

West Somerset Council - Corporate Debt Policy



1. Overview

This document details the Council's policies on the billing, collection and recovery of money due to West Somerset Council.

Sums due to the Council can be a mixture of statutory and non-statutory charges. Statute tightly prescribes methods for billing and recovery of the statutory debts. Our enforcement practices must take account of this diversity.

Effective debt management is crucial to the success of any organisation. The Council needs an effective policy to support the maximisation of debt collection in an efficient, consistent and sensitive manner. In developing this policy we have considered guidance issued by the Local Government Ombudsman as well as best practice in debt recovery.

This document sets out the general principles we will apply to debt management across all the services we provide.

This corporate policy covers all of the Council's service areas which raise bills or invoices for payment. We will process personal information and financial details for the purposes of administering and collecting local taxes and other revenue. Where necessary we will share some or all of this information, as appropriate, with debt collection and tracing agencies, local and central Government, courts and tribunals in accordance with our data protection registration and in observance of the requirements of the Data Protection Act.

Mission Statement

"West Somerset Council seeks to collect all monies owed to the Council for the benefit of all its residents. Bills and invoices will be issued promptly and correctly and in cases where recovery action is required, the Council will act quickly, fairly and impartially, but with due regard to the social welfare and human rights of all of our customers"

2. Key Aims of the Policy

This Policy aims to strike a fair balance between the financial needs of the Council and the social needs of our customers by:

- coordinating income collection, recovery and debt management activities;
- ensuring circumstances are taken into account when determining appropriate recovery action, including potential emerging costs for ongoing support and care;
- adopting a debt hierarchy for multiple debts;
- providing advice and or signposting to receive appropriate support to those owing money to the Council, ensuring they are maximising reliefs, discounts or benefit entitlements;
- taking prompt recovery action before debts become unmanageable for the customer;

- applying best practice debt collection methods e.g. timely and accurate billing;
- offering a range of cost effective payment methods;
- ensuring that we treat everybody with integrity, fairness, respect and trust;
- recognising that failure to recover monies due impacts on the Council's ability to provide key services;
- aiming to be consistent in our approach in similar circumstances to achieve similar ends;
- taking a proportional view will be taken against loss of income and costs incurred;
- being transparent to maintain public confidence;
- producing accurate and timely management reports;
- identifying vulnerability and acting or responding appropriately.

3. Scope

This Policy applies to the collection of all debts, including:

- Council Tax
- Non-Domestic Rates (Business Rates)
- Housing Benefit Overpayments
- Sundry Debts (invoices raised on the Corporate Finance system for a variety of Council Services)

4. Debt Recovery Principles

The Council's debt recovery principles are outlined below.

- **Proportionate:** establishing an appropriate balance between the potential loss of income to the Council, recovery costs and any emerging Council or third party costs relating to welfare, care or housing support.
- **Consistent:** the Council aims to achieve consistency in the advice it gives, the use of its powers and the recovery procedures adopted. Council officers will take account of the social circumstances of the debtor, the debtor's payment history and their ability to pay.
- **Transparent:** ensuring people understand what is expected of them and what they should expect from the Council, including explaining clearly the reasons for taking debt recovery action. The Council aims to take early recovery action before debts become unmanageable for the customer.
- **Offset:** where a customer owes money to the Council but this is less than any funds due from the Council, this will be offset against what is owed and the net balance settled. Where a customer owes money to the Council that is greater than any funds due to them by the Council, these funds will be used to reduce the amount owed and the customer contacted about arrangements to repay the outstanding balance. Any such arrangements will be undertaken in a fair and legal manner and with the customer's agreement wherever possible.
- **Appropriate Costs/Fees:** where legislation permits, the Council will seek to apply and recover from the debtor any costs/fees that are legitimately due to the Council or its agents. Only in exceptional cases, where it would not be in the public interest to pursue such costs/fees, will these be waived.
- We will also ensure that we pay suitable regard to our Core Values of:
 - **Integrity** - we will be honest, do what is right and stick to it
 - **Fairness** - we will consistently treat everyone equally, respecting their individual needs and abilities
 - **Respect** - we will always show respect for everyone
 - **Trust** - we will show trust and confidence in our staff and Councillors.

We intend to be firm and fair and our manner will be polite and professional.

Detailed recovery action for the key debt types is outlined in the appendices to the Corporate Debt Policy.

5. Hierarchy of Debt

Customers, citizens and businesses within West Somerset have a responsibility to pay for the services they receive and the charges and rents they are liable for. In some instances customers will owe more than one debt to the Council. The Council will adopt a co-ordinated approach when dealing with multiple debts, taking into account the person's circumstances, legislation, the level of debt and the potential for financial hardship.

Where the Council, or its identified collection agent, is pursuing multiple debt then payments will be allocated firstly to debts where non-payment could lead to loss of the customer's home or have direct implications for an individual's wellbeing.

Priority debts have then been ranked as follows:

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

All debt will be actively pursued in accordance with the Corporate Debt Policy, however, for accounting and collection purposes the above debts will have priority.

The Council's Corporate Debt Policy and complementary third party collection arrangements will ensure that incidences of multiple debt are effectively monitored. These arrangements will provide timely and regular information to facilitate the annual review of the Policy and assess the ongoing appropriateness of the hierarchy of debt.

6. Vulnerability

This protocol has been drawn up in agreement with representatives of West Somerset's Advice Bureau (WSAB). It sets out a strategy to increase the likelihood of successful collection without causing unreasonable distress to those liable.

Definition

A vulnerable person is a person who, by characteristics and/or circumstances, is unable to act or respond appropriately to the normal collection procedures, or for the same reason is unreasonably affected by them. The Council recognises that vulnerability can come in many forms and it can also be multi layered. Vulnerability can also be temporary, permanent or come in a series of episodes and anyone at any time could potentially be deemed vulnerable. The characteristics or circumstances that **may** lead to identifying a person as vulnerable are as follows:

- Carers
- Cognitive Impairment
- Debt Management Agency involvement and overall debts need to be managed
- Disability
- Financial Impoverishment
- Learning Difficulty (including literacy difficulties)
- Language Difficulty
- Late Term Pregnancy
- Lone Parents – with young children
- Medication
- Mental Health (including personality disorders)

- Physical Health (including fragility due to advance years)
- Possession Proceedings
- Probation Service Involvement
- Recent Bereavement
- SMI (Severely Mentally Impaired)
- Substance Abuse
- Social Services Involvement
- Terminal Illness
- Victim of Abuse
- Victim of War

This list of factors is not definitive and all the circumstances must be taken into account.

7. Methods of Payment

The Council recognises that the easier it is to pay, the more likely that payment will be made and the less likely that debts will accrue. The Council's preference is for low cost payment options that provide a high degree of accuracy and certainty, such as Direct Debit. However to provide our customers with the greatest flexibility a range of payment types appropriate to the debt type and size is offered. Customers currently use a mixture of payment methods and channels for different services, including cash, cheque, postal order, debit cards, standing orders and other electronic banking methods, such as online internet banking and touch tone telephone payments. Payments can also be made via the Council's website www.westsomersetonline.gov.uk by clicking on the "Pay for it" tab. Specific services can also be paid by credit card.

8. Write-offs

The Council recognises that a small proportion of its overall income may not be collectable due to matters beyond its control. Where a debt is assessed to be irrecoverable it will be subject to a write-off process that is consistent with recognised accounting practices. The Council will seek to minimise the cost of write-offs by taking all appropriate action to recover what is due including the use, where appropriate, of inhibitions. Income deemed irrecoverable must satisfy one of the pre-determined criteria including but not restricted to:

- the customer has died and there are no or insufficient funds in the estate;
- the customer cannot be traced;
- it is uneconomical to pursue the debt;
- the income is uncollectable due to insolvency;
- all recovery methods have been exhausted;
- it is not in the public's interest to pursue e.g. at risk and vulnerable service users; and
- the debt is prescribed under the limitation act 1980.

All write-offs will be carried out in accordance with the relevant provisions contained within the Council's Financial Regulations, as supplemented by the Finance Rules.

It should be noted that just because a debt is written off it does not rule out the possibility of writing the debt back and pursuing it to the full extent of the law. An example of when this may occur is if a debtor absconds with no forwarding address but is subsequently traced. A further example would be in insolvency cases where an individual/company goes bankrupt or is made insolvent, partial/full dividend(s) can be received many years later.

9. Performance Monitoring

The Council recognises that prompt recovery action is essential for effective debt management. The Council will:

- regularly monitor the level and age of its debt;
- set clear targets for the recovery of debt;
- have written recovery procedures;
- assess recovery methods to ensure maximum returns; and
- regularly review irrecoverable debts for write-off.

To ensure the Corporate Debt Policy achieves its objectives a range of indicators has been developed to monitor performance. Key quarterly indicators (unless stated otherwise) include:

- In year collection targets (Council Tax, Business Rates & Housing Benefit Overpayments) - Monthly
- Value of Sundry Debt greater than 90 days
- Sundry Debt invoices outstanding (value)
- Top 10 Sundry Debts outstanding with progress reports (reported to JMT)
- Invoices / Credit Notes raised
- Total Sundry Debt balance broken down by age of debt and recovery stage
- Sundry debt cases on hold

The Council recognises that failure to achieve income and collection targets will have financial and service consequences. Performance will be reviewed on a quarterly basis by the Finance Manager, liaising as appropriate with relevant service managers, and this information will be reported as part of the Council's wider performance updates to members.

Where an external agency assists the Council's collection and recovery process it will also be required to produce detailed performance and management information.

10. Stakeholders

The Council recognises that personal indebtedness is increasing and that any debt recovery action can potentially cause distress, particularly where the person has other debts or is on a low income. The Council will make every effort to support customers in managing their Council debts and will engage with relevant welfare and debt agencies where appropriate.

11. Confidentiality

The Council will ensure that all information about a customer's personal and/or financial circumstances is dealt with in the strictest confidence.

12. Review

The Corporate Debt Policy will be reviewed on an annual basis. This review will take account of changes in legislation, service improvements, regulations and wider policy initiatives. Any proposed changes will be discussed with appropriate stakeholders and updated in line with related policies.

13. Segregation of Duties

The Council will ensure that income and debt recovery transactions are governed by robust controls, with clear segregation of duties. Financial decisions will be made by identified officers and reviewed by appropriate managers. These arrangements will be clearly detailed in relevant service operation manuals and the Finance Rules.

Supporting Policy Documents

Appendix 2 – Council Tax & Business Rates Recovery Strategy (page 6-13)

Appendix 3 – Overpaid Housing Benefit Overview (page 14 -17)

Appendix 4 – Sundry Debts Overview (page 18 - 23)

Appendix 5 – Signed Good Practice Protocol with West Somerset Advice Bureau (page 24 - 27)

1. Council Tax & Business Rate accounts

Recovery Strategy for Local Taxation

- 1.1. Our ultimate aim is to recover 100% of Council Tax and Business Rate debt by taking a “**Firm but Fair**” approach.
Our key objective is:
“**To support those who cannot pay and take action against those who will not pay**”
- 1.2. We will issue a recovery timetable each year and we will aim to recover outstanding instalments in a timely and efficient manner maximising cash flow and driving down arrears.
- 1.3. We recognise people and businesses do not pay debts for a variety of reasons:
 - Some customers genuinely struggle to meet their payments and need advice and help in budget management
 - Some customers deliberately choose to set out to delay and not pay their debts
 - Some customers are not receiving the benefits or reductions they are entitled to
 - Some customers go through personal difficulties that result in short-term and long-term problems in paying their debts
 - The national and local economy affects individuals and businesses
 - Diversity brings complications in customer understanding and guidance may be needed.
- 1.4. At each stage we will encourage customer contact and liaise with internal departments and outside agencies e.g. Citizens Advice Bureaux and welfare rights agencies to offer specialised advice and/or debt counselling to those we feel may be in need of help.
- 1.5. The Local Government Association and the Citizens Advice Bureau published the “Collection of Council Tax Arrears Good Practice Protocol” first launched in July 2009 and refreshed in 2013. Officers of the Council and contractors acting on its behalf in Council Tax enforcement roles will comply with these standards.
- 1.6. The Lord Chancellor's Department has produced Taking Control of Goods: National Standards for Enforcement Agents brought in on 6 April 2014. Officers of the Council and contractors acting on its behalf in enforcement roles will comply with these standards.
- 1.7. We have guidelines and a Code of Practice for Enforcement Agents. Council officers and contractors acting on its behalf in enforcement roles will comply with these standards.
- 1.8. If we have reason to believe a customer is “vulnerable”, we will manage their account following our Vulnerable Policy.
- 1.9. If any customer is unable to maintain a payment arrangement or is unhappy with the suggested level of payment under an arrangement, they will have recourse to a Senior Revenues Officer to appeal.

Demand Notices

- 1.10. We will issue annual Council Tax and Business Rate bills as soon as practical after the Council has set its Council Tax for the forthcoming year.
- 1.11. We will issue adjustment notices as soon as practicable after the liability is known with payment(s) being due on the earliest date(s) allowed by legislation.
- 1.12. All bills include a monthly instalment arrangement. If the customer wants to change their instalment date, they must contact us as soon as possible.
- 1.13. We offer several different payment methods and dates for customers to pay their accounts. We offer an instalment date of the 1st of the month to all non-direct debit payers. We promote payment by direct debit, as it is the most efficient payment method. It also helps customers avoid missing instalments and being subjected to recovery action.
- 1.14. To encourage customers to pay by direct debit, we offer a choice of 4 instalment dates: 1st, 8th, 15th & 23rd of the month. We promote the setting up of Direct Debit over the telephone.
- 1.15. If a customer pays regularly, but fails to do so by the instalment date, we will still take recovery action, as payments are late.
- 1.16. In line with Council Tax and Non-Domestic Rating legislation customers can request payments over 12 monthly instalments. This request must be made before 1st April to allow us sufficient time to issue a bill over the whole period. Where this request is made part way through the year, instalments are reduced accordingly. Where applicable when a customer clearly demonstrates they are struggling to pay, this payment option should be made known to them.
- 1.17. Where a Council Tax or Business Rate customer cannot pay on the set instalment date, Revenue Officers will have the discretion to vary the instalment dates. However, the final instalment date must be before 31st March of the financial year in question. Such arrangements will only be considered where no recovery action has yet started for the account in question.
- 1.18. Where recovery action has started, payment arrangements will generally only be entered into where the debt is secured by a liability order and/or the debtor agrees to pay by direct debit. Arrangements will only be agreed by approved staff and will generally only be agreed where:
 - The debt will clear by the end of the financial year
 - The debtor's proposals are reasonable in comparison with the amounts that could be secured by taking alternative action
 - The debtor demonstrates a clear intent to honour the arrangement.
- 1.19. In cases where exceptional circumstances exist and it would not be in the interests of tax payers to pursue enforcement action, arrangements may be made by authorised staff before obtaining a liability order and without the debtor agreeing to pay by direct debit.

Reminders and Final Notices

- 1.20. We will issue reminders and final notices as requested after 14 days of the payment default to which they relate, following the recovery timetable. The reminder gives 7 days for the customer to bring their account up to date.
- 1.21. If we issue a reminder or final notice, we will advise the customer that if they pay by direct debit, they can spread any arrears over the remaining months of the financial year under a "special arrangement". This will be a "one time" offer. If the customer subsequently cancels the direct

debit mandate or if the payment is rejected by the bank we will issue further reminders and if still unpaid we will escalate the account to requesting a Summons from the Magistrates Court.

- 1.22. If the overdue instalment is paid, but the customer misses a future instalment, we will issue a second reminder. We will tell the customer that we will not issue any further reminder and that they must bring their account up to date within 7 days and maintain future instalments on the due date or we will issue a summons. A Business Rate debtor will only receive one further notice, followed by a summons if the account is not brought up to date.
- 1.23. A "Final Notice" is a courtesy letter and is not required in law. We will not issue more than three reminders in a financial year - a maximum of two instalment reminders and one final notice. We will issue Final Notices as an exception rather than a rule to closed accounts at year end to encourage cash flow.
- 1.24. If we have agreed a special arrangement and the customer fails to meet their duties under that arrangement, we will only allow further instalments by direct debit on immediate payment of any arrears i.e. before any future instalment. If we are not able to agree an instalment plan, then the whole outstanding balance becomes payable.
- 1.25. If we do not receive payment, we will request a summons from the Magistrates' Court. Once a summons has been issued, the full amount of Council Tax or Business Rates is due, as well as the summons costs.

Summonses

- 1.26. We will issue summonses as soon as reasonably practicable after the default to which they relate. If the customer does not pay as the reminder, or final reminder instructs, we will request a summons from the Magistrates' Court. The summons gives details of when the customer must attend court to explain why they have not paid their bill. The cost of sending the summons is added to their bill.
- 1.27. If the customer pays the full amount of the summons, including costs, before the hearing date, the customer does not have to attend court.
- 1.28. If the customer makes a payment arrangement with us before the hearing, they do not have to attend court. However, we will ask the Magistrates' Court to grant a "liability order" to secure the debt (explained below). Providing the customer keeps to the payment arrangement, we will not take any further recovery action.
- 1.29. At the court hearing, we must satisfy the Magistrates' Court we have followed the correct procedures that is, sending a bill, reminder and summons to the customer's property, or their last known address. We must also confirm the customer is liable for Council Tax or Business Rates and the debt is outstanding. If the Magistrates' Court are satisfied with the evidence we present they will grant a liability order and costs.

Liability Orders

- 1.30. A liability order is a decision by the court confirming the customer is liable to pay Council Tax or Business Rates and has not done so in accordance with the law. It gives us powers to recover the outstanding debt using other methods. These are explained in more detail below.
- 1.31. A Liability Order gives us the power to:
 - ask for financial information including the customer's employment status and employer details that must be provided
 - prosecute for failing to provide financial information (Council Tax only)

- take money directly from the customer’s wage using an Attachment of Earnings Order (Council Tax only)
- prosecute employers for failing to implement Attachment of Earnings (Council Tax only)
- take money directly from Members’ Allowances (Council Tax only)
- take money directly from the customer’s benefits, for example, Income Support, Jobseekers Allowance, Pension Credit, Employment Support Allowance or Universal Credit (Council Tax only)
- use enforcement agents to remove the customer’s goods and sell them to pay the debt
- start insolvency proceedings (against companies)
- seek a Charging Order against the customer’s property
- start committal proceedings for an individual customer’s imprisonment for up to 90 days
- start bankruptcy proceedings (against individuals)
- instigate County Court proceedings, as an alternative to the Magistrates’ Court.

These methods shall only be used with consideration to the principles set out within **2. The key aims of the policy**

1.32. The Magistrates’ Court may not grant a liability order if the customer can provide a valid defence, such as:

- we have not demanded the Council Tax or Business Rates as the law sets out
- the customer/company has already paid the amount on the summons and provides evidence of the payment
- the customer/company is exempt
- the property is not entered into the relevant Valuation list
- the customer/company is not the person liable for Council Tax or Business Rates
- more than 6 years have passed since we sent a bill for the amount
- Bankruptcy, Debt Relief Order (DRO), winding up proceedings have commenced or an Administration Order has been made (and evidence is provided).

To save the court time it is reasonably expected that if any of the above situations apply (or the customer believes they may apply) the customer should contact the Council for clarity before the actual hearing as it may be possible to resolve the enquiry and therefore there will be no need to attend court. If the customer is not satisfied with the Council’s response they have the right to appear before the Magistrates and dispute the application for a liability order.

1.33. It is not a valid defence if the customer is unable to pay because they have:

- applied a discount/exemption or relief (including Council Tax Support) that may reduce their Council Tax or Business Rates
- appealed to the Valuation Office Agency against the valuation band or rateable value
- money problems and simply cannot afford to pay.

Request for financial information

1.34. When we have a Liability Order we will send a “request for information form” asking the customer to supply details about their income and expenditure. They have 21 days to complete and return it. This letter also details what will happen if we ask enforcement agents to collect the outstanding debt.

- 1.35. If the customer does not complete and return the income details form within 21 days we can take action. Under Schedule 3 of the Local Government Finance Act 1992 a penalty can be imposed ranging from £70.00 to £280.00.

Attachment of Earnings

- 1.36. We can tell employers to deduct directly from the customer's salary or wages to pay their Council Tax debt. The amount deducted depends on how much the customer earns. If they have multiple Liability Orders we can make two deductions.

Table of deductions from monthly earnings for each order issued after 1 April 2010

| Take home (net) wage | Percentage we can deduct | Amount to be deducted |
|------------------------------|--|------------------------------|
| Under £300 | 0% | Nil |
| Over £300 but under £550 | 3% | £9 - £16.47 |
| Over £550 but under £740 | 5% | £27.50 - £36.95 |
| Over £740 but under £900 | 7% | £51.80 - £62.93 |
| Over £900 but under £1,420 | 12% | £108.00 - £170.28 |
| Over £1,420 but under £2,020 | 17% | £241.40 - £343.23 |
| Over £2,020 | 17% of first £2,020 plus 50% of the rest | £343.40 plus 50% of the rest |

Table of deductions from weekly earnings for each order issued after 1 April 2010

| Take home (net) wage | Percentage we can deduct | Amount to be deducted |
|--------------------------|--|-----------------------------|
| Under £75 | 0% | Nil |
| Over £75 but under £135 | 3% | £2.25 - £4.02 |
| Over £135 but under £185 | 5% | £6.75 - £9.20 |
| Over £185 but under £225 | 7% | £12.95 - £15.68 |
| Over £225 but under £355 | 12% | £27.00 - £42.48 |
| Over £355 but under £505 | 17% | £60.35 - £85.68 |
| Over £505 | 17% of first £505 plus 50% of the rest | £85.85 plus 50% of the rest |

- 1.37. The employer can deduct a further £1 per order for their administration costs each time they make a deduction. Deductions continue until the Council Tax is paid in full. Customers must tell us within 2 weeks of any change in their employment.

Deductions from benefits

- 1.38. We can ask the Department for Work and Pensions to deduct directly from the customer's Income Support, Jobseekers Allowance, Employment Support Allowance or Universal Credit.
- 1.39. The money deducted is sent to us each month and continues until the Council Tax is paid in full, or benefit entitlement stops.
- 1.40. Customers must tell us within 2 weeks of any changes in their benefit.

Recovery of Council Tax through Member Allowances

- 1.41. Regulation 44 Council Tax (Administration & Enforcement) Regulations 1992 relates to an elected member of West Somerset Council or a relevant precepting authority.
- 1.42. The Regulations allow an attachment of the allowances of an elected member to be made when West Somerset Council has obtained a Liability Order. These provisions do not extend to Members of Parliament.
- 1.43. West Somerset Council can make an order under which they can attach 40% from a member's allowances.
- 1.44. The allowances to which the order relates are those paid under:
 - **Section 18 Local Government & Housing Act 1989**
 - This includes schemes for basic, attendance and special responsibility allowances for Local Authority Members.
 - **Section 175 Local Government Act 1972**
 - This includes allowances for attending both conferences and meetings.
- 1.45. Any decision on an attachment of allowances should be referred to the Principal Revenues Officer and the Council's Assistant Chief Executive (Monitoring/Proper Officer).

Charging Orders

- 1.46. Charging Orders are used when attempts to attach earnings, deduct from benefits and remove a debtor's goods have been unsuccessful. All Charging Order cases must be controlled by the Principal Revenues Officer.
- 1.47. If the debtor owns a property the Principal Revenues Officer can decide to apply for a Charging Order to be placed on it. This is similar to a mortgage and means we can recover the outstanding Council Tax debt from the proceeds of sale, should the debtor sell the property at a later date. While it is possible to enforce the sale of a property subject to a charging order, this would be the exception rather than the rule.
- 1.48. A Charging Order relating to Council Tax debt will not be pursued if the customer is considered as vulnerable. The Principal Revenues Officer will only decide a Charging Order is fair and proportionate after they have:
 - reviewed an accurate history of the origin of the debt and any attempts to recover it
 - considered information about the past, present, disputed or outstanding benefit claims or any discounts or exemptions that might be relevant
 - assessed that there is no realistic prospect of recovering the debt by other means in a reasonable timescale
 - gathered sufficient evidence about the debtor's circumstances
 - considered if a debtor's failure to pay and to respond to other recovery measures could arise from a disability (including a mental impairment with a long-term and substantial effect on normal day-to-day activities), and
 - considered if the debtor's personal circumstances warrant them being protected from the consequences of recovery action.
- 1.49. Decisions about applying for a Charging Order should be recorded and the records retained with the information considered by the Principal Revenues Officer.

Bankruptcy

- 1.50. All cases must be controlled by the Principal Revenues Officer.
- 1.51. Any applications for bankruptcy relating to Council Tax debt will be scrutinised but will not be considered if the customer is considered as vulnerable.
- 1.52. The Principal Revenues Officer will only decide that pursuing bankruptcy is a fair and proportionate action after they have:
- reviewed an accurate history of the origin of the debt and any attempts to recover it
 - considered information about the past, present, disputed or outstanding benefit claims or any discounts or exemptions that might be relevant
 - assessed that the debtor has assets that will clear the debt if bankruptcy is pursued
 - assessed that there is no realistic prospect of recovering the debt by other means in a reasonable timescale
 - gathered sufficient evidence about the debtor's circumstances
 - considered if a debtor's failure to pay and to respond to other recovery measures could arise from a disability (including a mental impairment with a long-term and substantial effect on normal day-to-day activities), and
 - considered if the debtor's personal circumstances warrant them being protected from the consequences of recovery action.
- 1.53. Decisions about pursuing bankruptcy should be recorded and the records retained with the information considered by the Principal Revenues Officer.
- 1.54. Written information should to be provided to the debtor when bankruptcy proceedings are being considered. That information should:
- warn the debtor of the serious consequences of bankruptcy and their continued failure to make arrangements to pay the debt, and
 - urge them to seek independent advice and "sign-post" to local sources of advice.

Committal

- 1.55. Where all other recovery options have been exhausted and residence has been confirmed the case can be reviewed for Committal to Prison proceedings. Such cases will remain under the strict control of the Principal Revenues Officer.
- 1.56. A pre committal letter will be issued to all cases warning of the seriousness of this course of action. This letter will also detail a final offer of repayment over a period deemed acceptable by the Principal Revenues Officer.
- 1.57. A Committal Summons or a warrant will be issued by the Council on behalf of the Magistrates' Court and this will include a request for reasonable costs.
- 1.58. Legislation states that for a Committal hearing to take place the individual concerned must be in attendance.
- 1.59. If an individual does not attend the Committal hearing due to illness both the Council and the Magistrates will only accept an official signed declaration from a doctor detailing why the individual cannot attend the hearing. The case will be adjourned to another time and date and the individual will be notified of this new hearing by the court. However, if there is no apparent reason for an individual's nonattendance the Council will have no alternative but to request an arrest warrant

from the Magistrates, due to non-attendance/contact. The Council is likely to ask for a warrant without bail, therefore, when arrested, the debtor could spend some time in custody until the Council and the court agree for the case to be heard.

- 1.60. In the case of a Committal Summons, warrants (both with and without bail) will be prepared in advance and will be taken to the court hearing in anticipation of nonattendance.
- 1.61. Any signed warrant will be promptly issued to an enforcement agent acting on behalf of the Council for the customer's immediate arrest. When any arrest is imminent or when it actually occurs it is essential the enforcement agent keeps in regular contact with the Council to keep them well informed of the situation. If the debtor is subsequently held in remand or released on bail, the Magistrates' Court will advise the Council of the hearing time and date.
- 1.62. At the Committal hearing the court must hold means enquiries for each unpaid financial year.
- 1.63. The Magistrates' decision should be duly noted and recorded on the customer's account for future reference. The maximum period of imprisonment the Magistrates can impose is three months (90 days).
- 1.64. Any Committal payment arrangements agreed by the Magistrates should be strictly monitored by the Council and where appropriate cases in default should be taken back to court for another Committal hearing.

2. Overpaid Housing Benefit

General information

- 2.1. Recovery of overpaid Housing Benefit is carried out with due regard of the Department for Work and Pensions Good Practice Guide.
- 2.2. An overpayment is any amount of Housing Benefit that has been paid but to which there was no entitlement.
- 2.3. When we identify an overpayment, we will write to the benefit claimant and provide the following information:
 - Reason for the overpayment
 - Amount of the overpayment
 - Benefit period covered
 - Method of recovery
 - Rights of appeal
- 2.4. We will calculate overpayments quickly and accurately and to provide quality information to the people affected, ensuring we recover the correct amount. To achieve this we will:
 - Invite claimants to apply for underlying entitlement to benefit
 - Calculate overpaid benefit on average, within 14 days of getting the information we need
 - Use the proper effective date of change to fix the correct overpayment period
 - Consider uncashed or returned cheques or underpayment of benefit.
- 2.5. We will correctly classify overpayments for subsidy purposes to prevent loss of subsidy.
- 2.6. We will only issue invoices when a recoverable overpayment of Housing Benefit exists and we cannot recover automatically through deductions from on-going benefit.
- 2.7. The Housing Benefit (Recovery of Overpayments) Regulations 1997 allow us to recover overpayments from landlords from their current tenants' claim. We will, in appropriate circumstances, reduce payments to landlords for their current tenants to recover overpayments that arose for former tenants. We will take this action when the original tenant has no continuing Housing Benefit and when there was a misrepresentation or failure to disclose a material fact (blameless tenant deductions).
- 2.8. We will maintain contact with debtors through telephone contact and visits to their properties to encourage repayment.
- 2.9. **Prevention of overpaid benefit**
 - 2.10. West Somerset Council believes prevention of overpaid benefit debt is better than cure. Therefore strict measures are to be employed to prevent overpayments occurring. These will include:
 - Using a well laid out application form to collate accurate information which contains an unambiguous statement that failure to provide correct information could lead to overpayments of benefit and to prosecution

- Ensuring all benefit letters and relevant correspondence inform the people affected of their responsibility to tell the Council of any change of circumstances that may affect their claim
- Making use of the Verification Framework techniques and procedures for example:
 - Using checks for identity, residency and National Insurance numbers.
 - Tailored reviews for high-risk claimants.
 - Visiting programmes targeting high-risk claimants.
- Ensuring all staff involved with overpayments receive enough training with comprehensive access to overpayment recovery procedures and an awareness of problems relating to debt
- Providing regular fraud awareness training for staff who have contact with claimants
- Using and developing information technology to automate the identification and recovery of overpayments and to reduce error
- Dealing quickly with reported changes of circumstances
- Including publicity material, for example posters, guidance pamphlets sent with application forms and landlord undertakings, information on responsibilities for reporting changes of circumstances
- Ensuring procedures are in place for the prompt ending of benefit where a claimant does not comply with a review of their claim
- Taking part in various data matching exercises with external agencies and cross matching against internal databases while adhering to principles contained in Data Protection and Human Rights Acts.

Recovery of overpaid benefit

- 2.11. Generally, all overpayments are recoverable, regardless of the reason they occurred, where the claimant or person to whom the benefit was paid can reasonably have been expected to know they were receiving benefit to which they were not entitled.
- 2.12. When an overpayment is classed as recoverable the Benefit Officer dealing with the claim must make a separate decision on whether to recover the overpayment.
- 2.13. Recovery of the overpaid benefit can be sought from the claimant or the person to whom the payment was made. Recovery will only be sought from the landlord or agent where they could be expected to have known about the change in circumstances leading to the overpayment.
- 2.14. In most cases recovery of a recoverable overpayment will be sought. However, consideration will be given to the personal and financial circumstances of the person from whom recovery would be sought. If the situation is unclear we will contact or visit the claimant for clarification.
- 2.15. Where we decide an overpayment is recoverable, recovery arrangements will proceed in the following hierarchy:
 - From arrears of Housing Benefit. Via lump sum recovery
 - From continuing Housing Benefit. This includes direct payments to a landlord for that claimant even if that claimant has moved or changed landlord. We will base recovery rates on DWP guidelines and will always initially apply the maximum recovery rate permissible. However officers will be empowered to consider applications from debtors to reduce the recovery rate in cases where there is demonstrable hardship
 - We will raise an invoice if there is no continuing Housing Benefit and no likelihood of continuing benefit or reduction through underlying entitlement

- We will produce all invoices, reminders and final notices using the Northgate Debtors (or whatever future revenues system that may be appropriate)
- At this point we will seek to recover the overpayment in full by a single payment, especially if the overpayment has occurred due to excess capital. However, where this is not possible, due to the debtor's financial circumstances we may agree a payment plan involving instalments (see 2.29 for guidance on maximum repayment periods)
- By deductions from other Social Security Benefits managed by the Department for Work and Pensions. Section 75(1) of the Social Security Administration Act 1992 allows recovery of overpaid Housing Benefit by deduction from prescribed benefits that are defined in Regulation 105 of the Housing Benefit Regulations 1987.

2.16. Where we raise an invoice and do not get payment after issuing a final notice, we will consider implementing a Direct Earnings Attachment (DEA) as provided for under the Social Security (Overpayments and Recovery) Regulations 2013. A DEA gives West Somerset Council the power to recover overpaid Housing Benefit by deductions from earnings without applying for a court order. DEAs give us the opportunity to recover these debts from employed people if they:

- refuse to repay
- cannot agree an acceptable repayment plan
- default on a voluntary repayment arrangement.

If a debtor fails to provide information requested to support a DEA, or an employer fails to comply with their duties they could be subject, on conviction, to a fine of up to £1,000 (Regulation 30 of the Social Security (Overpayments and Recovery) Regulations 2013).

2.17. In some circumstances, we may decide to instruct an external professional debt collection agent and their actions are governed by the Council's Service Level Agreement.

2.18. As an alternative to a DEA, we will consider issuing a claim against the debtor in the County Court. We will make this decision on the realistic prospect of obtaining payment of the debt by a County Court Judgement.

Debt repayment arrangements

2.19. Officers will encourage people owing money for overpaid Housing Benefit to make contact at an early stage in the recovery process.

2.20. When a person makes contact, we aim to agree a realistic payment agreement. If there is any doubt as to whether the agreement is realistic (either because it appears to be too high or too low), officers will ask the individual to complete an income and expenditure form.

2.21. Officers will try to get as much detail as possible of a person's circumstances to make the best assessment of their ability to pay. However if a person refuses to divulge any information, this could be considered as a reason to refuse an arrangement.

2.22. In some cases it may be necessary to request documentary proof to confirm particular details when arriving at a payment arrangement. Individuals should not however be asked for documentary evidence unless it is absolutely necessary.

2.23. If it is necessary the individual should be told of the particular items that require confirmation and be given a specified reasonable time limit within which they are required.

2.24. The individual should be advised that if the evidence is not produced within the agreed timescale the offer of payment may be rejected and further action could be taken.

2.25. All information collected is governed by the Data Protection Act 1998 and the Revenues and Benefits Service has procedures in place to comply with the Act.

- 2.26. The Revenues and Benefits Service will closely monitor all payment arrangements and will take prompt recovery action for missed payments. Action may be taken, even where payment is received shortly after the due date.
- 2.27. The responsibility for making sure the payment reaches the account by the due date remains with the debtor. The debtor should be reminded the date on which instalments are to be paid is the final date on which money should reach the account.
- 2.28. This means that debtors must allow sufficient time for the payments to reach the Council by the due date.
- 2.29. We will individually consider repayment for every case and, where possible, will seek to recover the debt in full within 12 months. If it is not possible to recover the debt in full within 12 months, in exceptional circumstances, alternative repayments may be offered with an ideal maximum repayment term of five years. Very occasionally arrangements may need to extend beyond five years and in such instances, approval from a Senior Officer in the Revenues and Benefits Service must be obtained. No repayments should extend beyond 10 years.
- 2.30. It is important to remind the individual to contact the Revenues and Benefits Service if they anticipate problems in meeting any instalment due date. They will be advised not to wait until they have received a written response to their offer of payment, but to start and maintain payments.

Monitoring recovery of overpaid Housing Benefit

- 2.31. The Council will monitor recovery of overpaid Housing Benefit by the Revenues and Benefits Service through success in meeting the following Performance Indicators:
- Amount of overpaid Housing Benefit recovered during the period as a percentage of total amount of overpaid Housing Benefit identified during the period
 - Amount of overpaid Housing Benefit recovered during the period as a percentage of the total amount of Housing Benefit overpayment debt outstanding at the start of the period **plus** amount of overpaid Housing Benefit identified during the period
 - Amount of overpaid Housing Benefit written off during the period as a percentage of total amounts of overpaid Housing Benefit debt outstanding at the start of the period plus amount of overpaid Housing Benefit identified during the period.
- 2.32. Statistics on the amounts of overpaid Housing Benefit are held from the 2008/09 financial year. These provide a useful yearly/quarterly/monthly comparison with all overpayments created, the recovery by deduction from weekly on-going Housing Benefit (OGB) and through manual invoice and the total amount outstanding being reported.

3. Sundry Debts

Introduction

- 3.1. It is the Council's policy to recover all collectable debt owed to it. With this overall objective in mind this policy aims to:
- Maximise the Council's Income
 - Reduce the time taken to collect charges
 - Reduce the level of debt owed to the Council and hence its risk of bad debts, and
 - Reduce the incidence of debt that cannot be collected.
- 3.2. This Policy supports these aims by:
- Promoting ownership of debts by service providers
 - Ensuring wherever possible that collection of the fee or charge involved takes place prior to the service being provided so that credit is only given when it is essential to do so
 - Promoting a system of active credit control
 - Ensuring invoicing procedures are carried out on an accurate and timely basis
 - Requiring that evidence to support the invoice exists in the form of an order or other written contract
 - Encouraging debtors to pay promptly, and
 - Making collection and enforcement activity more efficient.
- 3.3. The Director of Operations will set and monitor delivery of relevant targets for debt collection and will report performance against target to members.
- 3.4. The Council will publicise this policy and that it intends to pursue the collection and recovery of all debts owed to it.

Scope

- 3.5. This part of the policy excludes the following debts as they are subject to their own legislation / regulations:
- Council Tax
 - Business Rates (National Non Domestic Rates)
 - Housing Benefits Overpayments and Excess Council Tax Support

Key Objectives of Fees and Charges

- 3.6. The fee or charge imposed by the Council should be fair in relation to the goods and/or services provided.
- 3.7. The charge should reflect the principles outlined in the appropriate charging policy and in the Council's Financial Regulations.
- 3.8. The charge should, depending on legislation, always at least cover the cost of providing the goods or service and the costs of collection, unless the Council has taken a policy decision to subsidise the service.

- 3.9. The charge should wherever possible be obtained in advance of the goods and/or services being provided. If not, and where appropriate, the prior written agreement of the person receiving the goods and services should be obtained to pay for the goods and/or service.
- 3.10. The charge should be collectable.
- 3.11. Fees and charges must be reviewed at least annually.
- 3.12. There should be a clear and prompt billing and collection process.
- 3.13. There should be a clear and consistent council-wide approach to the giving of credit and the collection of debt that is led by this policy.
- 3.14. There should be a system that ensures Services only retain credit for an invoice if the income is actually collected.

Responsibilities

- 3.15. Directors, Assistant Directors and Service Managers must ensure:
 - Financial Regulations for collecting sundry debt are adhered
 - The parts of this policy applying to their services are correctly followed
 - They proactively support the achievement of corporate targets for debt collection
 - Officers directly responsible for budgets are fully appraised of their responsibilities
 - Relevant systems and procedures are put in place
 - Staff involved in the debt collection process are appropriately trained, and
 - The success of training is kept under continuous review.
- 3.16. The Finance Manager and the ICT and Information Manager are responsible for providing central support and the relevant electronic processes needed to ensure adherence to this policy.

General Principles

- 3.17. Service providers **must** try to get payment in advance or at the time of service delivery wherever permissible. Sundry debt accounts should **only** be raised where payment in advance for a service is inappropriate.
- 3.18. Checks can be made before the service is provided to minimise risks of bad debt. These checks can include vetting of a contractor to assess their financial strength and consequently assess the risk of future non-payment. Investigation can also be made to see if the customer has failed to re-pay a debt owed to the Council in the past.
- 3.19. It is crucial to ensure any debt is properly established. Inadequate legal proof of liability will make collection difficult. It is vital there is sufficient supporting documentation to enforce the debt through written agreements, or official order numbers. The full name and up-to-date address of the debtor should be clear before a service is provided.
 - If the potential debtor is a commercial organisation - the issuing service will consider the risk of trading with that company and the risk of providing credit duly assessed, including via the use of a credit check, and request payment in advance of the goods or service being provided, if necessary
 - If the debtor is a private individual - check if any existing debt exists in the Council against the individual, or whether the Council has had difficulty enforcing payment of previous debts in the past, and request payment in advance of the goods or service being provided if necessary

- If an invoice is to be raised - the issuing service will ensure enough supporting documentation exists to enforce the debt in the event of non-payment.
- 3.20. The minimum value of any demand will be determined annually by the Responsible Finance Officer. However such a minimum value shall not apply to accounts relating to legal charges for rights of access or drainage charges where a contractual duty exists to make such token payments.
- 3.21. Except for a demand payable by instalments, or as otherwise contractually agreed, the settlement terms for all demands will be 14 days.
- 3.22. Recovery action will start no later than 14 days after the demand has fallen due.
- 3.23. Raising sundry debtor invoices will be the responsibility of the service and should only be raised on the Corporate Financial System.
- The correct details of the debtor should be clearly shown on any invoice, with the most current address used. In the event the invoice is raised to a large organisation it should be clearly directed to the relevant department or contact
 - Details shown on the invoice should be comprehensive and clear to the invoice recipient so that the risk of dispute is minimised. Full details of the service provided should be clearly shown on any invoice, including relevant dates, order references, agreements and any other relevant information that will hasten quick payment and minimise any possible delays or disputes
 - An invoice must be raised within 2 days of the charge becoming known
 - Invoices raised must be sent to customers within 72 hours.

Account collection & recovery

- 3.24. The Council has a pro-active approach to collection, to ensure that any disputes are quickly identified and resolved before the account is due for payment.
- 3.25. For individual debts with a value of £5,000 or greater, an officer within the service to which the debt relates will obtain details of a named individual who will receive the invoice (in the case of a company this is likely to be someone within that company's accounts payable team) and will diarise to check whether payment has been made on time. Where payment has not been received the officer will telephone the named individual to establish why payment has not been made and to obtain a date when payment will be made. Further follow-up calls will be made as necessary.
- 3.26. The Council will take prompt action in respect of any customer that:
- Fails to abide by any Terms and Conditions relating to any account or fails to keep any payment promise as set out within any contractual documentation or agreed verbally or in writing in the normal course of collection procedures
 - Refuses to pay without a valid reason
 - Refuses to pay interest charges on late payments in respect of invoices that have not been subject to a valid dispute
 - Refuses to pay collection costs when the services of a third party have been used.

Recovery & Enforcement

- 3.27. In the event of non-payment of an invoice, all subsequent recovery action will be undertaken by the Corporate Recovery Team. This typically will be in the form of reminder letters, telephone calls, emails and liaising with service areas in accordance with documented procedures.

- 3.28. The extent of recovery procedures for particular types of debt will be agreed in advance between the Corporate Recovery Team and issuing services.
- 3.29. Once standard reminder letters have been completed, additional appropriate recovery action will be initiated by the Corporate Recovery Team where necessary, unless previously agreed with the issuing service. The exact nature of this action may vary case by case but typically will include a combination of individual letter, telephone calls, enquiries etc. as appropriate.
- 3.30. In the event that payment remains outstanding after this further recovery action (and no standing instruction exists), then the Corporate Recovery Team will refer back to the originating service for instructions to commence additional action as appropriate, and for the issuing service to suspend service provision if legally permissible until outstanding debts are settled. It is essential that services respond promptly to these requests and instruct the Corporate Recovery Team accordingly.
- 3.31. The type of recovery action will be agreed between the Corporate Recovery Team and the originating service. Options to consider will include:
- Telephone contact with the debtor
 - Referral to a debt collection agency
 - Legal action (obtaining a County Court Judgement). At the request of the originating service debts may be taken further by the Council's Corporate Recovery team if it is felt the debt is recoverable unless the individual circumstances are such that this does not represent best value for the Council. Further options available as the result of a County Court Judgement will then be considered if recovery of the debt is best progressed through:
 - Order to obtain information (making the debtor attend court to explain their financial circumstances)
 - Attachments of Earnings Order
 - Third party debt order (allowing the freezing of bank accounts)
 - Charging Order
 - Statutory demand prior to a Bankruptcy Order or Insolvency proceedings
 - Writ of Control (carried out by a High Court Enforcement Officer)
 - The cost of legal action will be initially charged to the originating section's budget although every effort will be made to recover legal costs from the debtor.
 - The Council's legal department are on hand to offer support/advice should the Corporate Recovery team require support. It is understood that the Legal Department will take control of certain cases for example where a breach of lease has occurred.
- 3.32. Ownership of all sundry debts rests with the originating service. It is only the originating service that may:
- Cancel an invoice relating to their service area via the raising of a credit note. However, an individual officer who has raised the invoice in question will not be permitted to request its cancellation and should not therefore attempt to do so
 - Correspond with or discuss with the debtor, issues about the validity of the debt.
- 3.33. The costs of enforcement action/litigation to recover sundry debtor invoices will be charged against the budget of the service raising the invoice. Any costs recovered from the debtor will be credited against these sums.

Instalment arrangements

- 3.34. In the event of customers requesting the facility of paying their debt over a period of time, the matter will be referred to the Council's Corporate Recovery Team who may agree a suitable payment plan accordingly.
- 3.35. We will individually consider repayment for every case and where possible, will seek to recover the debt in full within 12 months. If it is not possible to recover the debt in full within 12 months, in exceptional circumstances, alternative repayments may be offered with an ideal maximum repayment term of five years. Very occasionally arrangements may need to extend beyond five years and in such instances, approval from a Senior Officer in the Revenues and Benefits Service must be obtained. No repayments should extend beyond 10 years.
- 3.36. Such payment plans will not be available as standard but may be available subject to negotiation between the Council's Corporate Recovery Team and the debtor. These negotiations may entail a "means enquiry" where necessary, where the customer will be asked to provide details of their financial circumstances to support their request to repay the debt over a period of time.
- 3.37. If there is any doubt as to whether the agreement is realistic (either because it appears to be too high or too low), officers will ask the individual to complete an income and expenditure form.
- 3.38. In the event instalment arrangements have been agreed with a debtor, the repayment plan will be monitored by the Council's Corporate Recovery Team. In the event of instalment payments being missed, suitable recovery action will be undertaken through reminder letters and other recovery action.
- 3.39. The Housing section may set up instalment arrangements at time of invoice however all further instalment arrangements will be the sole responsibility of the Council's Corporate Recovery Team.
- 3.40. Wherever possible long term payment arrangements should be subject to an annual review.

Disputes/queries

- 3.41. Disputes must be resolved by the appropriate service in line with the timescales detailed in the own policy/procedures.
- 3.42. A dispute is not resolved unless it meets one of the following conditions:
- Customer is correct and gets full credit
 - Customer is partly correct and gets partial credit and accepts the charge
 - Customer is incorrect and accepts the charge
 - Customer is not correct and does not accept the situation but the service is prepared to instigate legal proceedings to recover debt.

Interest on debts

- 3.43. Interest may be applied to all non-consumer debt as laid down in the Late Payment of Commercial Debts Act 1998. Similar interest may be applied to consumer overdue debt providing the consumer has received prior notification of such charge.
- 3.44. When legal proceedings are issued, interest can be charged for any debt at a rate of 8% from the date the debt arose until judgement is entered (S69 County Court Act 1984).
- 3.45. So not to make the financial position of the debtor worse, interest is not usually added to the vast majority of debts and where it is known that the debtor is on benefits. The debt will already have increased in any event by the addition of court costs.

Loans to staff

- 3.46. Any Council loans, for example an assisted car purchase or training costs for professional qualifications, are repayable in accordance with the terms set out in the Council's Human Resources policies. If the employee leaves the authority any outstanding loan amount becomes repayable in full by the last day of service. Any remaining amount unpaid will be administered through the Corporate Finance System and collected following the usual Sundry Debt processes.

Management reporting

- 3.47. Age Debt Analysis reports are available in the Corporate Financial System. These reports should be run regularly (at least monthly) by services so that each service can make an informed judgment on its bad debt position to ensure the Council's overall bad debt provision remains appropriate, as part of its budgetary monitoring process.
- 3.48. Quarterly the amount of invoices and credit notes raised in the previous quarter are reported to individual departments for their signing off. Upon completion these signed documents are scanned into the Council's Document Management System. The Finance Manager is notified of all invoices and credit notes raised each quarter.
- 3.49. Quarterly the Finance Manager receives a report detailing the total amount raised on the Corporate Finance System. This value is broken down by the recovery codes of Not Yet Due, On Hold, Paying, Collection Agent, 7 Day Letter, County Court and Write Offs. The total amount is also broken down by aged debt into the classifications of less than 3 months, 3-6 months, 6 months to 1 year and more than a year.
- 3.50. Quarterly the Finance Manager receives a listing of all cases on hold.
- 3.51. Quarterly the Senior Debt and Recovery Officer in liaison with the Corporate Strategy and Performance Manager will prepare a report to the Joint Management Team (JMT) detailing the following information:

Top 10 Overdue Sundry Debts

| Name | Customer Reference | Invoice Number | Invoice Date | Due Date | Invoice Details | AD Owner | Total Due | Recovery Action Taken | Officer Comments | On Last Quarters Report Y/N |
|------|--------------------|----------------|--------------|----------|-----------------|----------|-----------|-----------------------|------------------|-----------------------------|
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Good Practice Protocol

Introduction

Council Tax payers will receive a better level of service if Local Authorities and debt advice agencies work together.

This good practice protocol makes a number of suggestions on how relations can be strengthened. It has been developed through partnership work between the national bodies representing advice agencies and local government throughout England and Wales. It reflects best practice at local level and is intended to facilitate regular liaison on practices and policy concerning Council Tax debt collection. In setting down clear procedures and keeping them regularly under review all parties can ensure that cases of arrears are dealt with quickly and realistically whilst complaints are handled efficiently.

By signing up to the protocol you can help ensure that taxpayers pay their Council Tax bills on time while accessing timely debt advice when needed.

In its report of June 2013 the Government endorses the Citizens Advice Local Government Association Good Practice Protocol and recommends Local Authorities who have not done so already to commit to it.

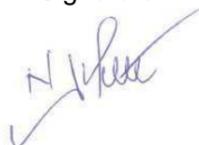
Use the section below to sign up to the protocol as a public commitment to its principles of fairness, partnership working and transparency in Local Authority debt collection.

Signature



S R Perkins - Local Authority representative (West Somerset Council)

Signature



West Somerset Advice Bureau Manager – 18 December 2014

Partnership

The following items cover effective liaison between Local Authorities and advice agencies.

- Local Authorities and advice agencies should meet regularly to discuss practical and policy issues with a recommendation to meet quarterly at officer level and annually with elected members.
- All parties should have dedicated contacts accessible on direct lines and electronically so that issues can be taken up quickly.
- All parties should promote mutual understanding by providing training workshops and/or exchange visits.
- Advice agencies and Local Authorities should work together to develop a fair collection and enforcement policy highlighting examples of vulnerable people and specifying clear procedures in dealing with them. Contractual arrangement with enforcement agents should specify procedures for the Council to take back cases involving vulnerable people.
- Local Authorities should consider informal complaints as evidence of problems with collection or enforcement with enforcement agents. Debtors may be afraid to complain formally where enforcement agent activity is ongoing. Informal complaints received from advice agencies can indicate problems worthy of further investigation.

Information

Literature should be reviewed as part of liaison work between Local Authorities and advice agencies.

- Publicise debt advice contact details on literature and notices. Local Authorities can provide Council Tax payment plans to help people budget. Advice agencies can help by promoting the need for debtors to contact their Local Authority promptly in order to agree payment plans. Both parties can work together to ensure the tone of letters is not intimidating but encouraging of engagement.
- Local Authorities should consider providing literature about concerns council tax debtors may have on Enforcement Agents and enforcement. Information could cover charges Enforcement Agents are allowed to make by law, how to complain about Enforcement Agent behaviour or check Enforcement Agent certification and further help available from the Local Authority or advice agencies.
- All parties should work together to promote engagement by Council Tax payers. Include information on how bills can be reduced through reliefs, exemptions and Council Tax support schemes, how tax payers should contact the local authority if they experience financial hardship and the consequences of allowing debts to

accumulate. Information should be made available on Local Authority and advice agency websites, via social media and available at offices of relevant agencies. This is an opportunity for joint campaign work.

- Promote different payment dates within the month as options available to Council Tax payers. This can allow people to budget more effectively.

Recovery

If a Council Tax bill is not paid then the recovery process comes into play. The first stage of the recovery process will involve reminders but if the account remains unpaid the Billing Authority obtaining a Liability Order from the Magistrates' Court. While authorities strive to make contact with a debtor the first point of contact often occurs only when an Enforcement Agent visits the premises. The following items should be considered to ensure an appropriate response.

- Local Authorities should work in partnership with advice agencies on the content of all documents produced by the Billing Authority and agents acting its behalf which are part of the enforcement process. This should ensure that the rights and responsibilities of all parties are clearly set out.
- Enforcement Agents should provide the debtor with a contact number should they wish to speak to the Local Authority.
- All charges associated with recovery should be kept regularly under review to ensure they are reasonable. Enforcement Agents are employed by the Billing Authorities and should only make charges in accordance with the Taking Control of Goods (Fees) Regulations 2014.
- The level of debt (inclusive of liability order fees) should be considered before Enforcement Agent action is taken.
- Local Authorities may have different definitions of a vulnerable person/household. Recovery action will be referred to the Local Authority where these criteria are found to have been met.
- The debtor may have outstanding claims for Council Tax Support or Housing Benefit which are contributing to arrears. Recovery can be suspended once it is established that a legitimate claim is pending.
- Local Authorities should prioritise direct deduction from benefits or attachment of earnings in preference to using Enforcement Agents. This avoids extra debts being incurred by people who may already have substantial liabilities.
- Procedures should exist for debt advisors to negotiate payments on behalf of the taxpayer at any point in the process including when the debt has been passed to the Enforcement Agent. In some cases the debtor may only, contact an advice agency following a visit from the Enforcement Agent.

- Set down, as part of contractual arrangements, a clear procedure for people to report complaints about recovery action. Local Authorities will regularly monitor the performance of those recovering debts on their behalf and ensure that contractual and legal arrangements are met.
- A key part of the recovery is treating each case on its merits. Arrangements need to be affordable and sustainable while ensuring that the debt is paid off within a reasonable period.

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