

## **CORPORATE DEBT MANAGEMENT AND RECOVERY POLICY**

### **INTRODUCTION**

Effective debt management is crucial to the success of any organisation. It is essential that this authority has clear policies and strategies to help prevent debt in the first instance and then manage the recovery of debt where prevention has failed. If the Council is to achieve its aim of first class resource management, then it must seek to recover all debts due and sustain collection rates. It also has a key role in the prevention of debt, and in providing advice and assistance to clients where there is genuine hardship.

This policy has therefore been designed to address these concerns. Its implementation aims to deliver measurable service improvement and adherence to recognised good practice. Members need to be confident that debt is being managed within the parameters set by this document.

The following policies have been prepared within this framework:

Debt Write -Off policy as shown in Appendix 2.

### **POLICY AIMS**

The key aims of this policy are as follows:

- ◆ To identify debtors as early as possible, and consider fully the debtors circumstances and ability to pay, and so distinguish from the outset between the debtor who won't pay, and the debtor who genuinely can't pay.
- ◆ To work with the client to clear the debt as soon as possible. To ensure a professional, consistent and timely approach to recovery action across all of the Council's functions.
- ◆ To cost effectively pursue all debts owed to the Council, seeking to maintain and improve on the levels of income collected by the authority.
- ◆ To promote a co-ordinated approach towards sharing debtor information and managing multiple debts owed to the Council. To actively work alongside approved advice agencies to seek early identification of clients who are failing to meet multiple debt liabilities.
- ◆ To only write debt off once all avenues have been exhausted for the recovery of debt. This is in accordance with the Council's write-off policy.
- ◆ To treat individuals consistently and fairly regardless of age, sex, gender, disability, ethnicity, race or sexual orientation, and to ensure that individual's rights under General Data Protection Regulations (GDPR) and Human Rights legislation are protected.

## **SUPPORTING THE COUNCIL'S CORPORATE PRIORITIES**

This Policy supports the Council's drive towards continuous improvement whilst recognising equality and diversity issues. It is reflective of the values and standards adopted by this Council within the Corporate Plan and contribute towards the following priorities:

**First Class Resource Management** – To manage the Council's resources efficiently and effectively and to make sensible choices in setting priority led service budgets which do not burden council tax payers with unnecessary or unjustifiable costs.

**Better Access to Council Services** – To improve customer service through all access channels, and to move towards a fully integrated front office with multi-agency enquiry-handling capacity.

The Policy also supports the wider aim of improving service provision through partnership working by seeking to maximise the benefits of external debt advisory agencies.

## **DEBTS COVERED BY THIS POLICY**

The main section involved in debt recovery is Finance.

The debts involved are primarily:

- Council Tax
- National Non Domestic Rates
- Overpaid Housing Benefit
- Sundry Income

The policy will apply to all sections of the Council and focus on collecting the charge set rather than how the charge is arrived at. Ability to pay is a paramount concern when considering debt recovery. For Council Tax a discretionary scheme (Council Tax Support) is provided on application, which is designed to offset the effects of low income on ability to pay.

Charging policy, statutory or discretionary will never completely remove the problems of people and families on low incomes. The approach to recovery must therefore be sensitive to individual circumstances and take into account multiple debts owed to ensure that arrangements are manageable. The primary aim remains the recovery of debt and improved data sharing will support this aim.

## **THE LEGAL AND POLICY FRAMEWORK FOR RECOVERY**

The Council has a legal duty to ensure cost-effective billing, collection and recovery of all sums due to the Council. This policy is in addition to existing legislation and will provide a framework for procedures to be developed and improved.

This debt recovery policy is concerned primarily with the recovery of debts prior to legal action being taken, but the principles should still be applied wherever appropriate even if litigation has commenced.

### **Local Taxation**

Council Tax recovery procedures are laid down by statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

National Non-Domestic Rates recovery procedures are laid down by statute in The Local Government Finance Act 1988 and subsequent regulations and amendments.

The Council appoints Enforcement Agents to recover local taxation arrears in accordance with an enforcement protocol. Changes to legislation came in from April 2014 under The Taking Control of Goods (Fees) Regulations 2014 nationally standardising fees and charges and an enforcement protocol for bailiffs. Since this date, bailiffs became known as Enforcement Agents. The changes to the legislation are to ensure that the rates and charges added by the Enforcement Agents are transparent and nationally set making it easier for debtors to understand the consequences of non-compliance and the powers available to Enforcement Agents. The Enforcement Agent Code of Practice & Enforcement Agent Instructions with the statutory fees recoverable is shown in Appendix 3.

### **Housing Benefits**

Housing Benefit overpayments are reclaimed in accordance with Regulations 98-105 of The Housing Benefit (General) Regulations 1987 (as amended) And Sections 105 & 106 of the Welfare Reform Act 2012 and Social Security Overpayment and Recovery) Regulations 2013. The Benefit Overpayment Policy sets out the basis under which these debts are recovered and is shown in Appendix 4.

### **Miscellaneous Income**

Sundry Debt arrears are collected within a well-established framework, but written guidelines are required. On certain debts, interest may be charged for late payment. The debtor will be made aware of any additional costs in advance so that they have the opportunity to avoid this wherever possible. Customers will also be made aware of legal fees and costs that will be incurred for non-payment.

## **THE POLICY**

- Full names, contact address, email address and a phone number will be established wherever possible prior to service provision or invoicing/billing.
- All Council bills and invoices will be raised as soon as practicable on a daily basis and will include clear, relevant and full information as to:
  - What the bill is for;
  - When payment is due;
  - How to pay;
  - How to contact us if there is a query in relation to the bill or in relation to making payment.
- All letters and reminders will:
  - Be written in plain English;
  - Explain fully what has been agreed and the consequences of non-payment;
  - Include appropriate contact details.
- Debtors will be encouraged to make prompt contact if they disagree with a bill or have difficulty in making payment on time. Contact can be made by:
  - Website
  - Email
  - Telephone
  - Letter
  - In person at the Council Offices.

- Problems and bill discrepancies raised will be resolved as quickly as possible to prevent unnecessary delays in payment and incorrect debits.
- All debtors seeking help due to financial difficulties will:
  - Be given the opportunity to have their ability to pay assessed by the relevant collection unit;
  - Be invited to provide details of their means by listing their income and expenditure. (Evidence to confirm the accuracy of the means statement will be requested if necessary);
  - Be invited to use the money and debt advice services available from the Citizens Advice Bureau (CAB) and other similar organisations;
  - Be asked if they have other debts owing to the Council that they also wish to be considered;
  - Be given access to the Council's interpreter service if required.
- If legal proceedings have already commenced, consideration will be given to whether the debt can firstly be attached to earnings or benefits, the priority of the debts owed and the level of repayments currently being made.
- If a specific recovery action has already commenced e.g. attachment of earnings or the debt has been passed to an Enforcement Agency, the action taken will usually continue. However, any arrears not included in the action will be considered in line with existing arrangements and this policy.
- If it is found that the debtor has the ability to pay, but refuses to pay, then recovery action will continue promptly within the existing arrangements for the type of debt.
- If it is found that the debtor is suffering severe hardship or has difficulty managing their own affairs, the following will be considered:
  - Can we reduce the debt? Are they entitled to take up relevant benefits, discounts, exemptions, reliefs or any other reductions to minimise the potential for debt accrual?
  - Does the debtor owe money to other Council services? If so the debtor will be advised that, with their consent, all their Council debts may be taken into consideration when deciding on an arrangement. The advantage to the debtor in making a common arrangement is that they may save time and costs. However, it is for the debtor to decide if this is an option they want to pursue.
- If a debtor takes up the offer to deal with all Council debts collectively, the various services will communicate the debtor's details confidentially between themselves and will endeavour to take a holistic approach to collection without prejudice to their own service. An officer will be identified as a single point of contact for the debtor and will act as a liaison between services.
- Where there is no continuous liability a special long-term arrangement may be made according to the ability to pay and the existing recovery provisions such as an attachment of earnings.
- Where liability is continuous e.g. Council Tax, NNDR any arrangement made will normally require payments over and above the on-going monthly liability. Future instalments must be paid when due as a condition of the arrangement.

Longer term arrangements for older arrears will be strictly monitored and reviewed. If there is no improvement by the review date and if the amount payable cannot be reduced (by awarding Council Tax Support or other reliefs, discounts, exemptions etc.), the Council will reserve the right to continue with legal action, and in the case of Local Taxation, obtain a Liability Order from the Magistrates' Court. This is to protect the Council's interests and prevent the debt from becoming statute barred and irrecoverable. Nevertheless regular contact with the debtor will be made and part payments will be accepted to reduce the overall debt. Furthermore it is not in the debtor's best interest to have a long term arrangement when liability is continuous, since the level of debt will increase as time goes by and the debtor's situation deteriorate rather than improve.

- If a debtor is receiving Income Support or Job Seekers Allowance, this will usually limit the ability to pay to no more than the amount that can be paid directly to creditors by the Department of Work and Pensions (DWP). Where appropriate, a separate agreement will be made for additional debts and Liability Orders depending on the individual's circumstances.
- Debtors given time to pay will be advised to contact the Council immediately should they experience a change of circumstances affecting their ability to pay. This is to discuss the options available to prevent recovery action and additional costs.

If a debtor fails to co-operate by:

- Refusing to provide details of their means, and/or
- Not consenting to multiple debts being dealt with together, and/or
- Failing to pay a special arrangement on time without contact, then recovery action will be taken promptly in the normal way.

- If there are council tax arrears on properties of over £1,000, then we are able to apply for a charging order. This basically means we register our interest against a property and when it is sold, we receive the payment out of the proceeds of sale. Some customers ask us to use this method where they have no or low income and are in the process of selling their property. This method is also used where other recovery action has not been successful and the property is empty or a second home. This helps bring the property back into use. Where the property is occupied and there is very large debt because of repeated non-payment, then this method will be considered on a case by case basis with the portfolio member.

### **LIMITATIONS ON DEBT RECOVERY**

All Enforcement Agents appointed will work to an agreed Enforcement Agent Code of Practice & Enforcement Agent Instructions as shown in Appendix 3.

### **PROCEDURES AND TRAINING**

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

### **MONITORING**

Each section will be responsible for ensuring that this policy is adhered to and effective. Management information will be required for each debt stream on a monthly basis.