



LEYBURN TOWN COUNCIL

Market and Burial Authority

Payment and Debt Recovery Policy

Objective

To maximise the income to Leyburn Town Council it will collect all debt owing to it, promptly, efficiently and economically whilst ensuring unbiased fair and equal treatment to all debtors.

Purpose

The purpose of the Policy is to provide clear guidance for the RFO on recording, reporting, monitoring and recovery of income in a cost effective and consistent manner.

Roles & Responsibilities

The RFO is responsible for ensuring debts are managed and for overseeing the recovery process, including collection arrangements and reporting to the Council. The RFO should make arrangements to ensure the income to Leyburn Town Council is accounted for correctly and appropriate provision made for any bad debts.

Invoice

The process for debt recovery will begin with the Clerk invoicing our clients as normal. Payment terms will be highlighted at the time of the transaction and clearly outlined on the invoice. The invoice will clearly state the methods of payment accepted and the time by which payment should be received by the Council. A failure to comply by the terms of the invoicing process will render the debtor liable to our recovery procedure.

Recovery Procedure

Chase

If it turns out that Leyburn Town Council haven't been paid by a client in accordance with the agreed terms and conditions, then Leyburn Town Council will begin a process of chasing up the invoice.

1. The debtor will be written to by the Clerk to remind the debtor that payment is overdue, no later than seven days after the due date of payment. Email is acceptable with a delivery and read receipt request. The email and receipts for delivery and read will be hard copy printed and held to file. These details will be required by the Courts to prove notice is served. If an email is not available, or the email is returned as "undeliverable" a hard copy letter will be sent with a "signed for" service as proof of delivery and receipt.
2. If no payment is received within 7 days of this notice, a written reminder should be sent to the debtor, stating this is the FINAL demand for payment. The reminder should clearly state the payment is overdue and subject to recovery. The letter should highlight to the debtor that recovery costs could be incurred by the debtor. These costs will include administration time, interest charged as per the terms of the lease for overdue payments, legal and recovery costs. This list is not exhaustive. The Debtor should be reminded that further credit is not extended when recipients are in a debt position. If the debt is for room hire, for example, they cannot continue to hire the room whilst in a debt position. Market Traders will not be permitted to set up stall and trade until payment is received. Debtors renting office space should be aware that entry to the offices and securing access may be instigated in accordance with the lease terms.



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3. If no payment is received after a further 7 days from the prior stage, a Default Notice will be sent. This should clearly state this is a Termination Notice in the case of any debtor hiring facilities and a Recovery of Debt Notice in all cases. It will inform the Debtors that the overdue sum is now only a part payment debt as recovery costs and interest will be added to the final invoice. The Debtor should be notified that Court recovery has commenced and they should seek immediate legal advice if they have not done so already. This notice is to be sent by registered post with a signed delivery receipt to ensure proof of postage and delivery.

Credit hold

Leyburn Town Council will meet its obligations to reduce the debt being incurred by the debtor. The Council will refuse further credit by withdrawing the use of goods, services or facilities where upon a fee would normally be charged and payment expected. Where an office space is let, and the debt breaches the terms of occupancy and the tenant is advised that the right to tenancy has been forfeit, Leyburn Town Council will seek to prepare the office for re letting.

Legal action

When a Debtor has not made the payments due, Leyburn Town Council will progress to Court backed recovery. The Debtor will be informed in writing that the Town Council are commencing recovery and the additional recovery costs will be added to the Debt owed and should the Debtor wish to make a payment at this late stage, they should contact the Council for the outstanding sum that is now due. The Clerk will commence an application to the Court.

Small claims court

The small claims court will allow both sides (Leyburn Town Council and the Debtor) to mediate and reach a conclusion. This will usually mean the client is ordered to repay any debt, interest and fees, which have been accrued as a result of having to pursue legal action.

Debt collection

The other legal option is to enlist a debt collection agency. This could be a third party who liaises on behalf of the Council, or helps to enforce any decisions made in court. For example, if the client is unable to pay the outstanding sum, it may lead to insolvency proceedings and bailiffs being called in to retrieve assets equalling that amount.

Procedural Note

The use of email is permitted in Law and deemed acceptable proof for delivery and the serving of compliance notice. The use of delivery and read receipts assists the Courts in ascertaining appropriate notices have been served. Courts will need to determine that the Council has made every effort to highlight to the Debtor that the debt is overdue and that a fair and reasonable approach has been made to recover the sums due. Whilst the Law deems the sending of mail by first class post as sufficiently served, a recorded or registered postal notice removes ambiguity of the correct notice being duly served and is recommended.



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Writing Off Debts

If the debt remains unpaid despite exhausting all recovery methods, the debt should be written off. All requests to write a debt off must be sanctioned by the RFO and the Full Council.

Debts remain due for a period of 6 years, and the Council should keep a record of all debtors should a Debtor's situation or circumstances change. If for example, a debtor ceases to trade and then opens a new business or has recoverable assets, Leyburn Town Council may choose to pursue the Debtor accordingly. Reasons for a Bad Debt Write Off may include:

- Absconded or untraceable debtor
- Bankruptcy (having already registered a claim with the trustees)
- Compassionate
- Deceased
- Uneconomic
- Unable to collect – Debt Collection Service



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