

**Thurrock Council**

**Corporate Fair Debt Policy**

**November 2021**

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# 1. Executive Summary

I am extremely proud of the collaborative effort that has led to this policy document. Our Corporate Fair Debt Policy combines innovation, compassion and pragmatism. It was developed through a collaborative community process which saw the council, industry and residents come together to discuss all the issues around the causes of household debt, and how we compassionately assist those who "want to pay, but can't", and also pursue those who "can, but won't" pay their debts.

In September 2018, we held a Fair Debt Summit which brought together key thinkers from the public, welfare, health and voluntary sectors to look at improving the support we have available to those who are struggling with debt.

This document is a tangible outcome from that summit bringing together many of the ideas and ideals discussed. This is a policy which puts fairness first and makes sure that we remember that when we are dealing with debt we are dealing with people and that we do so in an open, honest and understanding way.

This policy will make sure that those on the brink of spiralling into debt get the help that they need while at the same time tackling the issue of those who can pay but don't. It will allow us to take action in both cases to make sure that people can act before they find themselves in crisis-levels of debt with the council.

Like nearly all, if not all, of you, I know first-hand what it is like to find yourself in household debt, and I also know the anxieties of getting out of that debt. That is why I have created Thurrock's #LifesLadder.

This policy is only one part of the work we are doing with #LifesLadder. We have also created a suite of educational tools to engage with young people, teach them how to manage their money and avoid debt in the first place as they emerge from their secondary education and enter the world of work – all this has emerged from our Fair Debt Summit, and the work has been developed, built on, and sponsored by a number of persons in Thurrock's Education system. The fact that this preventative action may help young adults predict the signs of getting into too much debt is something dear to me – and I am proud to have worked with those who have brought this to fruition; themselves caring enough to help others avoid the anxiety of large debt.

We will continue working with our partners and communities to ensure that we support our residents with all aspects of debt and financial management. I am thankful to the Collections department, the Education system, the CAB, the IRRV (an external body which has fully reviewed our processes and felt them to be professional and supportive) and John Kruse (expert in Enforcement Agents – Bailiff Law) and many others who have helped pioneer our approach to managing the sensitive subject of collecting the various debts which need to be collected, so we can continue to fund the services that Thurrock residents use and depend. This includes cementing a Vulnerable Persons Policy into this policy, which subject experts have helped us to shape and develop.

***Cllr Shane Hebb, Thurrock Council Deputy Leader and Cabinet Member for Finance***

## **2. Thurrock Council Vision and Priorities**

### **Our vision**

An ambitious and collaborative community which is proud of its heritage and excited by its diverse opportunities and future.

### **Our priorities**

**People** – a borough where people of all ages are proud to work and play, live and stay.

**Place** – a heritage-rich borough which is ambitious for its future.

**Prosperity** – a borough which enables everyone to achieve their aspirations.

## **3. Introduction to the Fair Debt Policy**

Thurrock Council is reliant on the collection of local taxes and charges in order to maintain the vital services it provides. Amounts that are not collected or that take additional effort to collect can severely impact both the authority's ability to provide these services and the wider charge payer.

In order to ensure these services are available the council has a legal obligation to residents, businesses and other organisations within the area to ensure that prompt, cost effective, billing and recovery of all sums due to the council is achieved.

The Fair Debt Policy underpins the council's commitment to ensuring that all aspects of the recovery processes are delivered efficiently and effectively, with a high standard of customer care, that has both a regards to an individual circumstances and minimises the financial burden of uncollected debt on wider charge payers.

## **4. Scope**

This policy sets out the councils approach for billing and collecting all debt owed to us by individuals or business customers.

## **5. Definitions**

The following definitions apply for the purpose of this policy:

- **debt** – refers to an amount that is due to the council
- **arrears** – an amount that is due to the council and has not been paid by the date it was due
- **debtor** – a person, persons, organisation or other legal entity that owes a sum of money to the council
- **vulnerable person** – for the purposes of this policy the term 'vulnerable person' refers to a person who has exceptional difficulty dealing with a payment of a bill because of their personal circumstances and/or who requires additional assistance in dealing with amounts owed in order to meet their financial obligation – **the council's full Vulnerable Persons Policy in relation to debt is set out in Appendix 1**

## **6. Key aims and commitments**

### **a. We will seek to maximise income and to avoid debt accruing by:**

- ensuring that customers are fully aware of their responsibility to pay debts and of the consequences of non-payment
- where appropriate, requesting payment ahead of service delivery
- issuing prompt, accurate and clear bills/invoices
- ensuring 'making payment' is made easy by providing numerous accessible payment options
- promoting relevant benefits and discounts/exemptions and providing an accessible and efficient application process
- offering clear advice to debtors on what they should do if they are experiencing financial difficulties and where they can get independent money advice and support for wider debt problems
- developing and encouraging take up of debt education courses within the secondary school and adult education curriculum

### **b. We will attempt to recover arrears fairly and efficiently by ensuring that:**

- prompt action is taken to recover any arrears, including discretionary steps above those that are required of a council
- where appropriate, the council will enhance the standard recovery process with additional communication and follow up stages via various channels in an attempt to establish meaningful contact with those that owe money and avoid additional costs and enforcement action
- where appropriate, information is provided a clear distinction is made between those that 'can't pay' and those that 'won't pay' and that the collection process is adjusted to reflect this where appropriate
- relevant information regarding a debtor contained on different systems is made available to the council's debt officers in order that an individual's full indebtedness can be established and to determine the best course of action – a single view of debt (SVOD) application is in its second phase of development that enables a user to see a more holistic view of the balances owed to the council by displaying this information on a case summary to show as an example council tax, rent and sundry balances
- the SVOD application will also assist in identifying potential vulnerability from the various datasets that are contained within the application
- additional "flyers/inserts" are included with standard legal/statutory documents to sign post people in difficulty and advise them of the consequences/costs that they may incur if they do not engage or ignore the notice

- additional "nudge" concept letters are sent within the statutory collection process to encourage contact and resolution without the need to progress further along the collection cycle, thus minimising additional costs
- all recovery communications issued by the council and agents working on its behalf, are clear as to:
  - what the money is owed for
  - what to pay, when to pay and how to pay it
  - how to gain advice and support if required
  - the consequences of the situation remaining unresolved
  - provide clear warning in advance of any potential additional costs being incurred
  - signposting to free financial support agencies
- council staff and enforcement agents (bailiffs) working on its behalf are appropriately trained and treat those owing money in a fair and professional manner
- enforcement action is only taken as a last resort once all reasonable attempts to recover amounts due have been exhausted
- enforcement agencies working on behalf of the council adhere to the agreed ministry of justice charging structure
- debtors will be encouraged to allow access to "open banking" so the council or its agents can validate their financial position

**c. We will support those identified as vulnerable by:**

- providing the opportunity to gain appropriate advice and support to ensure their vulnerability does not place them in a detrimental position with regards to the recovery process
- offering a dedicated financial inclusion service for those facing extreme situations
- working with recognised debt advice agencies to identify sustainable repayment plans for those they are supporting, to enable financial obligations to the council to be met
- supporting recognised debt advice agencies by placing a hold on recovery, where requested and appropriate
- to act in accordance with The Debt Respite Scheme (Breathing Space Moratorium And Mental Health Crisis Moratorium) (England And Wales) Regulations 2020 and placing accounts on hold for the 60 days for standard moratoriums or the extended periods given to the mental health moratoriums whilst the person is being supported.

- to operate in accordance with the statutory debt repayment plans scheme (due to be launched late 2021) that uses the standard financial statement (SFS) document to evidence a person's income/expenditure/debt position and payment proposals
- having in place a clear policy regarding reductions under section 13a of the local government finance act (**Appendix 4**)

**d. For debtors who 'can pay but won't pay':**

- those who pay promptly should not subsidise those who are not prepared to pay what they owe by the date it is due – where people deliberately attempt to avoid payment, fail to make contact or to maintain arrangements the council will use all legal powers at its disposal to recover an amount due, potentially including the committal process for habitual and deliberate offenders
- the council will utilise all means available to trace debtors who abscond without advising of a forwarding address – this will include the use of debt collection agencies (DCA) and credit reference agents as appropriate
- accounts that are written off due to being deemed unable to trace or uneconomical to collect will continue to be monitored by debt collection agencies to ensure that should the situation change recovery commences and amounts are written back on where appropriate
- the use of county court proceedings including money claims on-line (MCOL) will be utilised, in addition unsatisfied county court judgments over £600 maybe transferred to the high court for further enforcement
- cases escalated to the high court will also involve the use of high court enforcement officers (HCEO) to visit the debtor to collect the debt/seize goods
- external databases/systems/applications will be utilised as appropriate and in accordance with our legal obligations to obtain additional information/intelligence regarding the debtor to aid collection or the collection strategy

## **7. Council Guidelines for recovery of specific debts**

### **Non-standard recovery actions**

In addition to the standard recovery actions set out in 7.1 to 7.6 for each debt type below and in accordance with the Fair Debt Policy the Council will undertake additional initiatives and collection stages where appropriate in an attempt to establish meaningful contact with debtors and avoid escalation of the recovery process and costs. These may include:

- sending additional communications by text, email, letter
- utilising all telephony and web based applications that will issue web pages and guidance
- initiatives to enable debtors to communicate with the council 'non-verbally' if this is their choice via web pages, web chat, text, email
- varying communications by debtor type

- holding either 'physical or video conference' surgeries prior to the court hearing and during the collection process from the issuing of a reminder, in order to encourage charge payers to speak with the council, in an open environment and resolve any issues they have before the court hearing

## **7.1. Sundry debts, including social care**

In order to maintain services it is essential the council recover any billable charges for the services provided.

Where appropriate, payment will be requested ahead of service provision, however where this is not possible, sundry invoices will be raised and issued promptly to the person or organisation deemed liable for the charge.

Invoices will be clear as to the amount billed and provide with sufficient information to explain the reason for the charge, when it is due, what to do in the event of invoice dispute; or where to get help if there are difficulties in making payment.

In the event of non-payment the council will act legally and promptly to recover amounts due and will utilise all appropriate channels of communication. The council will also make use of wider data available including external sources such as credit reference or government agencies to assist in the recovery of arrears.

Where appropriate the council reserves the right to withhold provision of services whilst arrears remain outstanding.

**As a minimum** when an instalment or part of an instalment is missed the following process will be followed:

### **Pre-enforcement recovery**

The council will make every effort to encourage the debtor to make contact and resolve the situation without the need for enforcement action. Where debtors do make contact the council will consider agreeing an instalment plan dependant on the individual's circumstances.

As a minimum pre enforcement recovery will follow the standard steps below:

- 1) a first reminder will be issued
- 2) if payment is not made, a second reminder will be issued
- 3) if payment is still not made, a Letter Before Action (LBA) will be issued

### **Enforcement action**

Where a debt remains unresolved the council will review the circumstances to determine the appropriate course of action. Where enforcement action is necessary the council will issue a County Court Claim which could result in a County Court Judgment (CCJ) being lodged.

County Court Judgment data is held by the Credit Checking companies such as Experian, Equifax and TransUnion and can affect people's ability to obtain credit.

Once a CCJ has been obtained, the Council will act to enforce it, this may include:

- 1) an Attachment of Earnings order
- 2) enforcement action to seize goods to the value of the debt
- 3) an order to attend Court for questioning
- 4) Bankruptcy proceedings (for debts above £5,000)
- 5) transfer up to High Court (debts over £600) for High Court Enforcement Officer (HCEO) action
- 6) Garnishee Order
- 7) enforcement agents visiting the property
- 8) DWP deductions (direct payments from DWP benefit only in respect of overpaid housing benefit debts) or Direct Earnings Attachment (DEA- only in respect of overpaid housing benefit debts)
- 9) a Charging Order may be obtained on the non-payer's property, which will remain in place until the property is sold, although this may be enforced sooner by proceeding with an order for sale – interest will be accrued at the statutory rate until settled

### **Write-offs**

If the debt is deemed as non-recoverable, the Debt Manager will employ the write-off procedure (see Appendix 2).

## **7.2. Council Tax (including Local Council Tax Scheme overpayments)**

In accordance with the provisions of the Local Government Finance Act 1992, the council is responsible for levying and collecting Council Tax that is payable on all occupied and unoccupied domestic properties, which are not exempt and are situated within Thurrock.

### **Liability**

To enable the council to provide an efficient and accurate service, all changes in circumstances that may affect billing should be reported to the council in a timely manner.

In most cases it is the occupier of a property that is liable to pay Council Tax, however where a property is (or is assumed to be) unoccupied or empty, liability will fall to the Landlord/Owner.

In order to safeguard themselves against being held liable, where an alternative party is liable, Landlords/owners should inform the council within 21 days of any changes in occupancy.

The council will only consider backdating a change in our records for more than 21 days if there is a good reason why the information being provided is late and we can confirm that the information is correct. To confirm a backdated tenancy we would require a verifiable tenancy agreement, proof of the tenant's identity, evidence of a tenancy deposit scheme receipt, utility bills in the tenants name and for the relevant period, external residency checks that support the residency and verifiable contact details for the tenant.

In these circumstances a landlord may also be required to sign a declaration to acknowledge that the information provided is accurate and that they are aware of the sanctions of supplying false information.

Where data is not provided in a timely manner the council may impose a fine in line with amounts prescribed in legislation.

## **Billing and collection**

At the beginning of each financial year tax payers have the statutory right to opt to pay the charge for the forthcoming year over up to 12 monthly instalments. Further to this payments must be received in line with instalment plan detailed on the demand issued.

Where payments are not received in accordance with the demand issued the council will make every effort to encourage the debtor to make contact and resolve the situation without the need for enforcement action.

The collection and enforcement of council tax are governed by the "Council Tax (Administration and Enforcement) Regulations 1992". As a minimum when an instalment or part of an instalment is missed the following process will be followed:

### **Pre-enforcement action**

- 1) a first reminder letter will be sent
- 2) if the charge-payer fails to make payment following a first reminder letter a final notice will be sent and the resident will lose the right to pay by instalments – the full sum, payable for the year, will become due within seven days
- 3) if the missed instalment is paid no further action is taken – if a further instalment becomes overdue a second reminder would be issued giving 7 days to pay before a final notice is issued
- 4) once the right to instalments has been lost, a debtor can request the council considers agreeing to a special arrangement, however entering into any such arrangement is entirely at the council's discretion

In considering a further special arrangement, officers will take account of the individual's circumstances including a reason for default, the amount being offered in relation to the debt, history of payment, and so on.

As a guide, any such arrangement will usually be subject to any missed instalments to be cleared upfront, employment details/status provided and on the understanding the council will proceed to obtain a Liability Order to allow prompt recovery action to continue should the agreement not be maintained. The terms of any special arrangement will rarely be as favourable as those offered on the original demand.

- 5) if payment has not been made in accordance with final notice, the council will issue a Summons for the charge payer to appear before the Magistrates Court for non-payment of the outstanding balance of the council tax

## Enforcement action

- 6) should the account not be settled by the court hearing date, the council will make an application for a Liability Order and request the court to award reasonable costs  
Staff attending court will be fully prepared to assist the charge payers who may choose to attend court for the Liability Order hearing and ensure they have a written breakdown of summons and Liability Order costs available.
- 7) once a Liability Order has been obtained a Council Tax Notice of Liability Order with details of the possibility of Enforcement Agent action and costs will be issued to the taxpayer within 2 working days of the court hearing – the issuing of this notice is no longer a Statutory requirement but is sent to act as a further notice to encourage contact and remove the need to escalate the debt to an Enforcement Agent
- 8) once a Liability Order has been obtained this permits the council to consider the following options to collect the debt:
  - a. Attachment of Earnings/Benefit – where employer details are available or if the debtor is known to be on appropriate benefits, an attachment to earnings/benefits can be considered to recover the outstanding debt
  - b. Enforcement Agents

Enforcement Agents operating on behalf of the council will adhere to the Taking Control of Goods Regulations 2013/2014 and any specific local instruction as set out in the SLA agreement.

The standard collection stages are as follows:

- 1) **compliance stage** – before a visit can take place the enforcement agent will issue a compliance letter to the debtor to provide a final opportunity to pay or agree an arrangement before a physical visit is made – the letter makes clear the relevant stages and costs the debtor may incur during the collection cycle, and that the debtor will incur costs at this stage as prescribed in the relevant regulations
- 2) **enforcement stage** – a visit is made to the premises by an enforcement agent
- 3) **removal stage** – removal of goods and sale if a sustainable payment plan cannot be made and all other avenues of collection have been exhausted

In addition to the standard collection stages, where appropriate Enforcement Agents working on behalf of the council will make further attempts to establish contact with the debtor at all stages of the process via various methods, such as telephone calls, text messages, letters, web pages and self-serve facilities (for those that do not wish to verbally communicate) and emails.

Where this actions does not result in payment being made the council will consider further courses of action such as:

- Charging Orders
- Petitions for Bankruptcy
- Committal to Prison

For Bankruptcy and Charging Orders the appropriate legal actions will be taken and costs will be incurred.

For Committal to Prison, the council will send a pre-committal warning letter prior to commencement of proceedings, allowing the charge payer the opportunity to make payment. Any committal summonses will be served using methods agreed by the council.

Where the resident fails to respond, a means enquiry summons will be issued.

The council will charge costs up to the statutory maximum at the time of issuing a means enquiry to cover reasonable costs against the charge payer.

No payment made or resolution can result in a prison sentence of up to 90 days for the debtor.

### **Write-offs**

Any council tax debt which is identified for write off will be actioned in accordance with the council's Corporate Write-off Policy (Appendix 2).

These debts were suitable will be issued to Debt Collection Agencies (DCAs) for further action.

### **7.3. Non-domestic rates**

In accordance with the provisions of the Local Government Finance Act 1988, the council is responsible for the levying and collection of Non-domestic Rates that appear on the rating list for all occupied and unoccupied hereditaments which are not exempt.

#### **Liability**

To enable the council to provide an efficient and accurate service, all changes in circumstances that may affect billing should be reported to the council in a timely manner.

In most cases it is the occupier of a property or the person with beneficial occupation that is liable to pay Non-domestic rates, however where a property is (or is assumed to be) unoccupied or empty, liability will fall to the landlord/owner.

In order to safeguard themselves against being held liable where an alternative party is liable, landlords/owners should inform the council within 21 days of any changes in occupancy.

The council will only consider backdating a change in our records for more than 21 days if there is a good reason why the information being provided is late and we can confirm that the information is correct. To confirm a backdated tenancy we would require a verifiable tenancy agreement, proof of the tenant's identity, evidence of a tenancy deposit scheme receipt, utility bills in the tenants name and for the relevant period, external residency checks that support the residency and verifiable contact details for the tenant.

In these circumstances a landlord may also be required to sign a declaration to acknowledge that the information provided is accurate and that they are aware of the sanctions of supplying false information.

#### **Billing and collection**

At the beginning of each financial year tax payers have the statutory right to opt to pay the charge for the forthcoming year over up to 12 monthly instalments. Further to this payments must be received in line with instalment plan detailed on the demand issued.

It is important that anyone who does not pay their non-domestic rates by the due date is pursued for payment quickly. Where payments are not received in accordance with the demand issued the council will make every effort to encourage the debtor to make contact and resolve the situation without the need for enforcement action.

The collection and enforcement of non-domestic rates are governed by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) 1989. As a minimum when an instalment or part of an instalment is missed the following process will be followed.

### **Pre-enforcement action**

- 1) a first reminder letter will be sent
- 2) if the charge-payer fails to make payment following a first reminder letter a final notice will be sent and the resident will lose the right to pay by instalments – the full sum, payable for the year, will become due within seven days
- 3) once the right to instalments has been lost, a debtor can request the council considers agreeing to a special arrangement, however entering into any such arrangement is entirely at the council's discretion

In considering a further special arrangement, officers will take account of the circumstances including the reason for default, the amount being offered in relation to the debt, payment history, and so on.

As a guide, any such arrangement will usually be subject to any missed instalments to be cleared upfront and on the understanding the council will proceed to obtain a liability order to allow prompt recovery action to continue should the agreement not be maintained. The terms of any special arrangement will rarely be as favourable as those offered on the original demand.

- 4) if payment has been made in accordance with final notice, the council will issue a summons for the charge payer to appear before the Magistrates Court for non-payment of the outstanding balance of the non-domestic rates

### **Enforcement action**

- 5) should the account not be settled by the court hearing date, the council will make an application for a Liability Order and request the court to award reasonable costs

Staff attending court will be fully prepared to assist the charge payers who may choose to attend court for the Liability Order hearing and ensure they have a written breakdown of summons and Liability Order costs available.

- 6) once a Liability Order has been obtained, a Notice of Liability Order with details of the possibility of Enforcement Agent action and costs will be issued to the taxpayer within 3 working days of the court hearing
- 7) a Liability Order permits the council to consider the following options to collect the debt:
  - 7.1) Enforcement Agents can be instructed as follows

Enforcement Agents operating on behalf of the council will adhere to the Taking Control of Goods Regulations 2013/2014 and any specific local instruction as set out in the SLA agreement.

The standard collection stages are as follows:

- 1) **compliance stage** – before a visit can take place the enforcement agent will issue a compliance letter to the debtor to provide a final opportunity to pay or agree an arrangement before a physical visit is made – the letter makes clear the relevant stages and costs the debtor may incur during the collection cycle, and that the debtor will incur costs at this stage as prescribed in the relevant regulations
- 2) **enforcement stage** – a visit will be made to the premise or any associated address – for example, head office, registered office – can include visits to directors home addresses to look for assets owned by the business
- 3) **removal stage** – removal of goods and sale if a sustainable payment plan cannot be made and all other avenues of collection have been exhausted

In addition to the standard collection stages, where appropriate Enforcement Agents working on behalf of the council will make further attempts to establish contact with the debtor at all stages of the process via various methods, such as telephone calls, text messages, letters and emails.

Should the debt fail to be recovered by Enforcement Agents further appropriate action will be taken. For example, a petition for bankruptcy/liquidation/winding up may be sought or in the case of individual liability a means enquiry could be undertaken.

The appropriate legal actions and costs will be incurred as at the time of commencement when taking these proceedings are taken will apply

## **Write-offs**

Any non-domestic rates debt which is identified for write off will be actioned in accordance with the council's Corporate Write-off Policy (Appendix 2).

These debts were suitable will be issued to Debt Collection Agencies (DCAs) for further action.

## **7.4. Overpaid housing benefit**

The regulations covering calculation and recovery of Housing Benefit overpayments are covered by the Housing Benefit regulations 2006 99-107.

Legally the majority of Housing Benefit overpayments are recoverable however beyond this the council has overall discretion whether to instigate recovery.

Officers assessing claims will decide if the overpayment is recoverable at the time of processing the overpayment. When making a decision all factors will be taken into account such as the likelihood of the person receiving the payments knowing they were being overpaid, wider personal circumstances etc.

Any recoverable overpayment will be recovered from either the claimant or the person to whom payment was made – this could be a landlord or the claimant's appointee.

## **Recovery methods**

The council can recover overpayments by any lawful means. One or more of the following methods of recovery may be employed, dependent upon the individual circumstances of each case.

## **Recovery from on-going benefit – rent allowance or rent rebate**

Where a claimant continues to receive housing benefit the council will make deductions from on-going payments of housing benefit having regard to their financial circumstances. Where appropriate the council will recover debts at the weekly amounts recommended by the Department of Works and Pensions (DWP).

As well as the above-mentioned rates of recovery, the council will also increase deductions, where appropriate, by half (50%) of any of:

- the earnings disregard, if applicable
- regular charitable income or voluntary payments, if applicable
- War Disablement or War Widows Pension, if applicable

In all above-mentioned cases, the recovery amounts are, in theory and subject to discretion considered appropriate by the council, subject to an overall maximum deduction, which, does not reduce the benefit payable to less than £0.50 (50 pence).

In addition, the council can ask another council to recover overpaid benefit on its behalf.

A Guide to Housing Benefit and Local Council Tax Support Overpayments is issued with every Overpayment letter providing information to claimants about overpayments and appeal rights.

## **Deduction from certain DWP benefits**

The council may ask the DWP Debt Management Office to recover a Housing Benefit (HB) overpayment by deduction from certain DWP benefits, as prescribed by Regulation. These are as follows:

- Income Support
- Jobseeker's Allowance
- Incapacity Benefit
- Industrial Death Benefit
- Industrial Injuries Disablement Benefit
- Carer's Allowance
- Maternity Allowance
- State Pension credit
- State Retirement Pension
- Severe Disablement Allowance
- War Pension
- War Disablement Pension
- Bereavement Benefit
- Widowed Mother's Allowance
- Widow's Benefit
- Widow(er)s Pension
- Employment Support Allowance

Where necessary entitlement to benefits will be identified through the Customer Information System (CIS) connected to the Department for Works and Pensions Database.

## **Recovery through the sundry debt process**

Where the above recovery methods are not appropriate the debt will be invoiced and recovered via the sundry debt process.

### **Write-off**

Write-off action will be taken in accordance with the principles set out in the council's Corporate Write off Policy (Appendix 2). The Housing Benefit Overpayment officer will retain details of all outstanding overpayments where benefit is no longer in payment, in the event of future benefit being awarded, enabling recovery in the future.

These debts were suitable will be issued to Debt Collection Agencies (DCAs) for further action.

## **7.5. Parking enforcement**

To ensure compliance with the restrictions within the council car parks and the borough highways, the council is authorised to issue Penalty Charge Notices to vehicles parked in contravention of the restrictions as stated in the Traffic Management Act 2004.

Penalty Charge Notices (PCNs) will be issued to contravening vehicles whenever a Civil Enforcement Officer deems it necessary.

The recovery of the fines is the responsibility of the office team and for reasons of segregation of duties and safety, the Civil Enforcement Officers are not allowed to take payment for the PCNs they issue.

Except where a separate instalment arrangement has been agreed by the parking office, all payments will be in accordance with the Traffic Management Act 2004.

Throughout the life of the PCN the office team should make every attempt to recover the amount due at every stage in the proceedings.

The council has the discretion to cancel a Notice for various reasons and therefore not proceed with the fine. The powers of discretion in these cases can only be exercised by a senior parking manager.

At all times the council will act legally and promptly in all cases where payment is overdue.

Before a notice is passed to an Enforcement Agent for collection all statutory methods of enforcement must have been taken. Notice to owner, charge certificate, warrant obtained.

Where every effort has been made to recover up to warrant stage, the office team, in conjunction with the parking manager can consider cases to progress the case to external enforcement.

Once the court are happy that all the statutory steps have been taken and the warrant has been granted to the council further recovery action can commence.

Enforcement Agents operating on behalf of the council will adhere to the Taking Control of Goods regulations 2013/2014 and any specific local instruction as set out in the SLA agreement.

Any debts for foreign-registered vehicles will be pursued via the appropriate methods.

Where instalment arrangements are sought by the debtor an investigation into their ability to pay must be carried out and initially the amount should not be paid over a period longer than 3 months. Where the office team, due to the amount or circumstances, the balance should be paid over a longer period then a case conference should be held with the line manager to decide a way forward.

## **Write-off**

Write off action will be carried out in accordance with the Corporate Write off Policy (appendix 2). To ensure segregation of duties the officer compiling the write off report cannot remove the records from the system and once the cases have been removed from the system the write off sheet must be passed to the service manager for checking.

Debts that are written off can be issued to Debt Collection Agents to enforce and placed on surveillance in order to ensure debtors that have deliberately absconded in an attempt to avoid paying their debts are pursued.

## **7.6. Housing rent**

In order to maintain services the Housing Service needs to maximise income collection and minimise arrears owed by current and former tenants, ensuring that tenants have the information and support they need to maximise their income and prevent or minimise debt.

Tenants are informed of their payment responsibilities before they commence their tenancy, when they sign-up and at their welfare visit which takes place four weeks after the sign up dates/commencement of tenancy.

The Housing Service offers a range of payment methods which are widely publicised.

During the sign up process Tenants are informed of the full rental charges and details of any service charges due.

### **Policies specific to housing rents**

At sign-up new tenants are advised of their responsibilities regarding the tenancy placing great emphasis on the requirement to pay their rent promptly.

A debt counselling service has been set up between the council, incorporating other organisations, and the CAB for our residents to access if they require assistance. Tenants can be referred to the CAB or other organisations by a Rents and Welfare officer or they can approach CAB directly themselves. The Rents and Welfare team have Financial Inclusion Officers working within their team who offer debt advice and assist with applications for Universal credit and other benefits.

Arrangements must be put in place to oversee and action arrears when a team member/staff post is vacant, annual leave or absent through sickness.

Our objective is to achieve and maintain upper quartile performance in the level of rent collection and rent arrears by:

- ensuring a corporate approach to the recovery of debt
- taking account of social inclusion
- referring to a debt counselling service
- adopting examples of good practice and ensuring an approach of continuous improvement
- ensuring staff are fully trained, supported and developed

## **Customer focus in the delivery of the service**

The Rents and Welfare Manager is responsible for the collection of rent income and recovery of rent arrears. It is important that anyone who does not pay their rent by the due date is pursued for payment.

When the rent account falls into 2 weeks' arrears contact is made with the tenant by email or telephone. If the Rent Officer is unable to contact, a first letter is sent.

All accounts are monitored and the arrears policy followed. If there is no response by the next payment date, a second letter is sent out and the situation monitored.

If there is no response to the second letter, a telephone call is made to the tenant. If there is still no response, a Notice of seeking possession will be ordered and a home visit will be carried out by the Rents and Welfare officer. If on arrival at this visit the Rent Officer finds the tenant is not home, the Notice of seeking possession, covering letter, along with a business card will be left asking the tenant to contact the office.

## **Service of Notice of Seeking Possession**

A Notice of Seeking Possession is the first step in taking legal action against the tenant. The purpose of this action is to recover possession of the council's premises from the tenant and may result in the tenant's eviction from their home. Service of the Notice (NSP) is governed by law and must be carried out correctly for successful legal action to follow.

As a general rule, the arrears should not be permitted to get any higher than the equivalent of six weeks rent before a NSP is served. However, the Rents and Welfare officer has the discretion to serve a NSP earlier than this or to delay it providing an explanation for the action is recorded. The Notice is served, together with a covering letter which offers debt advice and contact details.

The Rent Welfare Officer will only refer a case to court if:

- all appropriate recovery actions have been taken
- debt advice and support has been offered on pre NSP arrears letters
- the NSP is still valid

## **Court hearing**

Rent and Welfare officer attends and presents the cases to the court and will ask the District Judge for one of the following orders:

- money judgement for the sum outstanding
- possession order-(suspended or outright)
- case adjourned
- case dismissed
- case withdrawn

## **Post-Court action**

If the tenant defaults on repayments of the court order, the Rents and Welfare Officer will make further contact with the tenant to assess their situation and discuss bringing the Court Order up to date, if this is not possible and arrears continue to increase the case will be passed to the Arrears Panel where the case will be discussed.

## **Arrears Panel**

Prior to being passed to legal for eviction action to be taken, cases are discussed in the arrears panel. Internal and external departments/partners are advised of cases listed and asked to notify the team of any information they feel relevant. If the tenant's arrears continue to increase or they fail to engage, it is at this panel that a decision could be made to request a Warrant be served.

Officers are advised to seek eviction as a last resort.

### **Pre-eviction action**

Prior to seeking an eviction, the Rent Welfare Officer will inform the Housing Solutions team , Adults and Children's Social Care teams and other relevant service providers/agencies regarding the affected household.

If the full debt is paid prior to the eviction date, the warrant will not be executed.

Where the tenant makes a large payment and offers to pay off the balance in instalments, the tenant should be advised to apply to the court for a stay hearing.

Tenants have the right to apply to the court for the eviction warrant to be suspended before the eviction date. Based on evidence presented to the court by both parties, the judge may dismiss the appeal or suspend the eviction on terms of payment.

### **Recovery of former tenant accounts**

A former tenant account is created when a tenant leaves a property. If there were arrears on the account this becomes Former Tenant Arrears (FTA) which will be pursued by the team. The Housing Solutions team will check FTA records to ensure that customers requesting social housing with previous arrears arrange to repay any debt owed.

A decision should be made on the most effective and appropriate method of recovery. This is based on the client information available. A letter will be sent detailing the outstanding balance of the former account and requesting contact to discuss payment in full.

Should a customer advise that payment in full is not affordable, a brief financial assessment must be carried out by the Officer and an affordable arrangement agreed to repay the total debt. Letters of confirmation are sent to confirm all arrangements made.

Prompt and appropriate action will be taken in all cases to recover all sums overdue to the council. However, in cases where payments are not forthcoming and officers are unable to trace the whereabouts of a former tenant, consideration shall be given to writing off the debt in accordance with financial regulations. When a debt has been written off, it will no longer be shown as outstanding in the council's accounts, however, the debt remains due to the council in law and if the tenant is subsequently traced, the debt will be re-instated.

### **Write-off**

Rent which is identified for write off will be actioned in accordance with the council's Corporate Write-off Policy (Appendix 2).

# **Appendix 1 – Vulnerable Persons Policy**

## **Background**

The council recognises that in certain circumstances the usual enforcement procedures (such as Enforcement Agent action or committal proceedings) may not be appropriate for some people who find themselves in debt to the council. This could be because the person might be viewed as vulnerable owing to their individual circumstances. The Vulnerable Persons Policy provides guidance for staff and the council's collection agents on how to manage the situation and support a vulnerable person who owes a debt to the council.

It will support and assist officers and collection agents to be able to promptly identify vulnerable individuals in order that each person can be treated with dignity and that their individual situation can be dealt with in a sensitive and responsible way.

People who are considered vulnerable will find themselves in a range of situations and it is important to remember that in many cases people will have tried very hard to manage and will not have deliberately created the situation they find themselves in. By the time the individual comes to the attention of the debt recovery service it is important to consider that in many cases they may be very concerned and worried about owing money to the council.

## **People who are potentially vulnerable**

People are considered to be vulnerable for many different reasons. Some of these reasons may be:

- experiencing mental ill health
- having a physical disability
- being learning disabled
- being a disabled parent
- being a parent of a disabled child
- having communication difficulties
- experiencing significant long term or life limiting ill health
- being hearing or visually impaired (deaf or blind)
- suffering from domestic violence
- a combination of any of the above

Other areas that also make people potentially vulnerable can be:

- someone who is recently bereaved
- where literacy skills are an issue or where English is not the person's first language
- someone following a drug or alcohol rehabilitation programme
- someone recovering from a serious accident or illness
- a person who has recently been released from prison
- those who are asylum seekers or refugees

The above lists are not exhaustive and each situation should be viewed individually to determine whether there is actually any vulnerability.

## **Identification**

Based on the above descriptions, the member of staff or collection agent can make a decision about whether a non-payer may be considered vulnerable. The initial request to consider a person as vulnerable may come from a third party e.g. the Citizens Advice, Social Services, Housing. The examples above are only a guide and each case has to be considered based on the person's individual circumstances.

Any non-payer who is considered potentially vulnerable will be flagged up immediately to the designated senior officer. The account should be marked with the appropriate code on the respective computer systems. Recovery proceedings will be amended/adjusted accordingly.

A senior officer may undertake a review of any referral. The nonpayer may be visited at home, interviewed by telephone or invited to attend a face to face discussion in the office. It will be important to make sure that each person's circumstances are taken into account and consideration should be given to any support the person may require if they are interviewed, such as a family member, an advocate or a support worker. With the nonpayer's consent, further information and/or opinion may be sought from medical practitioners, Social Services and relevant professional bodies.

It is imperative that this stage is completed as quickly as possible in order to minimise uncertainty or anxiety on the part of the person concerned.

## **Evaluation**

Having weighed carefully all the evidence, the senior officer will conclude whether the nonpayer would be adversely affected if recovery proceedings were to continue. If so, the case will be identified as a Vulnerable Person's account. All future enforcement notices and actions may be stopped. The designated senior officer will ensure that all Vulnerable Persons are accorded the personal and sensitive attention required, within the provisions of the law.

Any person considered not to be a Vulnerable Person may appeal to the relevant departmental senior council officer whose decision will be final.

In undertaking the investigation, the designated senior officer would seek to ensure that:

- the liability is correctly calculated and all reductions have been applied – for example, status, discounts, Local Council Tax Support
- a comprehensive statement of means is completed where legally appropriate for the debt – where applicable, a clearly affordable repayment plan is agreed, together with a suitable payment method, and care must be exercised to avoid the accumulation of arrears which would have to be repaid at a later date
- the person has a named contact and direct line for any future enquiry
- any authorisation for a third party to act on behalf of the vulnerable person is obtained and properly recorded
- where appropriate, a recommendation may be made for the debt to be written off in part or whole – any request should be supported with as much information as possible of the persons circumstances, both personal and financial

## **Appendix 2 – Write-off policy**

The council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice. The council will seek to minimise the cost of write-offs by taking all necessary action to recover what is due. All debts will be subject to the full recovery, collection and legal procedures as outlined in the council's Corporate Fair Debt Policy.

Paragraph 6.34 of the council's Finance Procedure Rules (Constitution, chapter 9, part 3) states that managers shall ensure that every effort is made to recover debts due to the Council. They also have authority to write off a debt where they consider that the sums are not reasonably recoverable, subject to the following:

- up to £2,000 in any one case – after notifying the Director of Finance, Governance and Property
- between £2,000 and £25,000 in any one case – after consultation with the Director of Finance, Governance and Property and the Monitoring Officer
- over £25,000 in any one case – after consultation with the Director of Finance, Governance and Property and the Monitoring Officer, and subject to the appropriate Cabinet approval

Debts may be referred to the appropriate service manager or director for all sums for write-off if:

- the council has evidence to confirm the claimant is suffering a severe physical or mental illness, which renders enforcement action inappropriate
- the council is unable to trace the nonpayer
- the debt is not cost-effective to pursue due to small balance
- the debt is not cost-effective to pursue due to the likelihood of payment balanced against the cost of proceedings
- the claimant has died and there are no or insufficient funds in the estate to settle the debt
- the claimant is subject to formal insolvency proceedings and there is little likelihood of a dividend

Before a debt is written off from any system, the member of staff identified as being responsible for write offs will have received all relevant paperwork and used it to check a sample of the debts to ensure:

- accuracy by looking them up on the appropriate system
- the council's Corporate Fair Debt Policy has been adhered to

Balances that are written off continue to be monitored for any changes in circumstances such as the person's financial resilience improving, or where a debtor that has absconded without leaving a forwarding address resurfaces.

Where appropriate collection procedures will be reinstated to enable the balance to be recovered.

Debt Collection Agencies (DCA) will be used as appropriate to recover balances that have been financially written off and they will constantly review and research any changes in circumstances as shown above. These reviews will utilise data provided from the credit referencing organisations.

## **Appendix 3 – Write-on policy**

The council recognises that in cases of a credit remaining on an account for an unacceptable period of time – that is, over 13 months – the credit should be considered for cancellation. This process is known as a "write-on".

Extensive research will be undertaken prior to this consideration to enable an attempt to be made to inform the payee of the credit. Letters to the last known address will be written and searches carried out to establish new addresses. If such attempts are not successful, the credit will be written on following the same policy rules and processes as detailed in the write off policy.

# **Appendix 4 – Discretionary reduction in liability policy (Council Tax)**

## **Introduction**

- 1.1. Section 13A 1c of the Local Government Finance Act 1992, provides the council with additional discretionary powers to enable it to reduce the council tax liability where statutory discounts, exemptions and reductions do not apply.
- 1.2. These discretionary awards can be given to either:
  - individual council taxpayers
  - groups of council taxpayers defined by a common set of circumstances
  - council taxpayers within a defined area
  - to all council taxpayers within the council's area
- 1.3. The legislation states the following:

*"...in any case, may be reduced to such extent or, if the amount has been reduced under S13a 1 a (Council Tax Reduction Scheme) such further extent as the billing authority for the area in which the dwelling is situated thinks fit..."*
- 1.4. The provision allows the council the discretion to provide assistance to taxpayers where either the existing legislation does not provide a discount, exemption or reduction or in such circumstances where the council feels that the level of discount; exemption or reduction is insufficient given the circumstances.
- 1.5. When deciding on whether to grant a discretionary award, the council will consider each application on its merits. Principles of reasonableness will apply in all cases with the authority deciding each case on relevant merits.
- 1.6. Any decision made will be without reference to any budgetary considerations notwithstanding the fact that any awards must be balanced against the needs of local taxpayers who will ultimately pay for a reduction in council tax income.
- 1.7. Likewise the period of any reduced liability will be considered in conjunction with the circumstances of the council taxpayer.
- 1.8. For the purposes of administration, the decision to grant any reduction in liability shall be considered within the following categories:
- 1.9. In accordance with Section 13A 1a of the Local Government Finance Act 1992, the council has a Council Tax Reduction Scheme which provides support, through a discount, to those deemed to be within financial need. The Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.
- 1.10. Applications will be accepted under this part of the policy for people who have qualified for support under the Council Tax Reduction Scheme but who are still experiencing severe financial hardship. Other taxpayers may also apply, however the council would normally expect the taxpayer to apply for Council Tax Reduction in any case.

## **2. Exceptional financial hardship**

- 2.1. As part of the process of applying for additional support, all applicants must be willing to undertake all of the following:
- make a separate application for assistance
  - provide full details of their income and expenditure;
  - the taxpayer is able to satisfy the council that they are not able to meet their full council tax liability or part of their liability
  - accept assistance from either the council or third parties such as the CAB or similar organisations to enable them to manage their finances more effectively including the termination of non-essential expenditure
  - identify potential changes in payment methods and arrangements to assist the applicant
  - assist the council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted
  - the taxpayer is able to demonstrate that all reasonable steps have been taken to meet their full council tax liability including applications for employment or additional employment, alternative lines of credit
  - the taxpayer has no access to assets that could be realised and used to pay the council tax and benefits, council tax support, discounts and exemptions
  - maximise their income through the application for other welfare benefits, cancellation of non-essential contracts and outgoings and identifying the most economical tariffs for the supply of utilities and services generally
- 2.2. The council will be responsible for assessing applications against this policy and an officer will consider the following factors when applying this policy:
- current household composition and specific circumstances including disability or caring responsibilities;
  - current financial circumstances;
  - determine what action(s) the applicant has taken to alleviate the situation;
  - alternative means of support that may be available to the applicant by:
    - re-profiling council tax debts or other debts
    - applying for a discretionary housing payment for housing benefit (where applicable)
    - maximising other benefits
    - determining whether in the opinion of the decision maker the spending priorities of the applicant should be re-arranged

### **3. Crisis – flood, fire, and so on**

- 3.1. The council will consider requests for assistance from council taxpayers who, through no fault of their own, have experienced a crisis or event that has made their property uninhabitable –for example, due to fire or flooding – where they remain liable to pay council tax and for which they have no recourse for compensation nor have recourse to any statutory exemptions or discounts.
- 3.2. All such requests must be made in writing detailing the exact circumstances of why reduction in the liability is required and specifying when the situation is expected to be resolved.
- 3.3. The council will consider applications on a case-by-case basis in consultation with other organisations as appropriate. Any reduction will be applied where they remain liable to pay council tax and for which they have no recourse for compensation nor to any statutory exemptions or discounts or where the crisis or event is not covered by any insurance policy. The Council will not consider requests from taxpayers where government guidance or policy provides for a reduction in liability in specific circumstances for example, flood relief schemes.

### **4. Other circumstances**

- 4.1. The council will consider requests from council taxpayers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the council must be of the opinion that the circumstances relating to the application warrant further reduction in their liability for council tax having regard to the effect on other council taxpayers.
- 4.2. No reduction in liability will be granted where any statutory exemption or discount could be granted.
- 4.3. No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the council.

### **5. Changes in circumstances**

- 5.1. The council may revise any discretionary reduction in liability where the applicant's circumstances or situation has changed.
- 5.2. The taxpayer agrees that he/she must inform the council immediately either by phone or in writing about any changes in their circumstances which might affect the claim for under this policy. Failure to do so may result in the withdrawal of the reduction granted for the year and the requirement to repay any outstanding amount to the council. All changes in circumstances should be notified within 21 days in accordance with the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 as amended.

### **6. Duties of the applicant and the applicant's household**

- 6.1. A person claiming any discretionary reduction in liability must:
  - provide the council with such information as it may require to make a decision

- tell the council of any changes in circumstances that may be relevant to their ongoing claim; and provide the council with such other information as it may require in connection with their claim

## **7. The award and duration of a reduction in liability**

- 7.1. Both the amount and the duration of the award are determined at the discretion of the council, and will be done so on the basis of the evidence supplied and the circumstances of the claim.
- 7.2. The start date of such a payment and the duration of any payment will be determined by the council. In any event, the maximum length of the award will not exceed the end of the financial year in which the award is given.

## **8. Payment**

- 8.1. In line with legislation, any award shall be granted as a reduction in the liability of the council taxpayer thereby reducing the amount of council tax payable

## **9. Reductions in Council Tax liability granted in error or incorrectly**

- 9.1. Where a reduction in liability has been granted incorrectly or in error either due to a failure to provide the correct or accurate information to the council or some other circumstances, the council taxpayers account in the normal way.

## **10. Notification of a reduction in liability**

- 10.1. The council will notify the outcome of each application in writing. The notification will include the reason for the decision and advise the applicant of their appeal rights.

## **11. Appeals**

- 11.1. Appeals against the council's decision may be made in accordance with Section 16 of the Local Government Finance Act 1992.
- 11.2. The council taxpayer must in the first instance write to the council outlining the reason for their appeal. Once received the council will reconsider its decision and notify the council taxpayer accordingly.
- 11.3. Where the council taxpayer remains aggrieved, a further appeal can then be made to the Valuation Tribunal. This further appeal should be made within 2 months of the decision of the Council not to grant any reductions. Full details can be obtained from the council's website or from the Valuation Tribunal – <https://www.valuationtribunal.gov.uk/>

## **12. Fraud**

- 12.1. The council is committed to protecting public funds and ensuring funds are awarded to the people who are rightfully eligible to them.
- 12.2. An applicant who tries to fraudulently claim a reduction in liability by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

12.3. Where the council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

## **13. Complaints**

13.1. The council's 'Compliments and Complaints Procedure' (available on the council's website) will be applied in the event of any complaint received about this policy.

## **14. Policy review**

14.1. This policy will be reviewed on a regular basis and updated as appropriate to ensure it remains fit for purpose. However, a review may take place sooner should there be any significant changes in legislation.