

POWYS COUNTY COUNCIL

SUNDRY DEBTORS

INVOICING, COLLECTION AND RECOVERY PROCEDURES

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Review Date	

Powys County Council

Invoicing, Collection and Debt Recovery Procedures

This document covers the operational procedures for the collection of sundry debt invoices, ensuring that the Income & Awards section meet their commitments contained within the Corporate Sundry debt framework agreement.

These procedures have been produced having regard to the contents of the Social Services and Well-being (Wales) Act 2014 and the associated code of practice (Annex F).

Our aim is to invoice and collect monies owing to Powys County Council

- The Council has a duty to ensure it has cost effective invoicing and recovery systems
- Believes that people and businesses have a responsibility to pay.

Powys County Council believes in pursuing recovery of all types of debt. Powys will strive to ensure that the manner in which this is undertaken is fair and consistent to everyone, whilst having due regard to individual circumstances. The Council is also keen to ensure all activities in relation to the recovery of debt is transparent and, as part of this commitment it has adopted these working procedures.

Powys County Council recognises that people and businesses do not pay their debts for a variety of reasons, and will seek to establish the reason for non-payment in order to determine the most reasonable way forward:

- Some people or businesses genuinely struggle to meet their payments and need advice and assistance in budget management;
- There is a lack of understanding as to how or why the debt has occurred
- Some people or businesses deliberately choose to set out to delay, or not pay their debts;
- Some people are not receiving the benefits they are entitled to;
- Some people go through personal difficulties that result in short-term problems in paying their debts.
- There is a lack of capacity to deal with such matters.

Our Mission... *Maximise income for Powys by billing and recovering the right amount from the right person or business at the right time*

The Corporate vision of Powys is: strong communities in the Green Heart of Wales

These procedures complement the corporate vision by offering to the customer the following:

- A willingness to work with customers when genuine difficulties are being experienced.

- Arrangements made to spread repayment through payment plans in genuine circumstances.
- To promptly refund or credit any overpayments made.
- To have a robust recovery process for debtors who appear to deliberately delay or refuse to pay debt owing.

When people get into arrears, we will...

- Encourage customers to contact the Council immediately it becomes evident that there could be problems in paying their invoices, to enable us to gather relevant information to enable the case to be looked at on its individual merits.
- Through negotiation & mediation consider payment arrangements that reflect the ability to pay as well as the level of debt owed.

Invoicing Processes

The customer can expect...

- Debtor invoices to be raised in a timely manner; i.e. immediately they are due for payment
- Sent to the correct person or business, using a full name
- Sent to the correct address, including a post code
- Sent for the correct amount, containing sufficient and accurate information

An initial invoice that sets out clearly information stipulating:

- What the invoice is for, i.e. a full description of goods and services, including the period of charge involved
- The amount due
- How to contact the Council
- How to make payment

Payment of Sundry Debtor invoices

At Powys we have tried to make the paying of invoices as easy as possible. Powys offers a variety of convenient methods to pay, which include:

- Payment by Direct Debit
- Payment by Debit/Credit Card
- Over the Internet (<http://payments.powys.gov.uk>)
- Over the phone - either to an officer (during office hours) or via the automated telephone payment system.
- Payment at a Post Office (cash, cheques or debit card) using barcode on the invoice.
- Payment at a pay-point outlet (cash only) using the bar code on the invoice

Whichever method the customer chooses, payment **must** reach the Council by the due date, which is 30 days from the issue date of the invoice. The Council actively encourages people and businesses to make immediate contact if they are having difficulty paying their invoice.

When Customers do not pay

Powys County Council believes in pursuing recovery of all debt types, but will also seek to ensure that the manner in which this is undertaken is fair and consistent to everyone, and reasonable based on debtors known circumstances.. If there is a genuine problem facing the customer Powys will engage and establish an appropriate way forward. However, customers who deliberately delay, fail to make payments, or do not keep to agreed arrangements, will be subject to a robust recovery procedure as set out in this document.

Late Payments

Businesses - Under the Late Payment of Commercial Debts (Interest) Act 1998, the Council is able to charge interest on late payments when both parties are acting as businesses. Interest is charged 30 days after the date of the invoice at the rate of 8% over the Bank of England base rate.

Paying for Care in Care Homes – Under the Care and Support (Deferred Payment) (Wales) Regulations 2015 where there is a “deferred payment agreement” Council is able to charge compound interest and reasonable administrative costs for setting up and operating an agreement.

Powys County Council reserves the right to charge interest in accordance with the above Regulations.

Making an arrangement to pay

When a customer is genuinely struggling to meet their commitment, the Council will consider making an arrangement so as to enable the debt to be re-paid in full, within agreed time limits.

The Council will consider:

- The Department for Works and Pensions recommended amounts.
- Statutory deduction sums in relation to attachment of earnings.
- What would be a reasonable sum, taking account of individual circumstances, such as residual income.

Customer Welfare and members of a Vulnerable Group

Powys County Council is obliged to pursue recovery of all debt type and endeavours to apply a fair and consistent approach to all customers, regardless of age, gender, personal circumstance etc.

During various forms of contact, including, social worker, telephone calls and written communication, received either directly from the customer or a 3rd Party Organisation working on behalf of the customer, the Council will endeavor to establish whether the customer falls into any of the categories that may deem the customer as a vulnerable person.

When The Council determines that a customer is a vulnerable person it will determine the best way to proceed to collect outstanding monies. The Council will endeavour to do all it can to assist the customer in establishing a way forward. This may be to invite the customer for a personal interview, or visit them in their home, to establish if there is an appointee with whom the Council can deal directly with or if a “care-of” address can be organised to send communication to.

Whilst not exhaustive, the Council considers the following as examples of members of a vulnerable group

- **Elderly** - the customer appears to be over 70 years of age and it appears may be easily confused by correspondence and financial matters.
- **Disabled** - this includes both mental and physical disability but does not include very minor disabilities.
- **Long term sickness or serious illness including the terminally ill** - this includes any illnesses that affect the customer’s ability to pay or deal with their own affairs.
- **Family bereavement** - if the customer or their partner has suffered a recent bereavement of a close member of their family.
- **Communication difficulties** - where there are genuine and clear communication barriers, e.g. language difficulties, hearing impairments, visual impairments, learning disabilities, etc.
- **Young children in deprived household** - if there are children aged 3 years or under and signs of social deprivation.
- **Pregnancy** - if the customer or their partner is in the latter stages of pregnancy, or has just given birth

Sundry Debtor Recovery Processes

1. Stage 1 Billing stage

The Invoice will be issued – Two types of invoice are raised by the council, both are payable within **30 days** from date of invoice.

- Group A – Invoices for services received sent to individuals, organisations and businesses
- Group B – Invoices sent to individuals who receive services from Social Care Services and whose details are recorded on the Social Care Services' database.

A reminder invoice issued - All debtors in Group A and B who fail to pay the debt, in full, within 30 days, will result in a reminder invoice being issued by Income & Awards. The debtor will be given **14 days** to pay the monies owed.

2. Stage 2 – Recovery Pre-enforcement stage

Where the customer fails to make payment, in full, following the expiry of 14 days after the reminder invoice has been issued, Income & Awards will take all reasonable steps to prevent the matter progressing to Court, and as such will pursue monies owed by most appropriate means available, based on the circumstances of the debtor, including:

Telephone contact to the debtor - telephone contact will be attempted with the customer and payment in full will be sought immediately. Where customer is unable to pay the monies owed in full a payment arrangement will be negotiated. Any payment arrangement agreed will be confirmed in writing, and the consequences of breaching this will be contained within the letter.

Failed Telephone contact - If telephone contact is not made, a letter will be issued to the customer requesting settlement of the debt within **7 days**. In the case of Group B customers, a home visit may be appropriate. See appendix 1.

Special Arrangement – Income & Awards will enter into a special arrangement with the customer to re-pay the debt if this will achieve the Council's aims of recovering monies due; whilst at the same time avoiding additional costs being incurred by the customer-which many of the further recovery options available will involve. See appendix 2.

Where the customer can not be contacted by telephone, ignores the 7 day letter or defaults on any special arrangement entered into, Income & Awards will:

Refer to Councils enforcement agency – If no payment is received within the agreed timescale, the customer details will be referred to an enforcement agency for collection. Income & Awards will forward details of the customer account to the enforcement agency. Discretion will be used in each case, particularly for those cases which fall into Group B.

The enforcement agency will attempt to secure immediate and full payment, however where reasonable they will enter into a special arrangement with the customer to repay monies owed.

If the enforcement agency fails to make contact, secure monies or the customer defaults on a special payment arrangement entered into the debt will be returned to the Council.

Income & Awards will monitor the performance of the enforcement agency through quarterly meetings, including the amount of sundry debt held, number of claims held, value of payments received. Income & Awards will ensure debts that are not secured or being paid by special arrangement are returned to them in a timely manner, enabling the next stage in recovery action to be taken.

Deferred Payment Agreement (DPA) voluntarily entered into – Where a debt has accrued in relation to a person who is in receipt of care and support in a care home, and a financial assessment has determined that they have an interest in a property, they **will** be offered the choice of meeting this debt through a deferred payment agreement (DPA) where they are eligible for an agreement. The operation of DPAs, and eligibility for them, is set out in the Care and Support (Deferred Payment) (Wales) Regulations 2015. Where a person has accrued a debt and meets the eligibility criteria for a DPA, they **must** be offered the choice of entering into a DPA as a means of repaying this

By entering into a deferred payment agreement a person, whose property is taken into account in their financial assessment, can defer or delay paying some or all of their care costs until a later date so as to not be required to sell their property immediately upon entering a care home. Deferring payment of these costs can help a person to delay the need to sell their home at a time that can be challenging (or even a crisis point) for them and their family as they make the transition into residential care.

The administration of DPA's is contained within the above Regulation, and also within annex D of the code of practice. The Council will have regard to both when offering and implementing deferred payment agreements.

3. Stage 3 – recovery Post- enforcement stage

Where all above steps fail to secure monies Income & Awards will progress to enforcement action being taken in order to secure outstanding monies, as detailed below:

Creating of a Charge- Non- voluntarily - There are instances where a customer, has accrued a debt and has a legal or beneficial interest in land/property and refuses the Council's offer to enter into a deferred payment agreement (or they do not meet the criteria for a DPA).

The Council will in these circumstances, where it considers it appropriate, under section 71 of Social Services and Well-being (Wales) Act 2014, create a charge over the property/land.

County Court proceedings - If no payment is received Income & Awards will consider legal proceedings being taken. In formulating a decision the officer will have regard to:

- Value of debt outstanding
- Age of debt
- Known personal circumstances of the customer.
- The Fees & costs that will be required to be paid, based on the value of debt per invoice. (see **appendix 3**)
- Prospects of recovering monies

Pre-action

Pursuant to the Civil Procedure Rules, Practice Direction on Pre-Action Conduct; Income & Awards will issue a letter before application for a County Court judgement is made (**appendix 4**), which will include:

(1) Details of how the money can be paid;

(2) State that the defendant can contact the Council to discuss possible repayment options, and provide the relevant contact details; and

(3) Inform the defendant that free independent advice and assistance can be obtained from organisations including those listed in **appendix 5**:

If after 21 days the Debtor fails to contact the Council or fails to arrange payment, Legal Services will contact the client department and request instructions as to whether they would like to pursue this matter through the County Court

Court Proceedings

If the Debtor has failed to respond to the letter of claim Income & Awards will issue a claim in the County Court, where the debt exceeds £150.00. The Court will then forward a copy of the claim form along with a response pack to the Debtor. This will allow up to 28 days for the Debtor to either defend or admit the claim:

- If the Debtor admits the claim then Judgment will be entered against the Debtor.
- If the Debtor submits a defence then the matter will be set down for a hearing. Provided the Council is successful, Judgment will be entered against the Debtor. Legal Department of the Council will pursue securing of the judgement
- If the Debtor fails to acknowledge receipt of the claim, default Judgment will be entered against the Debtor.

Post Judgment

For debt that remains outstanding at this point the decision will then be made on the most appropriate course of recovery action to pursue. The options of recovery that remain are:

- **Attachment of Earnings:** The Council may apply for an Attachment of Earnings Order and serve it on the debtor's employer. The sums to be deducted are prescribed in the regulations and employers have a statutory obligation to comply with an Order. An employer may deduct £1.00 towards administrative costs on each occasion a deduction is made.
- **Warrant of Execution/Writ of Fi Fa:** Warrants of execution are issued in the County Court. The warrant empowers a Court Officer, to enter the debtor's premises and seize goods in order to satisfy the value of the Judgment debt. Additional costs will be levied to the customer by the Court officer.
- **Charging Order:** A charge may be placed on the debtor's property to secure the debt. County Courts are empowered to order the sale of the dwelling if the debtor does not pay upon application by the Council. If the property is sold then the charge is repaid out of the money received. This option can be considered where it has been established that the debtor owns their property.
- **Bankruptcy/liquidation:** If sufficient assets exist to meet the outstanding debt the Council can petition for Bankruptcy to the County Court, where the debt exceeds £750 (as from 1st October 2015 the debt must exceed £5,000). Service of a Statutory Demand upon the debtor is the start of insolvency proceedings providing the debtor with 21 days to pay, or secure the debt amount before the risk of insolvency is activated. Bankruptcy should only be considered if the debtor has more assets than liabilities and is totally reticent in paying the debt, and upon approval of Legal Services.
- **Third Party Debtor:** An order made by the Court may be placed on a third party, who owes money to the debtor, to instead pay the judgment creditor.
- **Order to obtain information:** This procedure is available if more information is needed about a debtor's assets to help decide:
 - If it is worthwhile taking other enforcement steps and, if so which avenue.

All reasonable and proportionate costs incurred during the litigation process are recoverable from the Debtor.

HOUSE-KEEPING TASKS

To ensure the commitments and obligations of the sundry debt framework agreement are met, income & awards will undertake the following practices:

CREDIT INVOICES

Income & Awards will monitor and review credit invoices on a monthly basis, in order to keep to a minimum the amount and age of credit held by the Council, thus ensuring overpayments are dealt with in a timely manner.

If a customer has made an overpayment Income Officers (sundry debts) will:

- Check to see if the Customer has a balance outstanding on another invoice, and if so transfer the credit accordingly. Write to the customer advising when this action has been undertaken, confirming the reduced balance on the invoice monies have been transferred to.
- Where transfer of credit is not undertaken the service area will be e-mailed advising that the credit will be refunded after 10 working days – this gives service area’s an opportunity to advise of any new invoice that is about to be created etc.
- Once 10 working days have lapsed the Income officers (sundry debts) will seek authorisation to refund from the Senior Income Officer. The aim is to process the refund for payment within 5 working days.
- Creditors will be instructed to make the refund either by BACS or cheque. This can take up to 10 working days.

QUERIES & DISPUTES

Historically, a significant number of invoices have been placed on hold due to customer queries over the invoice whether it be a dispute over liable party, the amount etc. The value of debt placed “on-hold” is also significant and the framework agreement attempts to address this practice, as whilst service area budget may be unaffected by non-collection of the invoice the finances of the Council are directly impacted, therefore in order to maximise income collection for the Council, where a dispute or query may exist the following operation procedures are to be put into force:

- Where a service area receives a dispute from the customer they will ask for the invoice to be placed on hold whilst the dispute is investigated and responded to. Status code of “PQ” to be set against the invoice.

- When disputes and queries are received directly by Income & Awards, whether in respect of a group A or Group B debt, the Service area will be passed the dispute to deal with. Income & Awards will place the invoice on-hold the day the dispute is passed to the service area. Status code of “PQ”
- An audit trail will exist to show the date the invoice is placed on hold
- The framework places an obligation on the service area to take ownership of the dispute and to investigate and resolve within 42 days
- Where the invoice remains on-hold for over 42 days a report will be issued by Senior recovery officer to the Director, detailing invoices on-hold for over 42 days and the value of the debt, the service area will have a further 18 days to resolve the outstanding query.
- Where a dispute has been on hold for a continuous period of 60 days, as per framework agreement Income Officers (Sundry debts) will proceed to cancel the invoice by way of a credit note – following authorisation to do so by the Senior Income Officer. The Director for the service area will be duly notified of the action taken, and will see the reversal appear in the directorates fund control.
- This is not a write-off and therefore once the service area has resolved the over-due dispute and notified the customer of the decision, they can raise a new invoice either for the reduced amount, or same amount.
- When a dispute is resolved the status code of “PQ” is to be updated accordingly.

Write-offs

The debt framework agreement recognises that there will be instances when a sum due is irrecoverable, in such instances the following procedures are to be operated to ensure bad debt is duly written-off in a timely manner.

- Income & Awards officers involved in the collection & recovery of sundry debts will be tasked with entering proposed write-offs onto the appropriate schedule for each service area. The schedule will detail name of the debtor, reference No: value of debt, period debt relates to and reasoning for write-off.
- The proposed write-off schedule will be sent by the Senior recovery Officer to the appropriate Head of Service, on a monthly basis (or a period that is appropriate). The service area will have **10 working days** to give just reasons as to why debt should not be submitted for write-off, for example service area has an up to date contact address for the debtor.

- Upon the expiry of the 10 working days, the debt will be submitted to the appropriate Officer or Councillor to secure written authorisation for write-off in accordance with Financial Regulations of the Council, and delegated powers granted by section 151 officer.
- Upon authorisation being secured Income & Awards will proceed to write-off the debt within e-financials.
- Once written-off in e-financials the service area's budget will be debited with the appropriate amount.

12.4 Appropriate persons for write-off are as follows:

- Debt up to £20 Senior Income/Senior Recovery Officer
- Debt up to £200 Income & Awards Manager
- Debt up to £500 Head of Business Services (Resources)
- Debt up to £1,000 Strategic Director – Resources
Debt over £1,000 Portfolio Holder- Finance

APPENDIX 1

Mark Evans (Chartered MCIPD)
Pennaeth Gwasanaethau Busnes
Head of Business Services

Uned Busnes a Pherfformiad
Business & Performance Unit
Cyngor Sir Powys County Council
Neuadd Brycheiniog
Brecon
Powys
LD3 7HR

If calling please ask for:

Enw/Name:

Ffôn/Tel:

Eich cyf/Your ref:

Dyddiad/Date:

Dear

Invoice Number: Account Number: Amount Overdue: £

According to our records the above mentioned sundry debt invoice remains outstanding. I would be grateful to receive settlement, in full, within the next **10 days**.

Please note that if payment is not received within 7 days the matter will be referred to the Councils enforcement agency to collect the debt.

You can make a payment in the following ways:

1. **By debit/credit card:** on-line at payments.powys.gov.uk or by calling 01597 827461
2. **By cash or cheque:** At a Post Office (cash, cheque or debit card) or a Pay Point outlet (cash only) using the bar code printed on the original invoice
3. **By post:** Revenues Services, P.O Box 71, Llandrindod Wells, Powys, LD1 9AQ. Cheques made payable to "Powys County Council". Please quote the above invoice NO: (Receipts will not be issued)

PLEASE DO NOT IGNORE THIS LETTER- failure to pay within specified time given will result in the debt being referred to Excel Civil Enforcement Ltd to collect, without any further communication from the Council.

If you paid this invoice in the past 5 days please accept our apologies for this letter.

Should you have any queries regarding the above, or wish to discuss an arrangement to repay the monies owed, please do not hesitate to contact us on 01597 824044

Yours sincerely

Income & Awards Section

APPENDIX 2

**Cyllid a Seilwaith
Finance and Infrastructure**

**Mark Evans (Chartered MCIPD)
Pennaeth Gwasanaethau Busnes
Head of Business Services**

**Uned Busnes a Pherfformiad
Business & Performance Unit
Cyngor Sir Powys County Council
Neuadd Brycheiniog
Brecon
Powys
LD3 7HR
Os yn galw gofynnwch am/
calling please ask for:
Enw/Name:
Ffôn/Tel:
Eboost/Email:
Eich cyf/Your ref:
Dyddiad/Date:**

Dear

Account Number: Invoice Number(s):

Thank you for agreeing to pay your sundry debt invoice by instalments. Detailed below is the agreed instalment plan:

The first payment will be due 21st February 2015 for the sum of £**XX.XX**, followed by, 10 monthly payments of £**XX.XX** commencing on 21st March 2015

Please complete the form and return to the address given on back of form. **DD ARR**

If you are experiencing difficulty in meeting these repayments please do not hesitate to contact us, where a review of the agreed repayment plan can be undertaken.

Please note that if you default on the above repayment plan, the matter will be referred to the councils enforcement agency, Excel Civil Enforcement Agency to collect monies outstanding.

Should you have any queries regarding the above please do not hesitate to contact us.

Yours sincerely

Income & Awards section

Appendix 3– Fees & Charges

1. Fees for applying for a County Court Judgement

<u>Claim amount</u>	<u>Sending form to court centre</u>
Up to £300	£35
£300.01 to £500	£50
£500.01 to £1,000	£70
£1,000.01 to £1,500	£80
£1,500.01 to £3,000	£115
£3,000.01 to £5,000	£205
£5,000.01 to £10,000	£455
£10,000.01 to £200,000	5% amount claimed
£200,000.01	£10,000

2. Fees for enforcement in the County Court

Enforcement of a judgment through the County Court, £100
by the issue of a warrant of control of goods:

An application for a charging order:	£100
An application for an attachment of earnings order:	£100
An application for a third party debt order:	£100
An application for debtor to attend Court/provide Information:	£50
Bankruptcy petition fee ¹ :	£750

3. Enforcement in the High Court- (where debt value exceeds £600)

On sealing a writ of control	£60
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¹ As from 1st October 2015 debt owed to petition for bankruptcy will increase from £750 to £5000

Appendix 4

Cyfarwyddwr Strategol - Adnoddau

David Powell

Strategic Director - Resources

Atebwch os gwelwch yn dda /Please reply to:

Income and Awards

Powys County Council / Cyngor Sir Powys

The Gwalia

Tel / Ffôn:

Fax / Ffacs:

Email / Llythyru electronig:

Your ref / Eich cyf:

Our ref / Ein cyf:

Date / Dyddiad:

Dear

Re: Debt due to Powys County Council for *****

We act for Powys County Council (the Claimant) in this matter. This is a letter of claim for a specified amount pursuant to Practice Direction Protocol 4.2(a).

I have been informed by my Client Department that you have failed to respond to their requests to pay the sum of **£xxx**. As a result this matter has been passed to the Debt Recovery Department for collection. Please see the attached invoice for particulars of our claim.

I advise you that this is your final opportunity to arrange payment before I issue proceedings against you in the County Court. This will include a claim for interest pursuant to Section 69 of the County Courts Act 1984 (8% PA) in addition to our Solicitor's costs and court fees. A County Court Judgment will also be registered that will make it very difficult for you to get credit, and if necessary we will take appropriate enforcement action against you. You may wish to seek independent legal advice. A list of organisations who may be able to assist, free of charge is below.

Organisation	Address	Telephone Number	e-mail Address
National Debtline	Tricorn House 51-53 Hagley Road Edgbaston, Birmingham B16 8TP	Freephone 0808 808 4000	www.nationaldebtline.co.uk
Consumer Credit Counselling Service		Freephone	www.cccs.co.uk

(CCCS)		0800 138 1111	
Citizens Advice	Check your local Yellow Pages or Thomson local directory for address and telephone numbers		www.citizensadvice.org.uk
Community Legal Advice (formerly Community Legal Services Direct)		0845 345 4345	www.clsdirect.org.uk

Please note that payment can be made by the following methods:

- By credit/debit card by calling 01938 551288 and quoting your reference.
- Online at www.powys.gov.uk
- By cheque, postal order or banker's draft payable to Powys County Council and sent to me at the address above (please ensure you quote your reference).
- By cash at any Powys County Council cash office.

I intend to cite this letter as further compliance with Practice Direction Protocol 4.2(a). If you dispute the debt or require any further information, please contact me at the address above.

I regret to inform you that if you have not paid or acknowledged receipt of this letter within 21 days, I will have no choice but to issue proceedings against you.

I look forward to hearing from you.

Yours sincerely

Karen Caine

Recovery Officer

ENCS

Appendix 5 - Independent advice organisations

Organisation	Telephone Number	e-mail Address
National Debt-line	0808 808 4000	www.nationaldebtline.co.uk
CCCS	0800 138 1111	www.cccs.co.uk
Citizens Advice		www.citizensadvice.org.uk
Community Legal Advice	0845 345 4345	www.clsdirect.org.uk