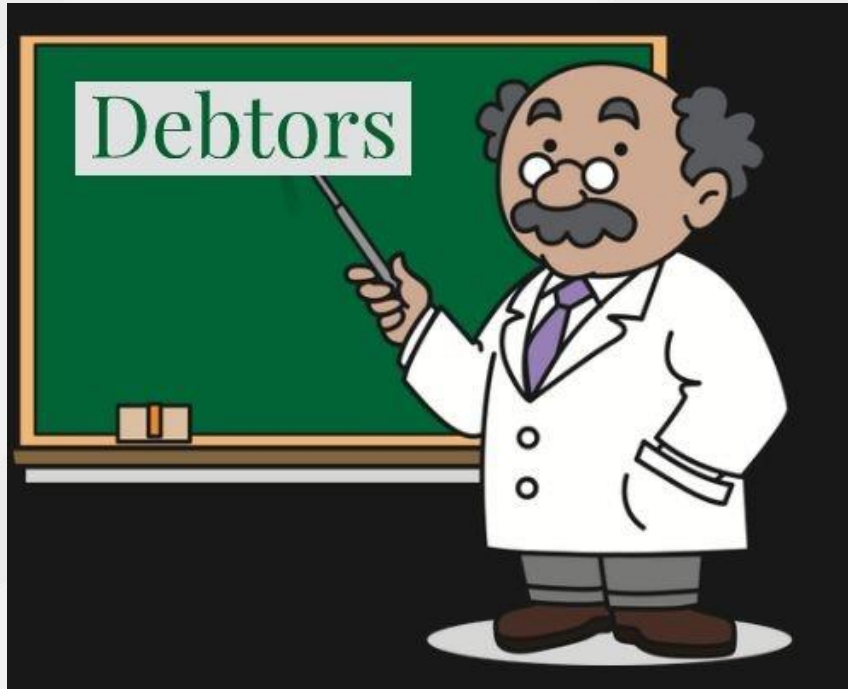


# **Sundry Debt Workshop**

**Lancashire & Cheshire IRRV Association**





“While there doesn’t appear to be any official figure regarding the value of unpaid sundry debts owed to local authorities, according to the MAT, **2.3 million debts** were passed to bailiffs by local authorities in 2016/17, of which 1.38 million related to council tax arrears. If we extrapolate that just half of the remainder – some **460,000 arrears** – relate to sundry debts, this equates to over 1,000 outstanding debts per local authority in the UK.

If sundry debts typically range in value from just a few pounds to many thousands of pounds, it is clear the potential returns from a targeted collection program could run into the multi-millions, if not billions, of pounds a year nationwide. “

*Published in IRRV’s magazine. June 2019*



That's an awful lot of :



# Sundry Debt Recovery Options and Solutions

*So you have tried to collect what do you do next*

- Debt Recovery options.
- Legal litigation options.
- Enforcement options.

# Debt Recovery Options.



## Debt Recovery Options.

The objective here is to maximise your recovery for cheapest cost . Pence in Pound  
= How much you collect less how much it costs to collect.

**Option 1** In house, the authority creates a dedicated team to chase the debt using stronger worded letters, text messaging , emails threatening legal action but also offering payment plans.

**Advantage:** Using current staff means the cost is already accounted for . Plans are managed internally and the money comes straight to the authority . Data supporting the debt is available and decisions around write offs are easier.

**Disadvantage:** Resource is limited . Not sure there are spare ‘bums’. The authority has already tried to collect it why would the customer now decide to pay?  
Debt Recovery is a specialist job with a legal background/knowledge desirable .



## Debt Recovery Options.

**Option 2-** Outsource: The authority uses an outside Debt Recovery Agency or Enforcement Company to recover the debt using stronger worded letters, text messaging , emails threatening legal action but also offering payment plans. Often but not always this firm will be already contracted to recover, Council Tax, NDR or Parking. Firms will charge a contingent (no win no fee) commission based on a % of the debt value.

**Advantage :** No additional staff required , Resource/Costs covered provided by the agency Cost is already accounted for . Plans are managed by the agency and the money comes via them. You are using Experts.

**Disadvantage :** On occasions Authorities want Sundry Debts collected at **zero commission as a condition within the CT, NDR and Parking Contract**. This is great in theory but means the agency does not have a huge incentive to put a lot of effort into recovery whereas on CT etc they earn money on fees.

Additionally data held across authority departments is not always sent to the DCA meaning requests for information are common.





## Debt Recovery Options.

**Option 3:** Debt Sale , not common but it has been looked at. The authority signs over ownership of the Debt to a Debt Purchase company who will pay ' X Pence in the Pound ' on the basis they will recover 'Y' and make their money on the difference.

**Advantage :** The problem is sold , the council get money now not later .

**Disadvantage :** The likelihood is that for every £ sold the purchaser will pay no more than 30p meaning there is a huge write off.

These are still your customers and people requiring council services , problems could be found later down the line if additional debt is found or indeed the debt wasn't really due .



## Debt Recovery Options.

### Future :

- Improve what you are doing at the negotiation stage to prevent things needing debt recovery.
- Pay the DCA more . The bigger the commission means the cost of 'more activity' is covered . 20% of nothing is nothing . But 80p in the £ is better than 30p.

## Legal options



## Legal options

- **Internal** : The authority will use its own internal legal team to threaten formal legal action , make claims against the debtor, issue bankruptcy/winding up proceedings.

### **Advantages:**

In House resource, data in theory available at the authorities finger tips . Communication easy.  
Costs managed easily.

### **Disadvantages.**

Resource ? In many authorities legal teams do not just do recoveries other legal matters will be managed meaning time spent on Debt will be limited .

- **External** : The authority employs the services of a law firm with expertise in recovering Debt to issue claims , threaten bankruptcy /winding up proceedings.

**Advantages** , legal expertise, dedicated staff . Resource !!

**Disadvantages** . Additional cost , communication issues. Finding the right partners.



## Legal options

### Options available either in house or external

- **Obtain a County Court judgement and enforce** . If the debt is not disputed this is a good tactic. As CCJs effect credit ratings the threat may well be enough to obtain payment or a plan.
- **Threat to make the Debtor Bankrupt on cases above £5000** , Statutory demands can be served giving the debtor 21 days to 'encourage ' payment with the threat of Bankruptcy if the obligation is not met. Again credit rating effected . Good idea if you have good reason to believe the debtor has sufficient assets to pay the debt.
- **Threat to issue Winding up Proceedings on cases above £750** . Business debt only . As above good idea if the view is money can be found or assets available to recover the debt.

## Legal options

### Key things to consider

- Is the debt 'clean' not disputed ? the options will fail or become complicated if the case is defended, thrown out in the case of Bankruptcy/Winding up?
- Can the debtor afford to pay? Social care/ Housing Benefit overpayment .

**Spending money on legal action is only worthwhile if there is a decent chance of ££££££.**

- Are you prepared to carry out / follow through with threats ?



## Enforcement Options



## Enforcement Options

**County Court Bailiffs.** Balances under £600 up to £5000.

Well established process asking the County Court to enforce Warrants, **down side** is the lack of resource at the court and inflexible working hours no incentive to recover.

**High Court Enforcement** Balances above £600. CCJ transferred up to the High Court and passed to High Court Enforcement Company .

Benefit speed of service , Debtor gets 7 working days to pay the balance in full before the Enforcement officer is instructed. The firm is incentivised through the fee structure to recover the debt as quickly as possible .

In both instances its important to consider if you believe £££ is available if not you can't get blood out of a stone !!!!!







## Enforcement Options

**Charging order:** If you believe the debtor does not have £££ available but does have property you can apply to the court for a charging order which will secure your debt against the property and should it be sold mean you get paid from the proceeds .

This might take a while !!! Additionally should it become apparent that in reality the debtor can pay you can apply for a **forced sale** and get paid from the proceeds.

**Third party Debt orders:** more common is commercial debt . Should you become aware that the debtor is actually owed money that could clear your debt you can apply for an order to divert the money and clear your balance . The most common example is the debtor's bank – if there is a credit balance, technically the bank owes that money to the debtor.

### **Bankruptcy/Winding up:**

Should a bankruptcy petition or winding up order succeed the debtor will have its/their assets placed with the official receiver or appointed insolvency practice. There may sufficient assets in property to repay the debts . **The property could be taken!!**



## Enforcement Options

**Attachment of Earnings:** more often used with Council tax debts but could work on Sundry if you can identify where the debtor works and then apply for the attachment.

Remember to consider the cost before going ahead with Enforcement , if its obvious at the start that payments cant be made then stop.

However there are lots of businesses and people who think by ignoring things they wont have to pay

Think again !!!!

Thank you

