

# **Debt Management Policy**

## **Council Tax, Business Rates and Housing Benefit Overpayments**

**Customer Services Unit (Corporate Resources)**

**August 2019**

## Version Control

Version	Description of version	Effective Date
1	Corporate Debt Recovery and Management Policy	December 2008
2	Debt Management and Credit Control Policy	April 2016
3	Debt Management Policy: Council Tax, Business Rates and Housing Benefit Overpayments	August 2019

## Approvals

Approved by	Date
Finance and Management Committee	28 April 2016
Finance and Management Committee	29 August 2019

## Associated Documentation

Description of Documentation	
Sundry Debt Management Policy 2018	
Income Management Policy 2015	

## Introduction

This Policy provides an updated framework for service delivery that continues to recognise that debt occurs for a variety of reasons and seeks to draw the distinction, and therefore, the approach to be taken when, on one hand, there may be a deliberate intention not to pay and, on the other, non-payment may be as a result of a simple oversight or a change in personal circumstances.

The framework fully supports the Council's Corporate Plan, and is broadly aligned to the Sundry Debt Management Policy 2018 and the Income Management Policy 2015. It provides a methodology that can be used to drive continuous improvement in collection and service delivery and ensure excellence in Customer Services by ensuring customers are treated fairly.

The Policy provides the core principles that apply to the Council's collection and income management processes and procedures whilst the Appendices, provide supporting detail.

Organisation of actual recovery routines is set out in departmental process policies and manuals to reflect the need to respond promptly to changes in legislation and local circumstances.

It should be noted that application of the Policy will be monitored by the Strategic Director (Corporate Resources) and will be subject to scrutiny and review.

The contents of Debt Management Policy are as follows:-

1. Overview
2. Underlying Principles of the Policy
3. Policy Guidelines

## Appendices

- A Guidance on Legal Entities
- B Enforcement Agents' Code of Conduct
- C Financial Information Assessment Form

## 1 OVERVIEW

- 1.1 The Strategic Director (Corporate Resources) has responsibility under Section 151 of the Local Government Act 1972, for the proper administration of the financial affairs of the Council. Financial procedure rules covering this area are set out in Section 27 D2 (paragraphs D2.1 to D2.14 including the guidance notes) of the Council's Constitution.
- 1.2 This Policy is based on recommendations set out in best practice and guidance issued by various professional bodies and the Government, together with the Collection and Enforcement Regulations 1989 and 1992, as amended. These Regulations detail the ways in which the Council are allowed and the means by which it intends to collect monies due to it from both individuals and businesses.
- 1.3 In short, the Council will use the most effective method of debt recovery, appropriate to each case and the nature of the debt, in order to maximise income due. However, from time-to-time the Council will be required to pursue recovery, from persons and businesses experiencing genuine financial difficulty.
- 1.4 This means that an agreed and transparent policy of how the Council manages and collects debts is considered key to ensuring consistency, sensitivity and best practice in such situations to ensure the best outcome for all parties. The Policy covers the following debts owed to the Council,
  - Council Tax
  - Business Rates
  - Housing Benefit overpayments
- 1.5 The Policy sets out the general principles and standards to be followed in matters such as:
  - Contact arrangements with the Council
  - General guidelines on payments and arrangements
  - The rules on enforcement activity, including use of the courts
  - The manner in which agents act on the Council's behalf
- 1.6 Integral to the Policy is the provision of support mechanisms such as:
  - Welfare and housing benefit advice
  - Housing options support for the prevention of homelessness
  - Signposting to partner organisations such as Citizens Advice

- 1.7 The approach to collecting debt in South Derbyshire is one that provides clear and unequivocal advice and practical help to those that are prepared to make use of it but is equally robust with those that do not or will not.

## 2 UNDERLYING PRINCIPLES

### Billing and Collection

- 2.1 Every request for payment shall be properly addressed. The minimum standard to be followed is:

- Title
- First full name
- Family name (*all names where a joint and several liability exists*)
- Full postal address to LLPG standard
- Post code

*Note: Where a business is concerned its registered Office is required in addition to the trading address (**Appendix A** provides examples of the correct legal entities to be used).*

- 2.2 All relevant information and documentation relating to a bill, including any matter relating to recovery and enforcement, relief discount or exemption will be kept by way of a scanned image on the Council's Document Management System (Info@work) in accordance with the Council's Document Retention and Management Policy.
- 2.3 Telephone contact and e-mail addresses will be requested and retained against the taxpayer's and ratepayer's personal record on the Revenues System subject to the provisions of the Data Protection Act 2018.
- 2.4 Paper records will be retained of the lists of Complaint made to the Magistrates Court in relation to applications for Liability Orders for non-payment. Where appropriate, detailed information about Enforcement Agent activity will be held on the System to which access is provided by the organisation authorised by the Council to act on its behalf. Such access will be authorised and be in accordance with the Data Protection Act 2018.

### Payments

- 2.5 The Council's preferred method of payment is electronic or automated methods and this is encouraged as much as possible.
- 2.6 Payment methods accepted are as follows:
- Automated Telephone Payments/Mobile device
  - The Internet

- Direct Debit
- Credit and Debit cards
- At a Post Office and other Pay Points
- Cash machine
- Contactless devices

2.7 The Council will always encourage the most cost effective payment methods by customers and will offer the widest possible means of customer contact and access to its services. As such the Council will keep under constant review advances in technology. Digital access is positively encouraged.

### Recovery and Enforcement

- 2.8 The Council will use the most effective method of debt recovery, appropriate to each case, in order to maximise income. This may involve the use of external Enforcement Agents, who will be properly referenced and certificated to carry out such functions and carry the necessary indemnities and insurances.
- 2.9 They will of course work to the Council's prescribed Code of Conduct (**Appendix B** for an Example Code of Conduct which should be tailored to meet the Councils requirements'). Agents will be members of an approved professional association, for example M.N.A.E.A.
- 2.10 In so far as the recovery of Housing Benefit overpayments is concerned, the Council will make use of the DWP HBDS debt management and recovery processes
- 2.11 Equality and related considerations will be taken into account in accordance with the Councils Equalities and Fairness Policy. Specifically, staff seeking to recover debts will:
- Ensure that, when needed, information is accessible through translations, large print versions or sign language, appropriate to the needs of the debtor.
  - Arrange for home visits where individuals are unable to access the Council's services.
  - Refer cases to specialist money advisers at the Citizens Advice, Money Advice or Welfare Advice (Derbyshire) using either normal referral routes or fast-track, according to the seriousness of the financial problem or where it appears there are multiple debt issues.
- 2.12 Where the potential for a statutory benefit or discount exists every effort must be made to make the debtor aware of such opportunities together with assistance and encouragement to apply for these. Where an award, under the jurisdiction of the Council, may be granted without further evidence it will be processed without delay to reduce indebtedness to the Authority.

- 2.13 This Policy is supported by and is supportive of any policies or external agencies that work to promote social inclusion. All notices issued by the Council will comply with the corporate style guidance and be readily identifiable as being from the Council.
- 2.14 They must provide clear information on how, where and when to pay and will state clearly what the next step will be if payment is not made on time. The Council will work alongside other welfare agencies in dealing with debts due to the Council (either singly or where there are multiple debts that may include other organisations) and actively signpost, with the debtor's approval, such cases as are considered appropriate to those organisations.

### **Multiple Debts**

- 2.15 In the case of multiple debts due to the Council, the following priority will be given, in the event of any dispute as to priority of payments received:
1. Housing Rent current
  2. Council Tax current
  3. Other recurring liabilities
  4. All other current debts - unless any are subject to Court orders and repayment schedules in which case they rank equally at 3 above
  5. Aged debts subject to court orders and repayment schedules
  6. Other aged debts

### **Recovery**

- 2.16 The Council recognises that prompt recovery action is key to managing debt and maximising income and will work with departments internally and agencies externally to achieve this ensuring performance is monitored at all stages as set out below.
- 2.17 Where an external agency provides assistance with the delivery of a service it shall be supported by a Service Level Agreement that will include escalation processes in the event of no, or poor, service delivery. The flow of information between the Council and the agency shall in all cases and at all times be in a secure electronic format as prescribed in the Council's ICT Security Policy and be in accordance with the Data Protection Act 2018.
- 2.18 Where legislation permits, the Council will seek to charge and recover from the debtor any and all costs/fees/interest legitimately due from or chargeable to that person incurred by either the Council or its agents. In exceptional cases, where it would not be in the public interest to pursue residual costs/fees only following settlement of the debt it may write-off the costs.

- 2.19 It may also consider a write off as an incentive to payment and cancel the costs on the satisfactory completion of an arrangement to pay. Where bills and reminders are returned as 'Gone Away' or other notification is received that the debtor has absconded, trace facilities provided by LOCTA are available to recovery staff.
- 2.20 Where a forwarding address is not available through that means, consideration will be given to the use of a Tracing Agent on a "no success no fee basis." The use of this resource will not generally be used for debts below £150. Approval to this course of action will be required from the appropriate team leader.
- 2.21 The Council will always follow regulatory advice, case-law and best practice when dealing with non-payment. In most cases, activity is prescribed by regulation and precedent.
- 2.22 However, where there is discretion as to the de-minimis value below which cases are excluded from recovery and enforcement action, this is a matter for the Collection and Enforcement Manager and/or the Benefits, Subsidy and Compliance Manager depending on which debt is under collection..

### Write-offs

- 2.23 The Council recognises that where a debt is irrecoverable, prompt and regular write-off of such debts is good practice as it maintains the accuracy of the collection databases and its financial accounts. The same principles apply where accounts are in credit.
- 2.24 Every effort will be taken to minimise the cost of write-offs by taking all necessary action to recover what is due within a timely manner. All debts will be subject to the full recovery, collection and legal procedures as outlined in this policy except where the value is considered insufficient to warrant further expenditure. **Any debt with a value of less than £5 is automatically written off.**
- 2.25 The exception to this rule will be those cases where further recovery action by the Council is precluded when a debt is subject to liquidation or insolvency or equivalent procedures. Where all forms of recovery on outstanding debt have been exhausted and/or it is considered that the debt is no longer economic to pursue, it should be written off.
- 2.26 Depending on the current limit set out in the Council's Financial Procedural Rules, this is subject to approval of the Strategic Director (Corporate Resources) or the Finance and Management Committee. All accounts that are considered and subsequently approved as being irrecoverable will be written off against the Bad Debts Provision.
- 2.27 Debt write-off does not preclude arrangements for pursuing and accepting payment at a later date. Sufficient information must be retained to be able to resurrect the debt at a later date and provide it in support of future recovery action should it prove necessary.



2.28 Where the Council is aware or notified of a customer being made bankrupt or falling into receivership or liquidation, a proof of debt shall be submitted by the Collection and Enforcement Manager. As the Council is unlikely to receive a dividend in any insolvency, or similar proceedings, such debts should be written off as soon as a proof of debt has been lodged rather than carry uncollectable debts in the financial accounts.

### Performance Management and Reporting

2.29 Where either national or local performance indicators exist the Council will strive to be the best in class and publish actual performance against these targets quarterly, including Corporate KPI reporting and reports to Finance and Management Committee. Progress reports will be monitored both monthly and quarterly.

2.30 The Revenues, Benefits and Customer Services Unit is expected to maintain and to monitor progress in respect of all invoices and bills for income which falls into the budgets for which it is responsible. In doing so, it will ensure a proper balance is taken between the need to collect current debt in order to maintain in-year collection rates but to also recover prior year debts to reduce on-going budgetary pressures on the Debt provision.

2.31 The Strategic Director (Corporate Resources) is responsible for setting clear targets for the recovery of current and prior year debt.

2.32 The Head of Customer Services will:

- Regularly monitor the level and age of debt.
- Set, where appropriate, targets for teams.

2.33 The Collection and Enforcement Manager and the Benefits, Subsidy and Compliance Manager will:

- Set targets for individuals.
- Ensure that there are clear written and published recovery procedures.
- Have in place regular and formal reviews with partners and agents.
- Set priorities for specific areas of debt and assess recovery methods to ensure maximum efficiency and recovery levels.
- Utilise bespoke activity for “difficult” cases.
- Regularly report progress to the Head of Customer Services.
- Regularly review irrecoverable debts for write-off.

- 2.34 The performance information should be produced by the Head of Customer Services on a monthly basis. Information should be reported quarterly to the Finance and Management Committee. The main benchmark is the Council's own past performance and trends, etc. and these are the indicators on which improvement should be based.
- 2.35 However, wherever possible, comparisons are made with other local authorities and local government generally, through published information or benchmarking clubs, etc. Where either national or local performance indicators exist the Council will strive to be the best in class or upper quartile and publish actual performance against these targets quarterly, including reporting to the appropriate Committee.

### 3. POLICY GUIDELINES

#### General

- 3.1 The Council will adopt the following three principles, considered to be best practice in enforcement activity, namely that at all times our actions will be:
- proportionate
  - consistent, and
  - transparent
- 3.2 The Council will be firm, fair and treat Customers with respect.
- 3.3 The Council will look to strike a balance between the potential loss of income to the Council and the costs of compliance. It will not unduly penalise late payers. Such costs as charged will be the actual cost of the activity concerned as agreed with the Local Magistrates Court or by the general body of Derbyshire local authorities.
- 3.4 In general, the Council will take a similar approach in cases with similar circumstances to achieve similar ends. The Council will aim to achieve consistency and equality in
- Advice given.
  - Use of powers.
  - Recovery procedures used.
- 3.5 The Council recognises that consistency does not mean uniformity or a blanket approach. Staff must take account of all relevant factors, when dealing with individual cases to maximise collection, such as the:
- Family and social circumstances of the debtor.
  - Payment history.

- Income and ability to pay.
  - Health and age.
- 3.6 Transparency will help form public perception and confidence by helping individuals and the wider community to understand what their responsibilities are, and what they, in return, should expect from the Council. We will strive to avoid conflicting or confusing advice.
- 3.7 The reasons for any action taken will be explained clearly, without jargon in accordance with *Plain English* standards and will include the appropriate timescales. Such information may be given in writing or verbally and will be published on the Council's website and issued with recovery and enforcement notices.
- 3.8 Braille or translation services will be used where necessary.
- 3.9 Where a discretionary power is exercised an explanation as to the reason for the decision will be given, as will the rights of appeal that are available in other circumstances either to the Council, an external agency or tribunal; these should also be explained without delay.

### Recovery Action

- 3.10 Where appropriate, recovery timetables will be published in advance of any recovery activity. In the case of Council Tax and Business Rates, this will include dates agreed with the Court for applications for Liability Orders and will also set out the date of each recovery run. No recovery action set out in this timetable may be cancelled without the prior approval of the Head of Customer Services. Additional activity may be added if necessary.
- 3.11 Where recovery action has commenced, payment arrangements will generally only be entered into where the debt is secured by a Liability Order and/or the debtor agrees to make payment by way of direct debit. Arrangements will only be agreed by staff authorised to defer enforcement of the order. The overriding guidelines are that the:
- Debt will be cleared within a reasonable time adjudged to be appropriate.
  - Arrangement is reasonable in comparison with the amounts that could be secured by taking alternative action.
  - The debtor demonstrates a clear intention to honour the arrangement.
  - The arrangement is based on the debtor's ability to pay.
  - The debtor completes a financial assessment form for evaluation of means to pay.

- 3.12 In cases where exceptional circumstances exist and it would not be in the interests of the Council in general to pursue enforcement action alternative arrangements may be made. Where an order is passed to a third party for enforcement, progress shall be monitored in accordance with the Service Level Agreement on at least a monthly basis.
- 3.13 Payments made to Enforcements Agents shall be held in a clearly identified Client Account and be remitted to the Council every 2 weeks by BACS and be subject to Audit by the Council. Audits of such accounts shall be carried out regularly.
- 3.14 Enforcement agents and Council staff shall comply with any current advice available from the Lord Chancellor's Department and the Council's Code of Conduct. All action shall comply with the Collection and Enforcement Regulations 1989 and 1992, as amended.

## Appendix A

## Examples of Legal Entities

Warning letters and notices should be sent to the proper person for the legal entity, and where there is a different Nominated Officer it should also be copied to them.

The Proper Person	Detail required
A sole proprietor	The Sole Proprietor's full name, e.g. <i>Mr. Robert Brown</i>
A partnership or Limited Liability Partnership (LLP)	Each of the partners in the partnership, e.g. <i>Mr. John Smith and Mr. Fred Brown trading as Chambers Plumbing</i>
A Limited Company or PLC	The exact name of the company, e.g. <i>Big Tiles Limited</i>
An unincorporated body	A Trustee or authorised person, e.g. <i>Mrs. Joan Smith Treasurer to the Swadlincote Lawn Tennis Club</i>

## Appendix B

### Enforcement Agents: Code of Practice

The Council understands that the primary concern of its Customers is the manner in which the third party, working on their behalf, represents them. With this in mind, the Council has developed a comprehensive Code of Practice which each Enforcement Agent who has been fully trained to adhere to providing our Clients with an assurance that their instructions will be carried out in a uniform and professional manner.

As well as adhering to your specific requirements, our Enforcement Agents will adhere to the following guidelines we have implemented at all times.

1. Enforcement Agents are fully certificated. Copies of Certificates issued by the relevant County Courts are available for perusal by the Council if required.
2. Enforcement Agents observe a business dress code and behave professionally and courteously.
3. Debtors are treated in a firm but fair manner at all times.
4. Enforcement Agents are circumspect and discreet when attempting to contact the debtor, and do not disclose the nature of their business or investigations to any third party unless otherwise instructed by the debtor.
5. On visiting a debtor, the Enforcement Agent introduces himself/herself as a Certificated Enforcement Agent from XXXX acting on behalf of the Council and produces his/her company photographic identification and authorisation to act (supplied by the Council) to the debtor and to any other person who may have reason to view it.
6. Enforcement Agents explain clearly the reason for their visit and if necessary, the powers of an Enforcement Agent. Copies of the regulations and charges that may apply are left at the debtor's premises.
7. The Enforcement Agent undertakes visits to enforce Warrants/Liability Orders between the hours of 06.00 am to 9.00 pm Monday to Sunday. Each visit is conducted at different times of the day to ensure the maximum possibility of contacting the debtor. At least two visits occur outside normal working hours.
8. The Enforcement Agent will confirm that they will be recording the visit via the Agent's video badge and stop if permission is not granted.
9. Recovery action is not undertaken on Bank Holidays, on Good Friday or on Christmas Day unless specifically requested by the Council, and only where legislation permits.
10. Enforcement Agents are respectful of the religion and culture of others at all times. They are aware of the dates for religious festivals and carefully consider the

appropriateness of undertaking any recovery action on any day of religious or cultural observance or during any major religious or cultural festival.

11. If exceptional circumstances necessitate visits outside these days and hours, the Council is contacted prior to any recovery action.
12. All documentation left with the debtor or at their premises is on pre-printed stationery. Any documents left at the premises in the absence of the debtor are sealed in a plain envelope.
13. All documentation is written in clear and unambiguous English and includes all appropriate reference numbers, telephone numbers, addresses and the name of the Enforcement Agents who visited the debtor's property. If required, the Agent can provide documentation in large print, Braille and other languages.
14. Copies of standard documentation used in the recovery process are forwarded to the Council for approval prior to commencement of any future contract.
15. Enforcement Agents do not enter the debtor's property if it appears that the only persons present are young people under the age of eighteen. If appropriate, the Enforcement Agent may ask when the debtor will be at home.
16. If Enforcement Agents encounter a situation where the only persons present appear to be children under the age of twelve, they withdraw from the property without making any enquiries.
17. If communication difficulties arise as a result of a debtor not being fluent in English, we attempt to resolve the problem in the first instance by referring to our language matrix. This matrix contains a listing of staff able to speak other languages and is utilised in an attempt to supply an immediate interpretation facility.
18. Where the Enforcement Agent identifies an individual who falls into the Council's vulnerable category then the appropriate procedures will be followed. A prompt written response is provided if an Agent is requested to produce additional information.
19. In the unlikely event of any breach of the peace, or incident that may lead to a complaint, the Enforcement Agent immediately withdraws from the situation, informs the Council and seeks advice before proceeding with the recovery process.