

# **WEST DUNBARTONSHIRE COUNCIL**

## **Report by the Executive Director of Corporate Services**

**Corporate & Efficient Governance Committee: 22 June 2011**

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**Subject: Write Off Policy**

### **1. Purpose**

- 1.1** The purpose of this report is to outline the range of measures the Council undertakes in relation to dealing with debtors.

### **2. Background**

- 2.1** Charges are levied on businesses, individuals and organisations for various Council services. In certain circumstances these charges may become uncollectible.
- 2.2** Financial Regulation D4 requires the Head of Finance & ICT to seek the approval of Members prior to writing off any debt in excess of £500.00.
- 2.3** Corporate and Efficient Governance Committee at the meeting on 26 March 2008 agreed that the details of individual debtors should not be identified on write off reports. A detailed list would be forwarded to members under separate cover for their review prior to the meeting of the Committee. This practice was adopted following a recommendation from the Scottish Housing Regulator in respect of Council House Rent write offs.
- 2.4** At the meeting of Corporate and Efficient Governance Committee on 20 April 2011, members requested that a report be submitted to the next meeting of the Committee outlining the range of measures which the Council may be in a position to take in respect of dealing with debtors and how they accessed Council services.

### **3. Main Issues**

- 3.1** The Finance and ICT service within the Council is responsible for the billing and collection of the following major funds:

Council Tax  
Residual Community Charge  
Non Domestic Rates  
Council House Rents  
Sundry Debtor Invoices

- 3.2** Although Financial Regulation D4 is the main guideline for debt write off procedures, Council has delegated the authority to officials in respect of Council Tax and Residual Community Charge debts to write off balances

outstanding in respect of deceased persons with no estate, debts covered by sequestration, bankruptcy or trust deed and persons in a permanent vegetative state. Debts in respect of Non Domestic Rates, Council House Rents and Sundry Debtor Invoices are not covered by this delegated authority.

- 3.3** The Community Charge register has been closed for over 15 years and as such no new liabilities are being issued for this fund. In respect of Council Tax and Non Domestic Rates, the Council has the status of an involuntary creditor i.e. the Council cannot stop levying charges for these liabilities. This can have a particular impact in respect of Non Domestic Rates whereby there have been instances of 'phoenix' companies taking over the businesses from companies in liquidation.
- 3.4** Recovery of outstanding Community Charge, Council Tax and Non Domestic Rates is governed by the respective administration and enforcement regulations whereby the Council has access to the Summary Warrant procedures of the Sheriff Court to grant court orders authorising the use of certain diligences such as earnings and bank arrestments to recover debts. For Residual Community Charge and Council Tax debts, granting of the Summary Warrant also empowers the Council to seek recovery of outstanding sums from ongoing benefit payments to individuals from the Department for Work and Pensions. In addition, if the Council has not already embarked upon one of the summary diligence routes, ordinary court actions can be raised against individuals or organisations for the recovery of debt e.g. sequestration procedures and inhibitions.
- 3.5** Recovery of Council House Rents leads ultimately to eviction actions. The Council also uses the Court to obtain Decrees for Payment whereby a debtor is obliged to enter into a repayment arrangement with the Council. There is also an incentive for tenants to address any rent arrears if they are seeking a transfer of tenancy. However, the Council cannot unilaterally withdraw access to Council housing for rent arrears cases as other obligation as a landlord and Homelessness duties take precedence over the arrears.
- 3.6** Eviction actions are not applicable in the cases of former tenants and the Council uses ordinary court actions to recover these debts where appropriate.
- 3.7** The Sundry Debtor system is used to issue approximately 65,000 invoices per annum. The invoices cover a very wide range of Council services including social work care charges, home owner accounts for housing services, burial and cremation charges and commercial rents. For all of the above activities, ordinary court actions can be raised to recover outstanding balances. In addition, for commercial rent arrears, the Council can seek to irritate the lease so as to evict the tenant from the premises. All Council commercial lease agreements include a clause enabling the Council to irritate the lease for breach of the lease agreement.
- 3.8** On a bi-monthly basis, reports are produced for service departments listing the outstanding sundry debtor invoices for their services. This enables the

service department to make a judgement as to whether to continue to provide discretionary services to non-payers. Although certain discretionary services such as commercial waste uplifts may be readily withdrawn from repeat offenders, it would be very much the exception to consider the withdrawal of personal social care services.

- 3.9** The problem of 'phoenix' companies as outlined in 3.3 above, can also arise in respect of Sundry Debtor arrears. Although the Council would have the power to withdraw discretionary services from an organisation, it cannot refuse to levy Non Domestic Rates. If the Council suspects that a 'phoenix' company is being used to avoid meeting liabilities, the matter is reported to Companies House for their review.

#### **4. People Implications**

- 4.1** There are no people implications.

#### **5. Financial Implications**

- 5.1** The Council's revenue and capital budgets assume levels of income being recharged for Council services. Failure to collect sums due to the Council would have a detrimental effect upon the Council's ability to fund its services.

#### **6. Risk Analysis**

- 6.1** Council's budgets assume a certain level of non collection and this is factored into budget calculations. Failure to collect sums due to the Council would have a detrimental effect upon the Council's ability to fund its services.

#### **7. Equalities, Health & Human Rights Impact Assessment (EIA)**

- 7.1** No significant issues were identified in a screening for potential equality impact of this report

#### **8. Conclusions and Recommendations**

- 8.1** The Council will seek to use all powers available to recover sums due. Where possible the Council will also seek to withdraw discretionary services from non payers.
- 8.2** Members are asked to note the report.

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**Joyce White**

**Executive Director of Corporate Services**

**Date: 30 March 2011**

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**Appendices:** None

**Background Papers:** None

**Wards Affected:** All Council wards.