



# West Devon Borough Council

Corporate Debt Policy

## **1. Introduction**

- 1.1 This policy sets out the Council's approach to the billing, collection and recovery of all monies due to the Council.
- 1.2 The Corporate Debt Policy identifies where the responsibility for the collection of different debts owed to the Council lie and sets out the sets out the principles and standards, we will adhere to in relation to contact, the recovery and enforcement process, repayments and benefit and money and debt advice.
- 1.3 The policy sets out the framework for a consistent and sensitive approach to collecting debt whilst ensuring that the Council continues to maximum income collection and arrears recovery performance.
- 1.4 Sums due to the Council can be a mixture of statutory and non-statutory charges. The methods of billing and recovery for statutory charges are prescribed by the relevant legislation. The specific rules and regulations which govern the recovery and collection of debt are set out in the relevant appendix.

## **2. Policy objectives**

- 2.1 The Council has a duty to ensure it collects income and recovers debt efficiently and effectively to ensure it fulfils its financial responsibilities to its residents and businesses and maximises its capacity to provide our services.
- 2.2 The Council is also required to collect on behalf of other organisations including Devon County Council, The Police and Crime Commissioner for Devon, Devon and Somerset Fire and Rescue and town and parish councils. Central Government also retain a proportion of Business Rates income.
- 2.3 In collecting income and recovering debt, the Council is committed to adhering to best practice. This best practice includes the recognition that some customers may be temporarily or permanently vulnerable and need protection and support.
- 2.4 Where possible, the Council will act to prevent debt arising or escalating by offering payment options and signposting customers with debt issues to debt advice agencies. We will also use discretionary funds where possible and appropriate to do so to assist with specific pressures.
- 2.5 This policy identifies where the responsibility for collection of different debts lies and sets out the principles and standards in relation to customer contact, recovery processes, repayments and benefit, debt and money advice. It also explains how the Council and its partners can offer help, advice and support in the management of debt for our residents and businesses.

## **3. Scope of the Policy**

- 3.1 The policy covers the following debts owed to the Council:

- Council Tax
- Housing Benefit Overpayments
- Non-Domestic Rates (Business Rates)
- Sundry Debts

#### **4. Factors common to all types of debt**

- 4.1 In developing this policy, the Council has considered national best practice guidance relevant to the type of debt. The Council will ensure it acts in a consistent, proportionate and transparent manner in collecting debt.
- 4.2 Every demand for payment will be correctly addressed to the person, business or other legal entity liable for payment.
- 4.3 The Council will encourage the most cost-effective payment methods with the emphasis being on electronic means where possible.
- 4.4 Where the potential for a statutory relief, discount or exemption may apply in relation to the debt, efforts will be made to make the debtor aware of this and they will be encouraged to apply for them.
- 4.5 The Council recognises that prompt recovery action is essential for good financial management and maximising income. In support of this, the Council will:
- Have clear written recovery and enforcement procedures.
  - Have clear targets for the recovery of debt.
  - Regularly monitor the age and level of debt.
  - Regularly review irrecoverable debt for write-off.

#### **5. Our commitment**

- 5.1 When dealing with customers who owe us money, we will
- Treat all customers fairly and objectively.
  - Ensure that there is no discrimination against customers because of their race, nationality, colour, ethnic origin, religious belief, gender, marital status, sexual orientation, age or disability.
  - Encourage customers to make early contact with us about any debt related matters.
  - Use Plain English in all correspondence.
  - Assist with communication needs where appropriate, including translating and interpretation services.
  - Promote the advice and support services available.
  - Set out and explain our charges clearly.

#### **6. What we expect from you**

- 6.1 In response, our staff expect to be treated with courtesy and respect. Our staff and other customers should not be expected to deal with violent, rude or

disruptive customers. Where staff are subjected to violent, rude or aggressive behaviour

- 6.2 To contact the Council or take appropriate debt advice if they are unable to pay the amount due or to pay on time.
- 6.3 If the debtor does not think the bill or invoice is correct, they must contact the Council as soon as possible to explain why.
- 6.4 The debtor is also required to notify the Council as soon as possible about any change in circumstances such as a change in address.

## **7. Accessing advice and support**

- 7.1 The Council will advise residents and businesses about the discounts, reliefs and reductions they may be entitled to. This information is also readily available on the Council's website.
- 7.2 We will signpost customers to where they can obtain advice on managing debt in a way appropriate to their needs. We ensure that written communications use Plain English as the standard wherever possible. We will explain complex terminology when we are required to use it by law.
- 7.3 We will assist people with language and communication needs by offering translation, interpreting and other services when required.
- 7.4 During face-to-face and telephone contact, we will direct residents and businesses to where they can obtain further specialist advice on benefits and debt matters appropriate to their needs.

## **8. Multiple debts**

- 8.1 The Policy promotes a flexible approach to working with residents who have multiple debts to agree the steps which need to be taken to address them. In taking this approach, debt management will vary from debt to debt as different solutions will be required. Staff are not trained debt counsellors, however we are able to signpost them to the appropriate organisation for help and support.
- 8.2 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 came into force on 4 May 2021. The Council will ensure that recovery of qualifying debts is suspended for the relevant moratorium period as set out in the regulations. Further, where appropriate, the Council will engage with the debtor's debt advice provider regarding all debts owed to the Council.
- 8.3 Multiple debts are where the debtor has significant debts in more than one service area e.g. council tax and overpaid housing benefit. This can present problems in determining the priority of individual debts for the different service areas and the individuals concerned. In such cases, officers are expected to liaise and agree a coordinated approach to recovery.

## **9. Assessing ability to pay**

- 9.1 During the recovery process, we will act in accordance with the relevant legislation and any advice on best practice which is relevant to the particular debt.
- 9.2 When recovering multiple debt, we will endeavour to break the cycle of debt. For Council Tax and Business Rates we will encourage payment for the current year and work with the customer to achieve an acceptable payment arrangement reflective of the customer's means, whilst ensuring a satisfactory level of repayment for the Council.
- 9.3 We will offer flexible options, including different payment dates and amounts where possible to assist those on irregular incomes.
- 9.4 We will endeavour to make payment arrangements with customers who are unable to settle their debt(s) in full. However, this may involve legal action being taken against the customer to secure the debt.
- 9.5 We will take a common approach in assessing a customer's overall financial position, by considering all their income and expenditure, to assess their ability to pay. Where arrangements to pay by instalment can be entered into which consider the customer's individual financial circumstances.

## **10. Supporting vulnerable customers**

- 10.1 We will ensure that arrears are pursued in a timely manner whilst also being firm, fair and consistent. We will balance customer care with the responsibility to collection income efficiently and effectively and respond to individual circumstances wherever possible.
- 10.2 We recognise that everyone will need to be treated in a sensitive way as we know that customers do not pay their debts for a variety of reasons. As this may be because of financial hardship, we will balance individual circumstances against our duty to collect.
- 10.3 Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay. The cause of vulnerability may be temporary or permanent in nature and the degree of vulnerability will vary from person to person.
- 10.4 Whilst there are several characteristics which may cause an individual to be considered vulnerable, we will consider each case on an individual basis and take all relevant factors into account.
- 10.5 There is no legal definition of vulnerability, however we consider the following groups of people may be vulnerable:
  - The elderly.
  - Those who appear to be physically or mentally ill or are severely disabled.
  - The heavily pregnant.
  - Those who have experienced a recent bereavement of a close family member.

- Those who may have difficulty communicating due to profound deafness, blindness or language difficulties.
- Those who are suffering from long term sickness or serious illness or are terminally ill.

## **11. Debt recovery and processes**

- 11.1 Invoices and bills will be issued in accordance with the relevant statutory requirements which may be through instalment plans or arrangements.
- 11.2 At each stage of the recovery process, the customers are signposted to debt advice and other support services. Where applicable, we will also make sure customers are receiving any discounts and other reductions they may be entitled to.
- 11.3 Where the debt remains unpaid or if instalment plans or arrangements are broken we will follow the appropriate statutory recovery process depending on the type of debt.
- 11.4 Depending on the type of debt, we will consider the use of all enforcement remedies including referring the debt to enforcement agents and debt collection agencies as applicable.

## **12. Complaints**

- 12.1 The Corporate Complaints process provides the Council with opportunity to investigate and, where appropriate, provide a remedy in circumstances where the Council is alleged to have been guilty of maladministration resulting in injustice and where there is no other reasonable avenue to the complainant to appeal or seek redress.
- 12.2 It is important to note, however, that the complaints system cannot entertain objections against the merits of a decision which has been properly taken and which the complainant does not agree with.
- 12.3 If the complainant remains dissatisfied after the Council has investigated the complaint and, the complainant may refer their complaint to the Local Government and Social Care Ombudsman who is independent of the Council.

## **13. Council Tax**

- 13.1 The Council has a statutory duty to bill and collect tax from 27,112 households in West Devon. The Council also collects Council Tax on behalf of Devon County Council, the Police and Crime Commissioner for Devon and Cornwall, Devon and Somerset Fire and Rescue and town and parish councils.

- 13.2 Council Tax is set each year by a resolution of West Devon Borough Council. The Revenues and Recovery Team assess who is liable for Council Tax and award any discounts and exemptions. The Benefits team assess applications for Council Tax Reduction.
- 13.3 The Council must follow regulations, namely the Council Tax (Administration and Enforcement Regulations) 1992 to collect Council Tax in an economic, effective and efficient manner.
- 13.4 Demand notices and adjustment notices will be issued in accordance with regulations and as soon as reasonably practicable once the liable party has been identified.
- 13.5 The Council follows the statutory instalment scheme for collection of Council Tax which requires payment in ten monthly instalments. With effect from 1 April 2013 council taxpayers have been able to request to pay by twelve monthly instalments.
- 13.6 An annual recovery timetable will be drawn up before the beginning of the financial year following consultation with the Ministry of Justice, with reminders and final notices being issued a minimum of 7 days after an instalment has fallen due. If the instalment is paid as requested, no further action will be taken. If the instalment is not paid or only partly paid a summons will be issued. Only two reminders will be issued per financial year for the late payment of instalments.
- 13.7 If the taxpayer fails to pay the full balance as detailed on the final notice, a summons to the magistrates' court is issued incurring additional costs of £77.50. This figure may be revised on an annual basis.
- 13.8 The Council will make arrangements at this stage, but the Council will still seek a liability order to secure the debt.

### **Council Tax Enforcement**

- 13.9 Following the granting of a liability order the debtor will be given an opportunity to make a suitable payment arrangement. Should the debtor not make or adhere to a suitable payment arrangement, further recovery action will be taken.
- 13.10 We will send a request for information form asking for details of a person's earnings and benefits entitlement as well as an income and expenditure form prior to taking any other form of enforcement action.
- 13.11 If this form is completed and returned by the debtor, we will have a better understanding of the debtor's circumstances and will be able to apply for an attachment of earnings or benefit or make an appropriate payment arrangement.
- 13.12 The most appropriate method of enforcement will be dependent on the individual circumstances of the case, with the following enforcement remedies available to the Council.

### **Attachment of Earnings**

Deductions are made from the debtor's earnings at a rate determined by regulation. The Council has no discretion to amend this.

### **Attachment of Benefits**

Deductions from Income Support, Job Seeker's Allowance, Employment and Support Allowance, Pension Credit or Universal Credit.

### **Attachment of Allowances**

Deductions are made from Elected Members' Allowances.

### **Enforcement Agents**

Enforcement Agents instructed by the Council are required to comply with the Enforcement Agent Code of Practice, Service Level Agreements and the Tribunals, Courts and Enforcement Act 2007.

### **Charging Orders**

An order may be placed on the debtor's property to secure the debt. The Council is then able to apply for an order for sale.

### **Bankruptcy/Liquidation**

If sufficient assets are available to discharge the outstanding debt the Council can petition for bankruptcy/liquidation.

### **Committal**

An application can be made to the magistrates' court to commence action which can ultimately result in the debtor being committed to prison.

### **Enforcement Agents**

13.13 The Council will pass a case to enforcement agents for collection in the following circumstances:

- No contact has been received from the taxpayer.
- The taxpayer has failed to adhere to payment arrangements made.
- The taxpayer is unwilling to enter a meaningful discussion about their income and expenditure and agree a realistic and appropriate payment arrangement.
- The Council cannot issue an attachment of earnings or benefit order.

### **Recall of cases from Enforcement Agents**

13.14 The Council will generally not recall a case once it has been sent to enforcement agents, but we may review this in the following circumstances.

- The debtor subsequently appears to be a vulnerable person.
- Where a council taxpayer has sought debt advice and is committed to repaying their council tax arrears, the Council will take this into account and may instruct the enforcement agent to accept a reduced offer of payment.



## **14. Non-Domestic Rates (Business Rates)**

- 14.1 The Council has a statutory duty to bill and collect Business Rates from 2,447 businesses in West Devon. The Revenues and Recovery Team assess liability and award any reliefs and exemptions which are applicable.
- 14.2 The Council must follow regulations in the collection of Business Rates. The relevant regulations are the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.
- 14.3 The Council follows the statutory instalment scheme for the collection of Business Rates which requires payment in ten instalments, however ratepayers are able to request 12 monthly instalments.
- 14.4 An annual recovery timetable will be drawn up before the beginning of the financial year following consultation with the Ministry of Justice, with reminders and final notices being issued a minimum of 7 days after an instalment has fallen due. If the instalment is paid as requested, no further action will be taken. If the instalment is not paid or only partly paid a summons will be issued. Only two reminders will be issued per financial year for the late payment of instalments.
- 14.5 If the ratepayer fails to pay the full balance as detailed in the final notice, a summons to the magistrates' court is issued incurring court costs of £77.50. This figure is reviewed on an annual basis.
- 14.6 The Revenues and Recovery team will seek to enter arrangements at this stage, but the Council will still proceed to court for a liability order.

### **Enforcement**

- 14.7 A liability order gives the Council additional powers to seek to recover the debt. These include:
- Passing to an enforcement agent for collection
  - Bankruptcy or winding up proceedings.
  - Obtaining a charging order
  - Committal to prison (sole traders and partnerships only)

### **Recall of cases from enforcement agents**

- 14.8 The Council will not generally recall a case once it has been sent to enforcement agents, but will review the case if it is found that the ratepayer appears to be vulnerable.

## **15. Housing Benefit Overpayments**

- 15.1 Housing Benefit overpayments result where residents have a change in their circumstances (such as an increase in their income) which results in the claimant being awarded more Housing Benefit than they are entitled to.
- 15.2 Accurate and prompt identification of overpayments is important to ensure that the incorrect payment ceases and the chances of successful recovery are

maximised. To ensure there is minimal loss to the public purse, firm, fair and consistent action must be taken by the Council in recovering overpaid Housing Benefit.

15.3 In most cases overpayments will arise due to one of the following:

- Late disclosure of a change in circumstances
- Errors made by the claimant when completing an application form or review form.
- Official errors made by the Council or the Department for Work and Pensions
- Fraud

15.4 Official error overpayments are only recoverable where the claimant or the person from which recovery is sought could reasonably have known that an overpayment was occurring at the time of the overpayment.

### **Classification of overpayments**

15.5 The correct classification of overpayments is essential as, depending on the type of overpayment, the Council will receive a percentage of the overpayment from government through Housing Benefit subsidy.

15.6 A full record will be retained of the classification of the overpayment.

### **Decisions on Recoverability**

15.7 Where an overpayment has occurred, the Council shall consider if an official error has caused or contributed to the overpayment. Where the overpayment has been caused or contributed to by official error, the Council will decide if recovery is appropriate using the guidance issued by the Department for Work and Pensions.

15.8 Before recovery action commences, consideration will be given as to who the appropriate person is to recover the overpayment from. This may be:

- The claimant.
- The person to whom the payment of benefit was made.
- The person who misrepresented or failed to disclose a material fact.
- The partner of the claimant if they were living with the claimant at the time of the overpayment and at the time the decision to recover was made.

### **Recovery of Overpayments**

15.9 In all cases where recovery of an overpayment is sought, the Council will have regard to its statutory duty to protect the public purse.

13.5 Only after all remedies for recovering the overpayment have been exhausted, shall the debt be recommended for write-off.

## **16. Sundry Debts**

- 16.1 The Section 151 Officer has overall responsibility for the collection and recovery of sundry debt which covers the collection of amounts due to West Devon Borough Council.
- 16.2 All sundry debtor invoices will be raised using the corporate sundry debtor's system by the Finance Team, following the completion of a Sundry Debt form. Prompt invoicing is vital in ensuring effective debt collection.
- 16.3 Full details of the charge will be clearly stated on the invoice including the date the goods or services were provided. The Council accepts a range of payment methods including direct debit, by telephone, online and by BACS.
- 16.4 The Council's payment terms are shown on the invoice. Payment terms will only be considered where the customer is not able to settle the debt in full in one payment. On receiving an invoice, a customer can request to make an arrangement to clear the amount outstanding in instalments.
- 16.5 If an arrangement to pay is entered into, this will be monitored by the Finance Team.
- 16.6 Reminder letters may be issued at intervals relevant to the type of debt and the Finance Team will endeavour to contact the debtor when chasing the debt.
- 16.7 A pre-legal letter (letter before action) may be issued.
- 16.8 An arrears analysis report is run quarterly for all outstanding aged debts. This is sent to the relevant Head of Service for a decision on the next recovery action they would like to take.
- 16.9 The Finance Team will attempt to trace any debtors who have absconded or liaise with the Revenues and Benefit team where it is necessary to use external agents to do so.