**Draft Factoring Debt Recovery Overview**

We have produced this Factoring Debt Recovery Overview to clarify the steps we will follow to monitor and recover debt associated with our Factoring Service. This overview extracts key information and steps within [Corporate Debt Recovery Policy](https://www.falkirk.gov.uk/services/council-tax/docs/difficulties-paying/Debt%20recovery%20policy.pdf?v=201906271131) and clarifies elements contained within the [Revised Factoring Code of Conduct](https://www.gov.scot/publications/property-factors-scotland-act-2011-code-conduct-property-factors-2/pages/1/)

This overview is split in to three main sections:

**Part 1:** Extract from Corporate Debt Recovery Policy, sections 1 - 13

**Part 2:** Corporate Debt Recovery Policy, Appendix 4 – Sundry Debts

**Part 3:** Additional Information

## **Part 1: Extract Corporate Debt Recovery Policy, sections 1 – 13**

1. **INTRODUCTION** 
   1. This document details the Council’s policies on the billing, collection and recovery of monies due to the Council.
   2. This Policy sets out the general principles to be applied in relation to income collection and debt management across all services provided by the Council. The Council collects income from various streams; some of this activity is governed by legislation and others by sound principles of financial management.
   3. The policy will apply to all Council Services and seeks to be fair but firm; it is essential that all monies due are collected effectively by the Council, and that debt owed to the Council is kept to a minimum. This is because the Council has both a legal duty and a responsibility to its citizens to ensure that income due is received promptly, and to allow for the re-investment of our income in Council Services.
   4. Sums due to the Council can be a mixture of statutory and non-statutory charges. The methods for billing, collection and recovery of the statutory debts are tightly prescribed by statute. Our recovery practices must take account of this diversity.
   5. An effective debt management process is critical to the delivery of the Council objectives. This policy will be underpinned by the creation and maintenance of a clear framework setting out a consistent and sensitive approach to collecting debt, whilst at the same time ensuring the Council continues to maximise collection performance. A full range of recovery methods will be used as appropriate if debts are not paid.
2. **AIMS AND OBJECTIVES** 
   1. The aim is to maximise income collection to Falkirk Council and to minimise the cost of collection, while maintaining and improving the customer experience through collection and recovery.
   2. The objectives of the integrated income collection and debt recovery policy in achieving that aim are to:
3. Bill, collect and recover charges and rents in an economic, effective and efficient manner that meets with legislation.

(b) Encourage people to pay regularly; using the most cost effective methods provided that method meets the needs of the person.

(c) Promote early personal contact across all debt streams, recognising the need to prevent debts escalating.

(d) Identify, where appropriate, support which may be required to those owing money to the Council, and ensure individual circumstances are taken into consideration promoting income maximisation.

(e) Facilitate a co-ordinated approach to managing multiple debts owed to the Council, including a single assessment of the ability to pay, where required.

(f) Standardise the approach to debt collection to ensure consistency of approach whilst complying with relevant legal frameworks applying to the different categories of debt.

(g) Seek satisfactory arrangements for payment of debts at all stages of recovery. Where this cannot be achieved; we will take recovery action using the appropriate legal remedies.

(h) Apply best practice to debt collection, to ensure all debtors are treated fairly and objectively.

(i) Have regard to the requirements of client services within the Council including the need to protect vulnerable people and sustain persons in their homes.

1. **SCOPE**
   1. The policy applies to the collection and recovery of all council debt and includes all income streams and debts owed to the Council including:

(a) Council Tax

(b) Rents

(c) Housing Benefit overpayments

(d) Non Domestic Rates

(e) Sundry debtors, e.g. fees and charges and commercial rental

* 1. There are specific procedures and legislation which govern the recovery and collection of specific debts. While section 4 below sets out shared, general principles, Appendices 1 - 5 set out the process for collection for each debt type in accordance with the relevant procedures and legislation.

1. **GENERAL CUSTOMER PRINCIPLES**
   1. Falkirk Council’s ‘Towards a Fairer Falkirk’ will be followed in implementing this policy.
   2. Ensure all debtors/tenants receive fair and equal treatment regardless of disability, gender, age, race, ethnic or national origin, religious belief, marital status or sexual orientation.
   3. Ensure that customers are advised of the amount due and the date(s) by which it should be paid at the earliest opportunity and in a clear and concise fashion.
   4. Provide information on how to get assistance on every bill/invoice/demand that we issue to afford customers the opportunity to address any potential issues at the earliest opportunity.
   5. Where non-payment will/may lead to customer incurring additional charges the customer will be notified of these in writing.
   6. When dealing with Income Collection and Recovery, the Council will follow the principles outlined below:

(a) Our action will be proportionate to the amount and frequency of the debt.

(b) Our approach will be consistent and transparent at all times.

(c) We will be to be firm and fair with each customer.

(d) Our manner will be courteous.

(e) We will encourage the customer to make early contact in respect of debt related matters.

(f) We will take into account the current economic climate and individual financial circumstances.

(g) We will write in plain English.

(h) We will provide assistance for people who have language or sensory communication difficulties.

(h) We provide appropriate support to any customer who requires further assistance.

(i) Where disputes arise these will be investigated fairly and timeously with outcomes explained in full.

(j) We will respect and protect the customer’s rights throughout the recovery process.

* 1. In undertaking this collection function it is inevitable that the Council will be required to pursue the recovery of arrears from persons and or businesses experiencing difficulty in paying such accounts. An agreed policy of how the Council manages and collects debts is therefore essential to ensuring consistency and best practice in such situations.
  2. We will resolve debt problems pro-actively and at the earliest opportunity to help customers to maximise their income, and alleviate financial hardship.
  3. We will take a firm but fair approach to recovery and enforcement, offering help and support to all customers experiencing financial difficulties at each stage of the collection and recovery process.
  4. Wherever possible, we will seek a solution so the customer is better able to manage their finances and meet future liabilities. We will provide benefit and debt advice where appropriate and when necessary refer to third parties for specialist Money Advice.
  5. There may be instances where court action will be taken to obtain a court order against the debtor. This allows diligence to be used to recover the debt. Diligence includes bank/earnings arrestment’s, attachment of goods, inhibitions etc. These will be invoked where the customer continually fails to maintain a pre-arranged agreement or will not engage with Falkirk Council.
  6. Falkirk Council may appoint Sheriff Officers or Debt Collection Agencies to assist in recovering outstanding debt where it has been unable to enter into any repayment schedule with the customer. This will be done within the procedure and legislation covering each debt stream.

1. **BANKRUPTCY/LIQUIDATION** 
   1. In certain circumstances, and if sufficient assets exist to meet the outstanding debt the Council can petition for the Bankruptcy/Liquidation of the debtor. This is used where other methods of recovery are considered inappropriate or have failed and insolvency proceedings is considered to be a fair and proportionate course of action to recover from a particular debtor.
2. **PRIORITISATION OF DEBT** 
   1. In the first instance an agreement will be sought from the customer to maintain current/future payments for on-going liabilities. Where this is not possible or where arrears have accrued for more than one debt stream then one affordable arrangement should be sought.
   2. The aim is to prioritise and support customers to reduce their rent arrears and maintain their tenancy, while at the same time allowing other Council debts to be reduced.
   3. Priority debts are those debts owed to creditors who can take action with the greatest impact against an individual who does not pay, e.g. loss of their home, or where the action taken by a creditor may cause undue hardship.
   4. Where on-going liability is being met, recovery of other Council debts in arrears will then be considered e.g.

• Rent

• Council Tax

• Non Domestic Rates

• Sundry Debts

* 1. The above priority arrangement may be varied depending on the amount of debt for each debt stream and where Falkirk Council considers the repayments could be more fairly apportioned, as agreed with the customer.
  2. Where an arrangement is in place and only partially paid, Rent and Council Tax will take priority over other debt types.
  3. Housing Benefit overpayments will be recovered in accordance with the relevant statutory provisions operated by the Department for Work and Pensions (DWP).
  4. Where the corporate debt arrangement is not maintained and where re –negotiation has failed, then Falkirk Council may pursue each debt using the recovery methods, procedures and legislation applicable to that debt stream.
  5. If at any stage, the customer enters in to a new arrangement with the Council the recovery process will be suspended, but any statutory penalties already applied will remain.

1. **WRITE-OFF** 
   1. The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. Debts to the Council that are covered by this policy will be dealt with as follows, in line with the Write-Off Procedures:

(a) Write-off of irrecoverable debt is kept to a minimum by early intervention and best practice in recovery.

(b) There is a framework of consistent guidelines and procedures to follow once every practical recovery process has been exhausted.

(c) There is a balance struck between protecting the Council’s financial position and ensuring anti-poverty issues are addressed

(d) There is a planned process for the write-off of debt.

1. **OFFSET CREDITS AGAINST COUNCIL DEBT** 
   1. The Council will adopt a corporate approach to refunding credits or making payments, in that wherever possible checks will be made for other outstanding debts due to the Council, prior to a refund or payment being made.
   2. Where these checks identify outstanding debts and where legally possible e.g. Council Tax / Rent arrears then the debt will be offset and the customer advised.
   3. Where this is not the case, legal advice will be sought before any offset is applied.
2. **REFUNDS** 
   1. Where a customer continues to pay an arrangement which has been paid in full, and no other debt is identified, they will receive a refund.
   2. Refunds will normally be made via cheque, but will be paid by BACS transfer where the customer has paid by Direct Debit. BACS payments may also be made on request, where the bank details can be adequately verified as belonging to the customer.
3. **RETURNED MAIL** 
   1. Any bills/reminders returned by Royal Mail will be investigated to establish a forwarding address. If no forwarding address is obtained then recovery action will be suspended to establish if one can be traced. Where all reasonable efforts made to trace the debtor have been unsuccessful it may be treated as unrecoverable. If this is the case then it will be dealt with in line with the Write-Off Procedures, and if the debtor is traced at a later stage recovery action can be resumed.
4. **PAYMENT METHODS**
   1. The Council’s preferred payment method for recurring payments is Direct Debt. Various payment dates are available to the customer who elects to pay by this method.
   2. For one off payments the preferred method of payment is online via debit card payment.
   3. In addition payments can be made in One Stop Shops, by Standing Order, via telephone Payment Line, Post Offices and Paypoint.
   4. Credit and debit card payments are accepted with Credit cards attracting an additional processing charge.
5. **PERFORMANCE MONITORING** 
   1. Collection targets will be set annually and regularly monitored, reported, and performance reviewed against these targets.
6. **REVIEW OF POLICY** 
   1. The Corporate Debt policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.
   2. Where there are no changes that would trigger a review it is intended that this be reviewed every three years as a minimum.”

# **PART 2: Corporate Debt Recovery Policy: Appendix 4 – Sundry Debt**

Appendix 4 - Sundry Debt, covers charges relating to the Factoring Service. Please see extract below

**Appendix 4**

**FALKIRK COUNCIL**

**RECOVERY OF SUNDRY DEBT**

1. **INTRODUCTION**
   1. Falkirk Council is responsible for billing and collection of all charges levied by the Council for services provided which plays a significant part in funding the Council’s overall budget.
2. **CHARGING** 
   1. The responsibility for charging lies with the Service imposing the charge which will:
      1. Ensure whenever possible that payment of the fee or charge is made in advance
      2. Ensure the charge is properly due and payable, having necessary evidence available to support the issue of the invoice being raised.
      3. Invoices will be raised as soon as identified the charge is due and payable and no later than 10 days following the goods or service being supplied.
   2. Invoices will not be raised:
      1. For less than £10.This will be reviewed on a regular basis.
      2. Where there is no written agreement or the debt cannot be substantiated.
      3. Where the current address is not known, debtor unknown and/or the amount due is unknown
      4. If an invoice has been raised in any of these circumstances they will be cancelled by the Sundry Debtors team.
   3. Disputes
      1. Where a debt is in dispute, the responsibility for dealing with this will remain with the issuing service who should aim to resolve the dispute within 20 working days. Where a dispute cannot be resolved within 20 working days, the issuing service must notify the Sundry Debtor team of the reason; indicating when the dispute is likely to be resolved. If the team are not notified after 20 working days have expired, invoices may be cancelled in full.
3. **COLLECTON & RECOVERY** 
   1. Reminders will be issued when an invoice is overdue and the issuing Service will be supplied with a list of these customers to allow them to contact the customer by telephone where possible to request payment of the debt.
   2. The council will use External Collection agents, Sheriff Officers and Corporate and Housing Services, Governance Division, Legal Services Section to recover debts as appropriate.
   3. Sundry Debtors team provide the necessary advice and assistance to issuing services to maximise recovery of the debt.
   4. Customers who receive on-going services from the council may have these services suspended or withdrawn if they have unpaid invoices relating to these services. This decision will be made by the individual Services.

## **Part 3: Additional Information**

This section provides additional information to clarify elements contained within Section 4 of the [Revised Factoring Code of Conduct](https://www.gov.scot/publications/property-factors-scotland-act-2011-code-conduct-property-factors-2/pages/1/). This section intends to compliment Part 1 and Part 2 above.

**Non-payment of an Invoice:**

Invoices raised relate only to a homeowner: other owners in the block are **not jointly liable** for this debt. We will follow our Corporate Debt Policy to recover the debt.

**Late payment charges:**

Additional costs would only apply once a debt is escalated for recovery to Sheriff Officers. This would happen when:

* we have followed our Corporate Debt Policy
* no agreement or payment had been made after the 2nd reminder letter

Additional costs are added by and payable to the Sheriff Officers.

**Disputed Debts:**

Where there is a Disputed Debt, the debt will be put on hold and investigated. Once resolved, the hold will be released and the debt would be due for payment. If after investigation, the amount due changes, we will cancel the original invoice and a new invoice will be issued.

Where a homeowner raises an application with the First Tier Tribunal, the debt would be put on hold until the case was resolved.

**Free and Impartial Debt Advice:**

Information, including links to external organisations and contact details are included within:

* Our Factoring debt recovery letters
* The 2022 Written Statement of Services
* On our [Get help to manage your money](https://www.falkirk.gov.uk/services/benefits-support/money-advice.aspx) webpage

Our Debt Advice Team can be contacted by calling 01324 506735.

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