

EK SERVICES POLICIES AND PROCEDURES

INCOME MANAGEMENT POLICY

Canterbury City Council, Dover District Council and Thanet District Council have entered into a shared service agreement to allow joint working in the Customer Services, ICT, Benefits, Council Tax and Business Rates sections.

Where 'EK Services' and 'EKS' are mentioned this refers to the shared service between Canterbury City Council, Dover District Council and Thanet District Council.

Where references are made to 'EK Services Officers' these services are now being delivered by Civica UK Limited. Civica UK Limited provides benefit services, income

collection services, council tax and business rates administration and collection services and customer contact services to the Council.

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1.0 Introduction and purpose of policy

- 1.1.1 For the purpose of clarity, any reference to 'EK Services' within this document should be taken to mean EK Services working on behalf of participating authorities to deliver the shared priorities and objectives. Any reference to 'us' or 'we' refers to EK Services. EK Services are carrying out a delegated service on behalf of the individual Councils.
- 1.2 This policy refers to the collection of monies due for Council Tax, Business Rates, Overpaid Housing Benefit and Sundry Debts (miscellaneous income). The power to recover monies due has been fully delegated to EK Services.
- 1.3 This policy has been agreed by authorities participating in EK Services to ensure that all customers are treated in a fair, consistent and equal manner.
- 1.4 Whilst the majority of income is collected in a routine manner, unpaid charges and arrears do arise for a variety of reasons. This policy sets out the principles that it expects EK Services Officers to follow in the recovery and enforcement of arrears.
- 1.5 Outstanding arrears are not only an issue for EK Services but for our customers and their families. Debt can cause great stress and misery but with good advice and help, arrears can be managed and overcome.

2.0 Policy Aims

- 2.1 EK Services are committed to demonstrating that we undertake the administration and recovery of all arrears in an efficient and effective manner. EK Services has a legal duty to ensure cost effective billing, collection and recovery of all sums due to each Local Authority.

2.2 At all times EK Services will;

- Ensure a professional, consistent and timely approach to recovery action for which we are responsible;
- Take positive action to prevent arrears occurring i.e. by maximising income and providing a range of payment methods;
- Promote a co-ordinated approach to sharing customer information and managing multiple debts owed;
- Ensure that individual and exceptional circumstances are taken into consideration when pursuing arrears;
- Ensure that arrears are managed in accordance with the relevant regulations.

3.0 Legislation

3.1 EK Services will act in accordance with the relevant legislation as detailed below (this list is not exhaustive);

Income Type	Legislation
Council Tax	<ul style="list-style-type: none"> • Local Government Finance Act 1992 • The Council Tax (Administration & Enforcement) Regulations 1992 (as amended)
Business Rates	<ul style="list-style-type: none"> • Local Government Finance Act 1988 • The Non-Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989
Housing Benefit Overpayments	<ul style="list-style-type: none"> • Housing Benefit Regulations 2006 • Council Tax Benefit Regulations 2006 • Housing Benefit (Pension Credit) Regulations 2006 • Housing Benefit (Recovery of Overpayments) Regulations 1997
Sundry Debts	<ul style="list-style-type: none"> • Local Government Act 1972 • Account and Audit Regulations 2011 • Harbours Act 1964 • Late Payment of Commercial Debt Regulations 2002

4.0 Income Management Objectives

4.1 Early and prompt action to recover outstanding arrears is in the interests of EK Services and customers, as it protects income and prevents the accumulation of

large arrears, which customers may find difficult to pay.

4.2 To maximise income, EK Services will ensure the following principles are followed;

- Recognise that customers have a responsibility to pay;
- Aim to identify customers who can pay but won't, or who deliberately delay payment in order that recovery action can be taken accordingly;
- Actively encourage customers to contact us at every stage of the collection and recovery process;
- Aim to help customers maximise their income;
- Acknowledge the need to provide an effective service but when necessary, sensitive to customers' needs;
- Ensure that all arrangements for payment reflect the level of arrears owed, as well as the ability to pay;
- Acknowledge the role of recognised advice agencies and work with such agencies where possible.

5.0 Effective Communication

5.1 In order for EK Services to have an effective method of recovery, customers need to be provided with clear and prompt information about the bills that they are being asked to pay. EK Services will, at all times, ensure that our bills include the following information;

- What the bill or invoice is for;
- The total amount or the instalments due and the date payment is required by;
- How to make payment and where payments can be made;
- Contact telephone numbers for all customer related enquiries;
- Correspondence will be clearly written in plain English and without the use of jargon.

5.2 EK Service's Officers will treat customers courteously and be fair and objective at all times.

6.0 Council Tax and Business Rates

6.1 Legal requirements

- 6.1.1 The recovery of Council Tax is covered by the Local Government Finance Act 1992 and the Council Tax (Administration & Enforcement) Regulations 1992 (as amended).
- 6.1.2 The recovery of Business Rates is covered by the Local Government Finance Act 1988 and the Non-Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989 (as amended).
- 6.1.3 EK services will comply with current regulations at all times, without exception.

6.2 Recovery Processes

- 6.2.1 The timetable for the collection of Council Tax and Business Rates will be agreed by the Income Management Team in advance of the commencement of each financial year to ensure our customers are treated fairly and objectively.
- 6.2.2 EK Services will ensure that the recovery timetable takes into account the following key areas;
 - All recovery notices will be issued in accordance with the regulations and in a timely manner to ensure efficient and effective recovery;
 - The issue of notices is timetabled to maximise resources available to assist customers in all areas of communication i.e. over the telephone and by correspondence;
 - Instalments and balances will be collected as they become due and any unpaid instalments or balances will be recovered in a timely and efficient manner.
- 6.2.3 Where instalments become overdue, EK Services will take individual circumstances into consideration and where possible (and appropriate) will make a reasonable arrangement for payment.

6.3 Bills (Demand Notices)

- 6.3.1 EK Services will issue Council Tax and Business Rates bills in accordance with the regulations and customers will be given at least 14 days' notice before an instalment

falls due.

- 6.3.2 Council Tax and Business Rates charges are normally payable in 10 monthly instalments commencing in April through to January. Only a full years bill is payable in 10 monthly instalments, if a bill is raised within the year, the instalments will be pro-rata'd.
- 6.3.3 EK Services aims to process all amendments to accounts within 10 working days of the change being notified to us and a revised or new bill will be issued within 2 working days of the change being processed.

6.4 First Reminder Notices

- 6.4.1 In the interests of efficiency, due to the number of accounts administered by EK Services, reminder notices will not be checked individually before being sent. System parameters are agreed in advance and reminder notices are issued on this basis.
- 6.4.2 Generally, reminder notices are issued between 7 and 10 days after the instalment is payable but in certain times of the year this may be reduced.
- 6.4.3 A maximum of 2 reminders will be issued in any one financial year (1 April to 31 March) and not on a monthly basis, in accordance with the regulations. The reminder notice requests that the instalment(s) that remain unpaid be paid in full within 7 days. For Council Tax only, a second reminder will be issued if the customer complies with the terms of payment contained in the first reminder notice and fails to pay a further instalment by the due date thereafter.
- 6.4.4 All reminder notices will be issued with a Direct Debit Instruction for cash payers to encourage take up of this more efficient and cost effective method of collection.
- 6.4.5 Reminders are issued by second class post on the day they are printed.

6.5 Final Notices

- 6.5.1 A final notice confirms that the liable person has lost the rights to make payment by

instalments and the full balance remaining is payable within 7 days.

6.5.2 EK Services will issue a Final Notice in the following circumstances;

- Where a customer has not complied with the terms of payment on a first reminder notice (or second reminder notice for Council Tax);
- Where balances remain unpaid on a closed account;
- Where balances are outstanding in respect of a previous financial year.

6.5.3 Final notices are issued by second class post on the day they are printed.

6.6 Summons

6.6.1 EK Services will issue a Summons where a customer has not made payment in accordance with the previous notices issued.

6.6.2 EK Services will make application for a summons to be issued by applying to the appropriate Magistrate's Court requesting that the customer liable for Council Tax or Business Rates appears before the court to show why they have not paid the sum(s) outstanding.

6.6.3 A summons will be issued at least 14 days before the court hearing date and state the full amount outstanding (including additional costs incurred), the time and the place the customer is required to attend Court.

6.6.4 All summonses will be issued with a leaflet which specifically identifies the areas of disputes that can be heard in a Magistrates Court. Magistrates are unable to discuss arrangements for payment and EK Services will actively encourage customers to contact us immediately to discuss a reasonable arrangement for payment.

6.6.5 When a customer has agreed an arrangement for payment with EK Services, there will be no requirement to attend Court unless the customer wishes to do so.

6.6.6 The costs charged to the customer by EK Services for a Summons, are made up of both EK Services administration costs and court costs. EK Services have to make payment to the Court for the issue of a Summons and therefore, only in exceptional circumstances will summons costs be removed or a summons withdrawn.

6.6.7 The normal service of a summons will be by first class post and in accordance with

the regulations.

6.7 Liability Orders

6.7.1 If the Magistrates are satisfied that the sum shown on the summons has become payable by the customer they will grant a Liability Order. This will incur customers in additional costs.

6.7.2 Defences against the issue of a Liability Order are as follows;

- The amount requested has been paid;
- No entry exists in the Council Tax Valuation List or Business Rates Rating List;
- More than 6 years have passed since the day the Council Tax or Business Rates first became due;
- Insolvency proceedings have been initiated through the County Court;
- The Council Tax has not been properly demanded or set by resolution of each Local Authority;
- The sum is in respect of a penalty, which is subject to an appeal.

6.7.3 There is no defence against the issue of a liability order because a customer cannot afford to pay or has applied for Council Tax Support. In such cases, EK Services will encourage customers to contact us to discuss a reasonable arrangement for payment.

6.8 Methods of recovery

6.8.1 A Liability Order is a legal instruction authorising EK Services to recover the outstanding sums by any of the following means of enforcement;

Type of Debt	Recovery Options	Final Recovery Actions
Council Tax	<ul style="list-style-type: none">• Payment arrangement• Attachment of Earnings• Deductions from Benefit• Attachment of Councillors Allowances• Referral to Enforcement Agent	<ul style="list-style-type: none">• Bankruptcy/Liquidation• Charging Orders• Commitment to prison
Business Rates	<ul style="list-style-type: none">• Payment arrangement• Referral to Enforcement Agent	<ul style="list-style-type: none">• Bankruptcy/Liquidation• Charging Orders

6.8.2 Only one method of recovery action can be taken at any one time, therefore EK Services will determine the most efficient and effective means of recovery action following obtaining a liability order.

6.8.3 At all stages of recovery, customers are encouraged to contact EK Services to make an arrangement for payment to avoid any additional costs being added to the customer's account.

6.8.4 EK Services understands and is sympathetic to customers who find themselves in difficult financial or personal circumstances and encourage early contact to ensure that a payment arrangement can be agreed.

6.9 Attachment of Earnings Order

6.9.1 This is an order instructing the customer's employer to make deductions from the earnings of the employee and to pay the amounts deducted. Customers are required to supply EK Services with details of their employment

6.9.2 Once the Attachment of Earnings Order is served on the employer, deductions must be made as required by regulations. The amount deducted from a customer's salary is dependent on the total amount earned.

6.9.3 Attachment of Earnings Orders can be served without the customers consent.

6.10 Deductions from Benefits

6.10.1 Where a customer qualifies for Income Support, Income based Job Seekers Allowance, Pension Credit (Guaranteed Credit) or Employment and Support Allowance , application can be made to the Department for Work and Pensions (DWP) or the Pension Service for direct deductions from a customers Benefit entitlement.

6.10.2 EK Services considers this the most effective recovery method for customers who

have arrears but have an ongoing entitlement to full Council Tax Support . The maximum weekly amount that can be deducted is £3.40 .

6.10.3 Deductions cannot be made if there is not enough benefit in payment or if there are other deductions being made for priority debts i.e. Rent

6.10.4 Application can be made for deductions from benefits without the customer's consent.

6.11 Attachment of Councillors Allowances

6.11.1 If the customer is a Local Authority Councillor, EK Services can make an order to make a 40% deduction from the customer's member's allowance.

6.11.2 Application can be made for Attachment to Councillors Allowances without the Councillors consent but the decision would be made in consultation with the partner Local Authorities.

6.12 Referral to Enforcement Agent (taking control of goods)

6.12.1 EK Services employs Certificated Enforcement Agents to collect arrears for Council Tax and Business Rates and/or remove goods to be sold at auction to settle whole or part of the arrears outstanding. The following Enforcement Agents act on behalf of EK Services;

- Rundles Enforcement Agent
- Dukes Enforcement Agent

6.12.2 In accordance with the Regulations, Business Rates customers are sent a letter advising that the liability order obtained at Court has been referred to Enforcement Agents for enforcement and Enforcement Agent action will commence with immediate effect. For Council Tax, customers are given 14 days written notice before the liability order is referred for Enforcement Agent action.

6.12.3 Referring a liability order to Enforcement Agents will incur customers with significant additional costs - some of which are specified by Statute and other costs will be set at reasonable levels to cover the work undertaken.

6.12.4 There is a code of conduct and service level agreement between the Enforcement

Agents and EK Services and they are monitored regularly.

6.12.5 Where a case has been referred to the Enforcement Agents, any arrangement for payment must be made direct with the Enforcement Agents. EK Services will only withdraw Enforcement Agent action in exceptional circumstances, as we actively encourage customers to contact us before the liability order has been referred.

6.12.6 Where there has been a return of the file from the original Enforcement Agent further action will be taken and a second placement referral to another Enforcement Agent will be made to ensure recovery of arrears.

6.13 Bankruptcy / Liquidation

6.13.1 EK Services will consider insolvency proceedings if there are sufficient assets to pay outstanding arrears and the amount of arrears exceeds that required by legislation. There will be significant costs associated with this method of recovery, which the customer will incur.

6.13.2 EK Services can only apply this method of recovery action for arrears exceeding £750.00.

6.13.3 For further information on this method of recovery, please refer to EK Services Insolvency and Charging Order Policy.

6.14 Charging Orders

6.14.1 EK Services will consider placing a charge on the customer's property to secure the Council Tax arrears.

6.14.2 The arrears must be in excess of £1,000 and be for the property that the arrears refer to.

6.14.3 For further information on this method of recovery, please refer to EK Services Insolvency and Charging Order Policy.

6.15 Commitment to Prison

6.15.1 Should all recovery methods be unsuccessful, EK Services may apply for a further summons to be issued for a customer to appear before the Magistrates to commit the customer to prison.

6.15.2 A Magistrates Court will only issue a warrant for the customer's commitment to prison in the following circumstances;

- Wilful refusal – The customer has refused to pay Council Tax or Business Rates;
- Culpable Neglect – The customer did not prioritise payment of Council Tax or Business Rates; and
- The customer has means to pay the arrears;
- The maximum period of imprisonment is 3 months but the maximum period should be reserved for the most extreme cases i.e. deliberate refusal to pay.

6.15.3 Once a warrant for commitment to prison is issued, the liability for Council Tax or Business Rates can no longer be actively recovered.

6.16 Costs – Council Tax and Business Rates

6.16.1 EK Services will apply and recover costs/fees that are legitimately due from a customer. Costs will be incurred for all stages of recovery

Type of recovery action	Amount of costs applied
Summons	£60.00 – Canterbury City Council £60.00 – Dover District Council £60.00 – Thanet District Council
Liability Order	£50.00 – All Councils
Enforcement Agent	Compliance Fee - £75.00 Enforcement Fee -£235.00 (plus 7.5% for any arrears over £1,500) Sale of goods Fee - £110.00 (plus 7.5% for

	any arrears over £1,500)
Bankruptcy/Liquidation	Variable - All costs EK Services incurs to bring proceedings are payable by the customer
Charging Orders	Variable - All costs EK Services incurs to bring proceedings are payable by the customer
Commitment to prison – Warrant of commitment	£145.00
Commitment to prison - Committal	£305.00
Commitment to prison – Warrant of arrest (with bail)	£85.00
Commitment to prison – Warrant of arrest (no bail)	£105.00

6.16.2 Only in exceptional cases or where it is established that the arrears are irrecoverable will consideration be given to costs/fees being waived.

6.17 Business Rates Analyst

6.17.1 EKS have now employed an Analyst to review reporting, forecast recovery and identify major changes that may impact on Council finances with regard to credits and write offs.

6.17.2 EKS through formal meetings with the S151 and reporting to Governance will provide documented details re write offs and credits held on accounts.

6.17.3 EKS will provide detailed documentation to inform S151 of any major large refunds that may affect the financial position of the council.

6.18 ART Team.

6.18.1 ART Team (Accelerated Recovery Team) for Council Tax arrears was introduced to

the service in 2018 Referrals will be made to the ART Team, when all other recovery actions have failed. Following further tracing ,contact is made with the customer to secure payments. Dukes Enforcement Agents and other external agents will track and trace customers. Older debts from previous years are revisited to secure payments to the councils.

7.0 Housing Benefit Overpayments

7.1 Legal requirements

- 7.1.1 The recovery of Housing Benefit Overpayments is covered by the Housing Benefit Regulations 2006, the Housing Benefit (Pension Credit) Regulations 2006 and the Housing Benefit (Recovery of Overpayments) Regulations 1997 and more recently the Welfare Reform Act 2012 (Direct Earnings Attachments)
- 7.1.2 An overpayment can be described as an amount of benefit which has been paid but to which there was no entitlement under the regulations. This can relate to both Housing Benefit and Council Tax Support. An overpayment of Council Tax Support will be recovered through the Council Tax recovery methods referred to in paragraph 6.0. The following methods of recovery refer to Housing Benefit overpayments.
- 7.1.3 Housing Benefit overpayments can occur for various reasons including claimants or landlords not giving the correct notification, a change of circumstances, providing incorrect information to support a benefit claim or mistakes by EK Services. Local Authorities receive grant payments from the Government (referred to as subsidy) in respect of certain types of overpayment and, therefore, it is important that overpayments are correctly classified.
- 7.1.4 It is essential that EK Services demonstrates that it undertakes the administration and recovery of Housing Benefit overpayments efficiently and effectively and by doing so we;
- Reduce the losses to public funds;
 - Provide revenue and help reduce the loss from overpayments;
 - Deter fraud and error;
 - Demonstrate our commitment to accuracy and the provision of a quality service to customers.

7.1.5 EK Services will comply with current regulations at all times, without exception.

7.2 Identification and decision to recover

7.2.1 Overpayments are identified by Benefits Officers who will establish the cause of the overpayment, whether it is recoverable and from whom it should be recovered.

Correct decision making on whether or not there is an overpayment and whether it is recoverable is essential because there are consequences for the rights of claimants and other affected persons. The decision can also affect the finances of each Local Authority if it is not recoverable.

7.2.2 An overpayment is generally recoverable unless it is due to an official error. Where the claimant or the person to whom the payment was made, could reasonably have been expected to realise that an overpayment was taking place, the overpayment is recoverable.

7.2.3 Whether an overpayment is recovered is at the discretion of EK Services and we will consider individual circumstances when deciding whether recovery is appropriate. Where recovery action is not appropriate, the decision will be made in line with the write off section of this policy.

7.3 The person the overpayment will be recovered from

7.3.1 If an overpayment has occurred due to a misrepresentation or failure to disclose a relevant fact by the customer, someone acting on their behalf or the landlord (or agent) the overpayment can be recovered from that person. When EK Services decide who recovery will be sought from, all relevant factors will be taken into account. This is an appealable decision.

7.4 Notification of an Overpayment

- 7.4.1 The Housing Benefit regulations state that any person affected by a decision relating to an overpayment must be notified in writing.
- 7.4.2 EK Services will send a notification within 14 days of the decision stating clearly the reasons for the overpayment and why it is recoverable. We will advise the customer of their rights of appeal/review.

7.5 Recovery from on-going Benefit

- 7.5.1 Where there is still entitlement to Housing Benefit, EK Services will arrange for the overpayment to be recovered from the on-going Benefit entitlement. Recovery will commence after the initial appeal rights have expired, unless the overpayment was as a result of a change of address.
- 7.5.2 Government circulars state that recovery from on-going Benefit should be at a set rate per week; however this can be increased with the consent of the customer. For the financial year 2019/20 this rate is £11.10 per week. As well as this rate of recovery, deductions can be increased by half (50%) of any earnings disregarded, regular charitable income or voluntary payments, War Disablement Pension or War Widows Pension.
- 7.5.3 In cases where a fraud has been identified and the customer, as a result of an investigation, has admitted knowing intent, EK Services will increase the recovery rate where appropriate. For the financial year 2019/20 this rate is £18.50 per week.
- 7.5.4 For cases where the customer has moved to another Authority's area and is in receipt of Housing Benefit, a letter will be sent to that Authority to request that they make deductions from the ongoing Benefit at an appropriate rate and forward the amounts recovered to the relevant partner Local Authority of EK Services.

7.6 Recovery where there is no on-going Benefit

- 7.6.1 Where there is no on-going Benefit entitlement, EK Services will decide who the debt will be recovered from in accordance with regulations. The invoice for the

overpayment will be issued with immediate effect. The invoice should request immediate payment of the overpaid sum.

7.6.2 The invoice issued will request immediate payment and if customers are unable to pay in full, EK Services will agree an arrangement for payment.

7.6.3 Should the customer appeal against the decision of an overpayment, further recovery action will be held pending the outcome of the appeal.

7.7 Recovery Processes

7.7.1 All recovery notices will be issued in accordance with the regulations and in a timely manner to ensure efficient and effective recovery.

7.7.2 Where payments become overdue, EK Services will take individual circumstances into consideration and where possible (and appropriate) will make a reasonable arrangement for payment.

7.8 Reminder Notices

7.8.1 If there is no further entitlement to benefit, payment is not received and no arrangement has been made, an automated reminder notice will be issued.

7.9 Final Notices

7.9.1 If full payment is not made within 7 days of the Reminder Notice being issued, EK Services will send from a range of Final Notices requiring payment to be made in full within 7 days.

7.10 Methods of recovery

7.10.1 Where payment has not been made in accordance with an arrangement, or no payment has been made at all, EK Services will decide on further recovery action as follows;

Type of Debt	Method of recovery
Housing Benefit Overpayment	<ul style="list-style-type: none"> ● Recovery from benefits ● Recovery from Housing Benefit paid in another area ● Referral to debt collection agency ● Direct deductions from payments to landlords (blameless tenant recovery) ● County Court action ● Recovery via a Direct Earnings Attachment ● Recovery from a customers Council Property Rent Account

7.11 Recovery from Benefits

7.11.1 EK Services is entitled to request deductions from the following;

- Universal Credit
- Employment Support Allowance
- Income Support
- Jobseekers Allowance – Income Based and Contribution Based
- Attendance Allowance
- Disability Living Allowance
- Incapacity Benefit
- Industrial Death Benefit
- Industrial Injuries Disablement Benefit
- Carers Allowance
- Maternity Allowance
- Severe Disablement Allowance
- Widowed Mothers Allowance
- Widows Pension or State Retirement Pension

7.11.2 Deductions may be made from a partners benefit, as long as they were a partner when the overpayment occurred and while it is being recovered.

7.12 Recovery from Housing Benefit being paid in another area

7.12.1 If the customer is no longer within the Local Authority area, but is in receipt of Housing Benefit at another Authority, EK Services can request that deductions are made for the arrears.

7.13 Referral to a debt collection agency

7.13.1 EK Services employs debt collection agencies to collect arrears for Housing Benefit Overpayments. Debt collectors are not court officials and do not have the same powers as Enforcement Agents therefore, recovery of arrears will be undertaken by;

- Writing to customers to request payment;
- Telephone calls to request payment;
- Visiting customers at their home to talk about how to repay arrears.

7.14 Direct deductions from payments to landlord (blameless tenant recovery)

7.14.1 If a landlord is responsible for paying an overpayment, EK Services are able to apply recovery via “blameless tenant”. This means that EK Services may recover the overpayment from any ongoing benefit paid to their tenant, who is protected by law and benefit is treated as being paid..

7.14.2 Should EK Services decide to take this recovery action, we will write to both the landlord and the tenant informing them of the deductions being made.

7.15 Direct Earnings Attachment

17.15.1 Where no payment plan has been agreed and the debtor’s employer is known, EK Services will apply for a Direct Earnings Attachment. A final reminder will be issued to the debtor requesting payment in full within 7 days and if no payment is received or payment plan agreed, EK Services will make an application directly to the employer for the debt to be recovered by deduction from the debtors wages.

17.15.2 Once the Order is served on the employer, deductions must be made as required by regulations. The amount deducted from a customer’s salary is dependent on the total amount earned.

17.15.3 A Direct Earnings Attachment can be served without the customers consent and

employer information can be obtained via the Housing Benefit Debt Service (DWP/HMRC) without the consent of the customer.

7.16 County Court action

7.16.1 EK Services are also able to register an overpayment in the County Court. Once registered, we will hold an order to recover the arrears from a customer, which can be enforced by the Court. An alternative would be to issue a summons for the debt which would include interest.

7.16.2 Once EK Services have obtained a County Court Judgment against a customer, there are actions that can be considered to enforce the judgment (following an oral examination if appropriate)

- 'Attachment of Earnings' – money is stopped from the customers wages to pay the arrears;
- 'Warrant of Execution' – empowers a High Court enforcement officer / Enforcement Agent to attend a customer's address to take goods to sell at public auction;
- 'Third Party Debt Order' (also referred to as a 'Garnishee Order') – a customer is stopped from taking money from his/her bank or building society account and the money owed to EK Services is paid directly to us from the account.

7.16.3 EK Services has the discretion to decide the appropriate method of enforcement action to take. This will depend largely on what assets the customers own, his/her income and the customer's personal circumstances.

7.16.4 When considering further recovery action, EK Services will look at each case individually and the action taken will be based on the circumstances of each case. Several recovery options may be appropriate but the level of costs associated with each case will be considered and balanced against the size of the debt and the likelihood of recovery.

7.17 Bankruptcy / Liquidation

7.17.1 EK Services will consider insolvency proceedings if there are sufficient assets to pay outstanding arrears and the amount of arrears exceeds that required by legislation. There will be significant costs associated with this method of recovery, which the

customer will incur.

7.17.2 For further information on this method of recovery, please refer to EK Services Insolvency and Charging Order Policy.

7.18 Charging Orders

7.18.1 EK Services will consider placing a charge on the customer's property to secure the arrears.

7.18.2 For further information on this method of recovery, please refer to EK Services Insolvency and Charging Order Policy.

7.19 Costs – Housing Benefit Overpayments

7.19.1 EK Services will apply and recover costs/fees that are legitimately due from a customer. Costs will be incurred for all stages of recovery.

7.19.2 Only in exceptional cases or where it is established that the arrears are irrecoverable will consideration be given to costs/fees being waived. Any requests for cancelling or writing off costs will be dealt with in the procedures outlined in paragraph 13.

8.0 Sundry Debts

8.1 Legal Requirements

8.1.1 The recovery of Sundry Debts is covered by the Local Government Act 1972, the Accounts and Audit Regulations 2011, the Harbours Act 1964 and the Late Payment of Commercial Debts Regulations 2002.

8.1.2 A Sundry Debt for the purpose of this policy relates to all other monies owed to Local Authorities other than Council Tax, Business Rates and Housing Benefit overpayments. The rationale is that if the charge can be invoiced, then it should be recovered through Sundry Debts.

8.1.3 The effective management and collection of sundry debt is an essential contributor to Local Authority financial resource and maximises income available to provide services.

8.1.4 This policy does not include debts relating to the Housing Revenue Account (HRA)

including service charges under long leases.

- 8.1.5 Individual Services within each Local Authority will be responsible for raising invoices in relation to their service or a centralised invoice raising team within the Local Authority. The invoice will then be referred to EK Services to manage the payment administration and/or recovery. Where there is a local agreement for invoices to be raised on behalf of the individual services, such arrangements will remain in place.

8.2 Raising Invoices

- 8.2.1 All invoices must be raised properly and supported by documentary evidence that explains the reason for the charge. Once the invoice has been raised, the account will be referred to EK Services to manage payments and collection.
- 8.2.2 Unless obliged to do so contractually, officers should not raise/send invoices for less than £20.00, as it is uneconomical to recover. EK Services recognises that in some service areas, where the individual amounts charged are very small, it may be that the only solution is to raise invoices.
- 8.2.3 Service officers should ensure that invoices are raised promptly. An invoice should be raised within five working days of delivering the service or goods.
- 8.2.4 Where a continual supply is involved, invoices should be issued periodically, within five working days of the end of each period or, if payment in advance is appropriate, five working days in advance of the end of each period.
- 8.2.5 The timing of invoices needs to take account of legal obligations under the relevant legislation.

8.3 Terms and Conditions

- 8.3.1 Terms and conditions are designed to protect the rights of each Local Authority, limit potential liabilities and provide a degree of security for the recovery of the sum payable. All terms and conditions will be reviewed by each service annually.
- 8.3.2 Before providing requested goods or services to a company which amount to more

than £10,000, service officers must carry out a credit check and/or a company search through EK Services.

8.3.3 All invoices should usually request immediate payment, unless the agreement/regulations specify otherwise. It is unacceptable for an invoice to be sent where the repayment period exceeds 30 days, unless contracts supersede this.

8.3.4 Terms and Conditions should include;

- Details of acceptable payment methods;
- Payment terms;
- Reference to the Local Authority partner's statutory right to claim interest on late payment and compensation for debt recovery costs (Late Payment of Commercial Debt Regulations 2002) where applicable.

8.4 Disputed Invoices

8.4.1 Where a customer disputes an invoice received, EK Services will notify the relevant service and no further action will be taken to obtain payment until the dispute has been resolved. If an invoice is disputed EK Services will;

- Be responsible for managing the dispute - all the required information must be provided from the relevant service who originally raised the invoice;
- Resolve all disputed invoices within 10 working days, where this is not possible customers will be notified and provided with a revised date for resolution;

8.4.2 All outstanding disputed invoices will be monitored weekly by EK Services and reported quarterly to the Local Authority Client Officer with reasons for the dispute and recommendations to resolve.

8.5 Credit Notes

8.5.1 Services will be responsible for raising credit notes and they must be properly supported by documentary evidence that validates the reason for reducing or cancelling a previous amount invoiced.

8.5.2 A credit note must be issued to cancel an incorrect invoice, before re-invoicing

correctly and must only be applied to or reduce the balance of, the invoice it was raised against.

- 8.5.3 A credit note must not be used as a method to write off debt, as it is primarily a means of adjusting the value of a debt for valid and agreed reasons. Writing off a debt is subject to a detailed process (see paragraph 13).

8.6 Recovery Processes

- 8.6.1 The collection of income in respect of invoices raised must follow a standard procedure, which fully documents the efforts made to settle the debt. The service raises the invoice in the first instance and if payment of the invoice is made in full, no further action will be taken. If payment is not made, before further recovery action commences, system generated reminder will be issued. The reminder will be sent in line with the relevant recovery notice timetable. Invoices raised at CCC follow a slightly different timescale.

8.7 Reminder notices

- 8.7.1 If payment is not received within stated terms of the invoice and subsequent reminder notices, EK Services will commence its recovery procedure which begins with a first reminder notice, giving the customer a further 7 days to make full payment. For vulnerable client's debts, there is discretion to send a second reminder.

8.8 Final Notices

- 8.8.1 If full payment is not made within 7 days of the Reminder Notice being issued, EK Services will send a final notice requiring payment to be made in full within 7 days. Where permitted, the provision of further services will cease immediately unless there is a statutory requirement to continue the service, contract in place or a local agreement in place to continue the service
- 8.8.2 If payment is not made or an arrangement for payment has not been agreed after a final notice has been issued, EK Services will contact customers to negotiate settlement of the arrears. All action taken, telephone calls made and correspondence sent will be fully documented.
- 8.8.3 There are many different types of Sundry Debt, and each can have a different

method of recovery. As such, the above is a standard process but procedures may differ where the debt type allows for different methods of recovery.

8.9 Methods of recovery

8.9.1 If, after exhausting all the reminder stages the debt remains outstanding, EK Services will decide if the arrears require further enforcement action.

8.9.2 If the total value of the customer's arrears is less than £50.00 and it is considered by EK Services as uneconomical to pursue further, the invoice will be referred for write off.

8.9.3 For all other debts over £50.00, the following recovery methods will apply;

Type of Debt	Method of recovery
Sundry Debts	<ul style="list-style-type: none"> ● Arrangement for payment / ongoing negotiation ● Referral to debt collection agency ● County Court action ● Ceasing service
Harbour Debt	<ul style="list-style-type: none"> ● As above ● Lien ● Power to remove ● Power of sale ● Section 41 Notice

8.9.4 EK Services can and will, exercise its statutory entitlement to interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 if payment does not meet the agreed Terms and Conditions.

8.10 Referral to debt collection agency

8.10.1 EK Services employs debt collection agencies to collect Sundry Debt arrears. Debt collectors are not court officials and do not have the same powers as Enforcement Agents therefore, recovery of arrears will be undertaken by;

- Writing to customers to request payment;
- Telephone calls to request payment;

- Visiting customers at their home to talk about how to repay arrears.

8.11 County Court action

8.11.1 EK Services are able to register a debt in the County Court in conjunction with the Councils' Legal Services officers where appropriate. Once registered, we will hold an order to recover the arrears from a customer, which can be enforced by the Court.

8.11.2 Once EK Services have obtained a County Court Judgment against a customer, there are actions that can be considered to enforce the judgment;

- 'Attachment of Earnings' – money is stopped from the customers wages to pay the arrears;
- 'Warrant of Execution' – empowers a High Court enforcement officer / Enforcement Agents to attend a customer's address to take goods to sell at public auction;
- 'Third Party Debt Order' (also referred to as a 'Garnishee Order') – a customer is stopped from taking money from his/her bank or building society account and the money owed to the partner Local Authority of EK Services is paid directly to us from the account.

8.12 Bankruptcy / Liquidation

8.12.1 EK Services will consider insolvency proceedings if there are sufficient assets to pay outstanding arrears and the amount of arrears exceeds that required by legislation. There will be significant costs associated with this method of recovery, which the customer will incur.

8.12.2 For further information on this method of recovery, please refer to EK Services Insolvency and Charging Order Policy.

8.13 Charging Orders

8.13.1 EK Services will consider placing a charge on the customer's property to secure the arrears.

8.13.2 For further information on this method of recovery, please refer to EK Services

Insolvency and Charging Order Policy.

8.13.3 EK Services has the discretion to decide the appropriate method of enforcement action to take. This will depend largely on what assets the customers own, his/her income and the customer's personal circumstances.

8.13.4 When considering further recovery action, EK Services will look at each case individually and the action taken will be based on the circumstances of each case. Several recovery options may be appropriate but the level of costs associated with each case will be considered and balanced against the size of the debt and the likelihood of recovery.

8.14 Harbours - Lien

8.14.1 Where payment has not been made and it is legal to do so or in the Terms and Conditions of the Harbour, EK Services shall have a lien on the vessel until all sums payable by the owner have been paid. EK Services can and will, claim a possessory lien on a vessel in respect of any money claim.

8.15 Harbours – Power to remove

8.15.1 Where payment has not been made within the period specified by EK Services, we may serve notice requiring the owner of a vessel to remove the vessel from the partner Local Authorities property within 14 days.

8.15.2 The notice will be served by;

- Delivering the notice by hand to the owner personally;
- Affixing it to the vessel;
- Posting it by recorded delivery to the last known address.

8.15.3 If the owner fails to remove the vessel within 14 days, EK Services is entitled to;

- Charge the owner visitors, where possible rates between the date of termination and the removal of the vessel;
- At the owners expense and risk, to relocate the vessel within the Local Authority Harbour and land;
- At the owners expense and risk removing the vessel from the berth and secure it

elsewhere within the Local Authorities Harbour or land.

8.16 Harbours - Power of Sale

8.16.1 Where payments are overdue in respect of a vessel, the partner Local Authority has the right to sell the vessel.

8.16.2 Power of Sale will not be enforced until a statutory notice has been given to the owner.

8.17 Section 41 Notice

8.17.1 The provisions of Section 41 of the Local Government (Miscellaneous Provisions) Act 1982 will apply in relation to abandoned vessels or other property on Council land.

8.17.2 Where the vessel, or other belonging to the owner is abandoned at the Harbour or other Council Land and EK Services has taken reasonable steps to trace the owner and serve him/her with a Section 41 notice, EK Services is entitled to dispose of the vessel.

8.17.3 The notice served must allow the owner one month notice period before the vessel is disposed of.

8.18 Returned Invoices

8.18.1 All invoices returned by Royal Mail i.e. 'gone away' or 'addressee not known' should have the following action taken;

- The invoice will be referred to EK Services who will note the reason for the return;
- EK Services will refer the invoice back to the originating service immediately for advice on a forwarding address or other helpful information;
- The originating service must stop the provision of service immediately, where this is appropriate and allowable;
- For addresses within the local area, EK Services will check all records to establish an alternative mailing address and check if there is any forwarding

address known for the customer.

8.18 Costs – Sundry Debts

8.19.1 EK Services will apply and recover court costs/ fees/ interest/ compensation that are legitimately due from a customer.

8.19.2 Only in exceptional cases or where it is established that the arrears are irrecoverable, will consideration be given to costs/fees being waived. Any requests for cancelling or writing off costs will be dealt with in the procedures outlined in paragraph 13.

9.0 Multiple Debts

9.1 Where it is known that a customer has more than one debt, EK Services officers will ensure that they;

- Identify the recovery action being taken against the customer;
- Establish which debt should have the greatest priority for repayment;
- Ensure that repayment plans are realistic in light of other debts owed;
- Priority is given to debts where there is a court order in place to enforce the debt;
- The order in which debts should be repaid will depend upon the amount owed and the length of time that they have been outstanding.

9.2 Priority will usually be given to Council Tax arrears over other debts.

10.0 Advice and Assistance

10.1 EK Services welcomes the involvement of welfare and advice agencies in the connection with arrears owed. We recognise the benefits that such agencies can offer to the customer and in respect of prioritising repayments to creditors and maximising income for the customer.

10.2 Information about debt advice will be made available, especially where it is apparent that the customer is in severe financial difficulty. Officers will encourage customers to obtain specialist advice and help, which will include providing details of local and

national free, debt and money advice agencies.

10.3 Where the potential for a statutory benefit or discount exists in relation to a particular debt, EK Services officers will ensure the customer is made aware of such opportunities and encourage application.

10.4 EK Services will stress the importance of paying priority arrears before non-priority arrears and will follow the Citizens Advice Bureau's guidance for priority debts as follows;

Priority Debts	<ul style="list-style-type: none">● Mortgage or rent arrears● Fuel arrears i.e. Gas, electric● Council Tax arrears● Court fines● Child support or maintenance● Income Tax or VAT arrears● TV Licence
Non Priority Debts	<ul style="list-style-type: none">● Benefits overpayments● Credit debts i.e. Loans, overdrafts, hire purchase, credit cards● Student loans● Money borrowed from friends or family

11.0 Tracing customers

11.1 In the event of the customer leaving their last known address without providing a forwarding address, EK Services will use various methods of tracing the individual which may include;

- Checking all records available to EK Services;
- Tracing the customer using tracing tools;
- The use of external tracing agencies;
- Contacting other Local Authorities for customers who may have moved out of the area;
- Personal visits by EK Services officers for last known addresses within the local

area.

- 11.2 The tracing of a customer is expensive and does not guarantee any income. As such, the costs involved and resources used will be considered in the tracing process.
- 11.3 Arrears and older debts may be referred to the ART Team who will use the above methods to trace and recover outstanding debts.

12.0 Bad debt provision

- 12.1 EK Services will work with each Local Authority to ensure there is adequate provision for bad debt. This is done in accordance with CIPFA Code of Practice on Local Authority Accounting in the United Kingdom – A statement of recommended practice.
- 12.2 For every type of debt, there must be an identifiable bad debt provision. EK Services will ensure that, where there is little or no likelihood of receiving payment, the arrears are notified as a potential bad debt as soon as possible.

13.0 Write Offs

13.1 Reasons for writing off debts

- 13.1.1 EK Services recognises that it is important to consider the balance between recovering arrears as effectively and efficiently as possible with the need to be fair and reasonable to the customer and council tax payers as a whole.
- 13.1.2 EK Services will ensure that all reasonable steps to recover arrears have been taken and that no further recovery action is practicable. We will concentrate our resources on collectable arrears.
- 13.1.3 It is EK Services aim to collect all taxes and outstanding charges from customers wherever possible, provided that it is cost effective. EK Services will only write off arrears where the arrears are non-recoverable, uneconomical to recover or we are

unable to trace the customer (see 13.4.3)

13.1.4 Reasons for writing off arrears are as follows;

Non recoverable arrears	<ul style="list-style-type: none"> ● Customer/Company is insolvent i.e. Bankruptcy, Liquidation and Administrative Receivership cases. ● A Debt Relief Order is in existence – in which case EKS will have regard to the legal status of that Order. ● Customer has served a custodial sentence in respect of Council Tax or Business Rate arrears ● Customer deceased and there is no funds in the Estate ● For Council Tax and Business Rates, where all or part has been remitted by the Magistrates Courts ● For Housing Benefit Overpayments and Council Tax excess reductions, where the overpayment/excess reduction has arisen as a result of an official error and the customer could not reasonably have been expected to realise the overpayment was occurring. ● Arrears that cannot be legally enforced ● Housing Benefit Overpayments or Sundry Debts, where there is no realistic prospect of recovery, with all realistic recovery options exhausted. Further recovery is not cost effective.
Uneconomical to pursue	<ul style="list-style-type: none"> ● Council Tax and Business Rates – Balances below £5.00* ● Housing Benefit Overpayments – Balances below £50.00* ● Sundry Debts - Balances below £50.00* <p>*Where no payment has been received within 6 months of sending the final demand for payment</p>
Unable to trace	<ul style="list-style-type: none"> ● Customer has absconded ● Debt collection agency failed to trace ● Enforcement Agent failed to trace

13.2 Writing off costs

13.2.1 EK Services will apply and recover costs/fees that are legitimately due from a customer. Only in exceptional cases or where it is established that the arrears are irrecoverable will consideration be given to costs/fees being waived. Saying this, proper consideration will always be given to customers' circumstances at all times.

13.3 Authority to process and approve write offs

- 13.3.1 Arrears will normally only be considered for write off where the account is 'closed'.
An account is defined as 'closed' when there is no future liability. Only in exceptional circumstances will amounts on a 'live' account be considered for write off and as such the delegated authority lies with the Team Leaders and Income Manager though ratification of the write off is held by the Section 151 Officer.
- 13.3.2 Credits on account will normally be refunded to customers. Where it is necessary to write off a credit on an account, the delegated authority lies with the relevant Officers without the requirement of counter authority though this is ratified by the Section 151 Officer.
- 13.3.3 All write offs will be referred to the Section 151 Officer for information and ratification on a quarterly basis at the start of each quarter for all write offs administered in the previous quarter.
- 13.3.4 In the interests of efficiency, the authority to process and recommend write offs on closed accounts are delegated as follows;

Write off Thresholds	Position of Authority	Counter Authority
Up to £500.00	Council Tax, Business Rates & Income Officer	Not required. Detail of write offs provided by the Manager to the Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter. Detail of write offs provided to the S151 (or Deputy) by Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter for information and review purposes. Any write off rejected to be reversed and recovery to continue.
£500.01 to £10,000	Council Tax, Business Rates & Income Officer	Team Leader / Senior and Specialist Officer. Detail of write offs provided by the Council Tax Manager and the

		<p>Benefits Manager to the Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter.</p> <p>Detail of write offs provided to the S151 (or Deputy) by Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter for information and review purposes</p> <p>Any write off rejected to be reversed and recovery to continue</p>
£10,000 and above	Council Tax, Business Rates & Income Officer	<p>Team Leader / Senior and Specialist Officer.</p> <p>Detail of write offs provided by the Council Tax Manager and the Benefits Manager to the Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter.</p> <p>Detail of write offs provided to the S151 (or Deputy) by Revs and Bens Manager at the start of each quarter for write offs administered in the previous quarter for information and review purposes</p> <p>Annual report completed to report over £10,000 write offs actioned in Financial Year. Report submitted to relevant Council Meeting (i.e Scrutiny / Cabinet) as directed by local Council Procedure. General write off information may be supplied with report depending on local Council Procedure.</p> <p>Any write off rejected to be reversed and recovery to continue</p>

13.3.5 When a Housing Benefit overpayment and/or Council Tax Support excess reduction has been caused by a Local Authority error, the authority must consider whether it is reasonable to expect the customer to know that they were being overpaid. If this is not the case, for Housing Benefit overpayments, the authority is

not allowed to recover the overpayment and it must be written off. For Council Tax Support excess reductions leading to an increased Council Tax liability, consideration will be given to writing off the excess reduction rather than recovering through Council Tax. The thresholds for delegated write off decision making on the following table reflect the need for EK Services to control the rate of Local Authority Error overpayments. For Housing Benefit EK Services will regularly monitor this to ensure that the partner authorities remain on course to meet the LA Error subsidy bonus each year.

Write off Thresholds	Position of Authority	Counter Authority
Up to £100.00	Benefit Officer	Not required. An audit of a percentage of write offs will be undertaken by QA/systems team. For Council Tax Support excess reduction write offs, approval made by Council Tax Team Leader.
£100.01 to £2,000.00	Benefit Officer	Benefit Team Leader. An audit of a percentage of write offs will be undertaken by QA/systems team. For Council Tax Support excess reduction write offs, approval made by Council Tax Team Leader.
£2,000.01 to £10,000	Benefit Team Leader	Revs and Bens Manager. An audit of a percentage of write offs will be undertaken by QA/systems team. For Council Tax Support excess reduction write offs, approval made by Council Tax Manager
Above £10,001	Payments Team Leader to make recommendation & Revs and Bens Manager to approve application. For Council Tax Support cases Council Tax Manager to make recommendation and Revs and Bens Manager to approve application.	Payments Manager and/or Income Manager to refer to Council's s151 officer to approve

13.4 Write Off and reporting

- 13.4.1 Write off reports will be collated for each service on a quarterly basis and will be reported to each Local Authority quarterly. The format and scheduling of these reports will be in line with each Council's current specification and future requirements and Financial Procedure Rules.
- 13.4.2 For efficiency in administration, arrears will be written off before approval is provided by, but will always be reversed if approval is not given.
- 13.4.3 Where arrears are written off because a customer could not be traced, if a new address is provided, the write off can be reversed and recovery action can continue. Periodically, written off accounts will be checked to see if the debtor has reappeared in the area and recovery action will continue. The fact that an account balance has been designated for "write-off" does not mean it will never be recovered.
- 13.4.4 If a customer is declared bankrupt and a dividend is received, the write off will be reversed to reflect payment received.

13.5 Arrears written back on

- 13.5.1 Any arrears that have been written off can, if appropriate, be written back on, subject to statute. The reasons arrears may be written back on are as follows;
- Customer returned to area, where previously no trace;
 - A customer is declared bankrupt and a dividend is received.
 - A change in circumstances which has enabled recovery

14.0 Implementation and Training

- 14.1 This policy will be made available to all EK Services staff dealing with income collection and recovery. This will be reinforced with training and management supervision of all staff involved in collecting income.

15.0 Equalities Statement

- 15.1 EK Services are committed to delivering a service that is accessible and fair to all of the communities that we serve. We will ensure that all people are treated with respect and dignity.

The Equality Act 2010 sets us an "Equality Duty" to:

1. eliminate discrimination, harassment and victimisation;
2. promote equality of opportunity between different groups in the community;
and
3. foster good relations within the local community

We give careful consideration to equality issues in our new and existing policies, strategies and services to see what effect they will have on different groups within our communities, including those with protected characteristics.

The protected characteristics covered by the Equality Duty are:

- age;
- disability;
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination);
- pregnancy and maternity;
- gender reassignment;
- race – this includes ethnic or national origins, colour or nationality;
- religion or belief – this includes lack of belief;
- sex (gender);
- sexual orientation.

We also recognise that socio-economic status can be a significant barrier to equality of opportunity.

We identify potential consequences for these groups and ensure any negative impacts are eliminated or reduced. We also identify opportunities to eliminate discrimination and promote positive relations between groups and throughout our communities.

16.0 Policy Review

- 16.1 This policy will be reviewed on an annual basis in order to ensure it remains valid, effective and relevant.

