



Debt Recovery and Write Off Policy

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INTRODUCTION

Newark Town Council (NTC) is committed to ensuring all owed monies are recovered from customers timely and responsibly, in a manner which maintains the reputation of the Council.

As a Council that generates significant income through invoicing for the following;

- i. Floral Display Hanging Baskets,
- ii. Town Hall facilities hire,
- iii. Burial Ground charges,
- iv. Market stall rent,
- v. Allotment rent,
- vi. Sports Facilities,
- vii. Leases and Tenancies

it is inevitable that from time-to-time invoices are unpaid in accordance with the Council's standard payment terms (see below).

To achieve its goal of being an efficient and effective Council, Newark Town Council will:

- Collect all debt owing to it promptly, effectively, efficiently, and economically.
- Comply with ethical best practice, and legislative requirements, appropriate to each individual debt, or debtor.

The Council has a duty to ensure that income generated for the Council from taxpayer funded operations is diligently collected and pursued in accordance with this Policy. From time to time the amount of an outstanding invoice may not warrant the time and expense involved in pursuing it beyond a certain stage and will be written off in accordance with this Policy.

The RFO will follow the legislation as laid out under;

Sections 137, 150 and 168 LGA 1972;

Sections 111-116 LGA 1988;

Audit Commissions Act 1998;

Accounts and Audit Regulations 2003 (S.I. No.533) Sections 21 and 22 LGA 2003;
Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. No.3146.)

The RFO is responsible for the organisation and supervision of all income arrangements, which includes proper accounting, collection arrangements and reporting to the Council on a regular basis. The RFO must arrange for income to be accounted for correctly within the Council's financial accounts and make an appropriate annual provision for bad debts.

STANDARD PAYMENT TERMS

All Newark Town Council invoices will be subject to standard payment terms of 28 days from the date of issue of the invoice save for where alternative specific payment terms apply i.e. in accordance with Allotment Agreements rent payment terms.

DEBT RECOVERY PROCEDURE

There is a presumption in favour of all relevant debts being pursued in accordance with this Policy however the Council reserves the right to treat individual cases on their own merit. All officer activity in relation to debt recovery actions will be logged.

All invoices raised must be properly supported by documentary evidence that supports the debt and using the relevant agreed hire charges, rents, or fees. VAT will be charged at the prevailing rate where appropriate.

The RFO must use the most appropriate method of collecting each type of income, ensuring effectiveness, efficiency, and economy. Where practical and efficient, advance payment should be requested for services. This minimises the financial risk to the Council. All invoices will bear contact details of the relevant department head, in case of queries. Invoices should contain a brief explanation of why the Council requests payment. The RFO should ensure invoices are raised promptly. Where the invoice relates to a continuing hall hire or sports facility, invoices should be issued periodically as agreed, in advance of each period.

Stage 1:

Debtors for invoices that are unpaid within **28 days of the date of issue** will be sent a reminder letter or e-mail enclosing a copy of the invoice within 5 working days (or as close to 5 working days as possible) of the 28-day deadline arising. A late payment charge may be levied (see below).

Stage 2:

Debtors for invoices that are unpaid within **60 days of the date of issue** and who have been sent a communication in accordance with Stage 1, and alternative arrangement has been agreed, will be sent a Final Demand indicating that unless payment is made within 14 days of the date of that communication the outstanding debt will be pursued by way of formal debt recovery procedures. In appropriate cases as determined by the Clerk or RFO the debtor may also be advised at this stage that unless payment is made within 14 days their use of Town Council facilities will be suspended.

Stage 3: Invoices exceeding £50.00.

Debtors that are unpaid at **80 days of the date of issue** and who have been subject to the reminders as per Stage 1 and Stage 2 will be pursued, either via the Small Claims Court or the Council's Solicitors, dependent upon the value and context of the outstanding debt.

Stage 3: Invoices below £50.00

Details of debtors that are unpaid at 80 days of the date of issue and who have been subject to the reminders as per Stage 1 and Stage 2 will be referred to the Finance &

General Purposes Committee of the Council, who will in relation to each debt resolve to take one or more of the following steps:

1. Write off the debt.
2. Suspend the Debtors use of Town Council facilities (if ongoing)
3. Instruct the Clerk/RFO to pursue the debt using appropriate measures.

Stage 4:

All outstanding debts that remain unpaid after Stages 1, 2 and 3 above will be referred to the Finance & General Premises Committee who will determine the extent of any further debt recovery action to be taken.

OUTSTANDING DEBT OVER £1000

For all outstanding debts of £1,000 or more and which are outstanding after the debt Recovery Procedures above have been followed there will be a presumption in favour of the debt being pursued by way of appropriate Court proceedings.

Debts exceeding £1,000.00 may only be written off by a resolution of Full Council with each case being considered on its own merit.

DEBTS ARISING UNDER LEASE OR TENANCY AGREEMENTS

All debts arising under Leases or Tenancy Agreements will be treated on their own merit and will not be subject to the ordinary Debt Recovery Procedure outlined above. Alternative remedies for unpaid rent or service charges exist which should be considered before the course of action for debt recovery is determined.

DISPUTED INVOICES

Each invoice will bear the contact details of the Clerk/RFO. In the first instance the Clerk/RFO should be contacted to resolving any initial problems or queries, as they will hold the information to resolve initial queries. All invoices that are disputed will be flagged, as not requiring further action at this time.

The RFO will retain responsibility for query resolution at this stage and advise of invoice amendments if deemed appropriate. This should be done using properly supported documentary evidence that validates the reason for reducing or cancelling a previous amount invoiced. However, an invoice may only be queried or flagged as not requiring further action, if raised within the 28 days from the date of invoice i.e. prior to the due date.

If an invoice is flagged:

- A reason for the dispute should be clearly defined.
- Every effort to resolve, should be made, at the earliest opportunity.
- Any obstacles to partial or full payment should be explored and resolved.

The aim should be to resolve disputes within one week. Where this is not possible, close monitoring should follow with the objective of resolving as soon as possible. All flagged invoices should be reviewed weekly by the RFO and reported to the Council, with reasons for the dispute and the amount involved.

VITATING FACTORS

Vitiating Factors: when contracts can be declared void, by: *misrepresentation*, the law of mistake, whether it is a:

- Common mistake,
- Mutual mistake,
- Unilateral mistake,
- Non est Factum, which translates to "not my document",
- Illegality, whether it arises during the outset, or course of contract.

In order to prevent, or reduce the number of, flagged or queried invoices it is imperative that Newark Town Council ensure that all invoices are issued as accurately as possible.

When an agreement is made to supply chargeable goods or services, Newark Town Council must ensure that either a Purchase Order number or an individual's name is formally recorded along with the particulars.

LATE PAYMENT CHARGES

Late payment fees will take the form of daily interest charges if an invoice remains unpaid after the expiry of the 28-day payment term.

Considerations

- Be practical and fair to the customer when settling the debt.
- Be consistent and transparent in application of charges.
- Officer and Councillor discretion is required at each stage of debt recovery to maintain the reputation of NTC.
- Ensure the credit control process has been applied to provide opportunity for payment.
- All charges will be applied within the scope of HMRC guidelines, legislation, and statutory rights for public sector business transactions.

Interest will be calculated in accordance with the relevant legislation (currently the Late Payment of Commercial Debts (Interest) Act 1998)

- VAT is outside the scope for all late payment charges.

PROCESS TO WRITE OFF BAD DEBT

NTC will seek to minimise the cost of bad debts written off by taking all necessary actions to recover monies due. It is accepted that prompt and regular bad debt write off is good practice. Where debt is deemed irrecoverable (stage 5+) a report will be submitted to Finance and General Purposes Committee detailing due diligence consideration including:

- Potential costs of recovery against the amount owed, including staff time.
- Likelihood of success
- Outline of credit control process followed
- RFO recommendation

Approval for writing off bad debt can be provided by Finance and General Purposes Committee within the scope of its Terms of Reference. All 'write offs' should be completed in collaboration with the accountant via the RFO and Finance Officer, ensuring all bad debts and write offs are accounted for at Year End.

PART PAYMENTS

Where part payment has been received for a series of invoices, then the payment is attributed to the earliest invoices first (unless the payment is for a specific invoice)

It would normally be expected that debts to be written off would be:

- Cumulative debts under £100, where no payment has been received within six months of sending the final demand.
- All debts where the court advises they are unable to collect, and all options are exhausted in these circumstances the RFO will deem it not cost-effective to pursue.
- All debts where the RFO advises the debt is irrecoverable or that legal action is unlikely to be cost effective.

The Clerk will prepare a list of debts to be written off at the end of the financial year for approval by the Council which details the value of each debt, age, action taken, and the reason for write-off request.

The debtor remains liable to pay for up to six years. Therefore, if the debt has been written off and a further instalment is received, the income will be credited as appropriate.

Reasons for Bad Debt Write Off:

- Absconded or Unable to Trace
- Bankruptcy of the debtor
- Compassionate reasons
- Deceased Debtor
- Uneconomic to pursue

Unable to collect - Debt Collection Service

