & Leisure Trust

In July 2015 East Renfrewshire Culture and Leisure Trust was established.

As part of the SLA, the Revenue Services team are responsible for the billing and collection of income in respect of invoiced services such as hall lets.

Revenues Services will process invoices raised by ERCLT and collect payments by a range of methods which include cash, on line payments by bank card, standing orders etc. invoices will be issued to customers on a weekly basis.

Reminders will be issued in line with Council processes. Accounts outstanding at the end of normal recovery cycles will again be actioned in accordance with Council (Sundry Debt) processes.

Records of invoices raised and payments received will be accounted for in the financial ledger system maintained for ERCLT by the Council's Accountancy Services.

ERCLT will be responsible for agreeing service provision and price with customers and raising appropriate invoices accordingly.

Housing Benefit Overpayments

Housing Benefit Overpayments (HBO) can occur as a result of error or where a claimant fails to notify or incorrectly notifies the Council of their financial circumstances, resulting in a payment having been made to which they are not entitled. This may be as a result of fraud or error. The reasons for the overpayment occurring together with the claimants' circumstances will determine the action taken to recover the debt.

Various methods of recovery are available and may be utilised to recover any Overpayment made. These include:-

- Deductions from ongoing Housing Benefit;
- Deductions from Landlords Payments for Housing Benefit (in the normal course payment is in the first instance sought from the claimant);
- Deductions from DWP benefit;
- Raising invoice for payment;
- Consider where, dependent upon the type and level of debt and customer financial situation, a payment arrangement would provide a fair and reasonable outcome, with affordable and sustainable payments within an agreed period of time;
- Earnings arrestment.

Recovery of HBO's is covered within legislation. Initial recovery will be through deduction from ongoing Housing Benefit where possible to reduce the overpayment, or through deduction from the Department of Work and Pensions (DWP) if the former is not possible.

The DWP issue an annual communication to all councils advising of the maximum amounts which can be deducted from ongoing Housing Benefit entitlement.

Income Stream and Recovery Method Framework

Housing Benefit Overpayments (cont.)

The Council will use and adhere to recovery options available in terms of legislation, where it has been necessary to invoice the overpayment and attempts to prompt and engage with the customer have been unsuccessful.

Where the customer is not in receipt of ongoing benefit from which deductions can be made and notwithstanding the advice of overpayment, have failed to repay, decisions will be made on the recovery process and method which may include:-

- Invoice: An invoice will be issued to the claimant which sets out the reason why there has been an overpayment;
- Payment Due: A notice will be issued subsequent to the Overpayment being identified. Once issued, the sum becomes due and payable;
- Payment arrangement: Entering into a Payment arrangement, dependent upon the level of debt and customer financial situation;
- Debt Enforcement: In the event payment is not made in full or an acceptable payment arrangement cannot be made, consideration will be given proceeding with various forms of Diligence available to assist with recovery of the debt;
- Fraud: When the overpayment is as a result of fraud, the maximum level of deduction will be taken from ongoing benefit with referral to appropriate authorities.

Payment Methods

Payment Methods available

A wide range of payment methods are currently available including:

- Direct Debit (Council Tax, NDR & sundry debt charges), noting this is the Council's preferred method of Payment, for ongoing fees and charges;
- Online via the Council's website;
- Debit / credit card via automated phone line;
- Phone payment to a member of staff by debit / credit card payment during office hours;
- Face to face payment at council offices – cash, cheque, debit/credit card accepted;
- Standing Order;
- At the post office (Council Tax only);
- Cheque payments can be posted or hand delivered to East Renfrewshire's offices.

East Renfrewshire Council continue to review payment methodologies as part of our Income Management Strategy.

Payment Arrangements

General considerations for Payment Arrangements

The recovery methods available and taken, will at all times seek to ensure customers are treated fairly and consistently. As outlined within this policy there are different types of income streams, methods for recovery and support available. Payment arrangements are not entered into without due consideration of the type and level of debt together with customer financial circumstances. With any payment arrangement general considerations may include:-

- Repayment would allow for the debt to be cleared within a realistic timeframe;
- The level of payments are reflective of the customer circumstances, are affordable and take cognisance of other debts;
- Allow for modest savings to be accrued;
- Benefits, or other entitlements the customer is entitled to;
- Allocation of payments across different types of debts which may have arisen and be due to the Council;
- In the event a Payment arrangement is not adhered to, recovery of the full amount may re-commence.

Help and Internal/External Points of reference

Links and various sources for advice and guidance

East Renfrewshire Council does all it can to assist its customers with their financial circumstances. This can include referring customers onto the Money Advice & Rights Team (MART) who can assist the customer to maximise income and potentially reduce levels of arrears through forms of debt relief. The team can also provide budgeting skills to residents. There are close working relationships between the teams collecting income and the financial assistance services in the Council. These connections also extend to CAB and DWP. All teams work together to get the best outcome for the customer and financial statements are prepared by MART to ensure any payment arrangement is realistic in terms of the customer's income and other outgoings.

Through this collaborative approach, customer benefits and support include:-

- A free, confidential, impartial and independent advice service;
- Provision of personalised money advice and income maximisation reviews through MART and CAB;
- Help identify potential benefits, discounts or exemptions to which the customer is entitled and may assist their financial hardship situation;
- Consistency across different parties (i.e. MART, Sheriff Officers) involved in debt recovery with a common Standard for debt management and income/expenditure assessment;
- Improved understanding of a customers' personal and financial circumstances, which allows for longer term sustainable solutions to be implemented.

Debt Enforcement remedies

East Renfrewshire Council's recovery approach reflects both the Council's need to collect income, but also the vulnerability and financial wellbeing of a customer. While legal remedies vary depending upon debt types, as a general overview, the recovery process will normally include demand & reminder letters, direct customer engagement (phone email etc.) obtaining warrants and use of Sheriff Officers. This will be undertaken over a period of time to maximise the opportunity to reach realistic solutions with the customer.

However where it is recognised that the customer may have the means to pay, but is not prepared to do so (*i.e. can't pay vs won't pay*), further forms of diligence are available. Appropriate engagement will always occur between Revenues Services and the Council's Legal Services, both before and during recovery, as and when required. This to assist in ensuring that any action is appropriate and proportionate to the case. These forms of recovery include, but are not limited to:

- Summary Warrant: Used to recover unpaid Council Tax and NDR;
- Earnings arrestment: Allows a set amount to be taken for customer earnings. Will depend upon customer employment situation i.e. self-employed difficult to enforce;
- Bank Arrestment: To attach funds held in customer Bank account;
- Inhibition: Preventative form of diligence which restricts the customer's ability to dispose of a heritable property without settling outstanding debt;
- Simple Procedure: Action involves application to Sheriff Court;
- Ordinary Action; More complex and lengthier recovery process;
- Sequestration (for Companies liquidation). There are statutory limits in place and these will be adhered to prior to this form of diligence being applied;
- Any other remedies consistent with the terms of this policy.

Revenues Services only instigates legal action as a last resort, when all other avenues of collection activity have proven ineffective and will adhere to current legislation, which is subject to review via the professional body for local government taxation (Institute of Revenues, Rating and Valuation [IRRV]).

Reporting

Reporting

Revenues Service both produces and participates in internal/external reporting and benchmarking which includes DWP, IRRV (Institute of Revenues, Rating & Valuation), SOLACE (Society of Local Authority Chief Executives) Local Government Benchmarking Framework, CIPFA, Directors of Finance and Scottish Government.

Debt Management

In the case of a small number of debts, all viable means of collection can be exhausted with no or less than full payment being received. Therefore the Cabinet will consider annually the management of debts which are considered irrecoverable. These include situations where the:

- Customer is deceased and has left no estate;
- Customer is no longer resident at the address where the debt occurred, and all available tracing options have been exhausted;
- Customer has been sequestrated (individual), liquidated or ceased trading (Business);
- Sheriff Officer advises low probability of debt recovery;
- Costs to recover outweigh level of debt (£20);
- Some exceptional circumstances, such as an approach by HSCP regarding a nursing home resident or terminally ill customer with no assets.

Data

Retention

All data will be managed in accordance with East Renfrewshire Council Policy and Procedures.

Analytics

Data analytics may be used from time to time to help identify customers who may already be facing financial hardship or in a vulnerable position and where additional support may be beneficial.

Ownership and Control

Owner:	Alison Ballingall, Senior Revenues Manager
Review date:	Ongoing and minimum formal review every 5 years i.e. by April 2028
Updates and Changes:	