



# CORPORATE SERVICES OVERVIEW AND SCRUTINY PANEL

MONDAY, 23RD NOVEMBER, 2015

At 5.00 pm

in the

CONFERENCE ROOM - YORK HOUSE, WINDSOR

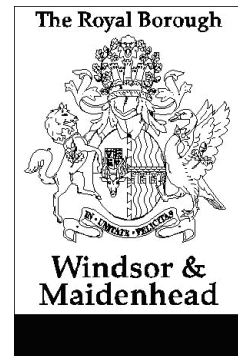
## SUPPLEMENTARY AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
5.	<u>DEBT RECOVERY POLICY</u> To comment on the Cabinet report.	3 - 28

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Report for:  
ACTION



<b>Contains Confidential or Exempt Information</b>	NO – Part I
<b>Title</b>	<b>Debt Recovery Strategy and Policy</b>
<b>Responsible Officer(s)</b>	Andy Jeffs
<b>Contact officer, job title and phone number</b>	Andy Jeffs – Head of Benefits and Business Services 01628 796527
<b>Member reporting</b>	Councillor Simon Dudley – Lead Member for Finance and Property
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	26 November 2015
<b>Implementation Date if Not Called In</b>	Immediately
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Debt Recovery, Council Tax, Business Rates, Housing Benefits, Sundry Debt, Policy

## Report Summary

1. The Council has both a legal and moral duty to all its residents, businesses, and other organisations that are active in the Royal Borough, to ensure that outstanding debts are recovered.
2. In 2015-16 it is estimated that the Council will bill residents and business around £199m across Council Tax, Business Rates, Housing Benefit Overpayment, Adult Social Care and Sundry Debt.
3. To maximise the collection of this debt the Council is in the process of making a number of changes and improvements.
4. The first of these is to revise the current internally focused Debt Recovery Policy. The key changes to the Policy relate to making it clearer service areas how we prioritise the collection of different debts, what part they play in the collection process, and how we will take a fair but firm approach to recovery from debtors.
5. The next is to introduce a new externally focused Debt Recovery Strategy that has been developed alongside the Policy that makes it clear to residents and businesses why we will pursue debt, our approach to collection when businesses or residents are experiencing financial difficulties, and what we will do if people will not pay.
6. Approval is sought for the proposed Debt Recovery Policy and Strategy.

**If recommendations are adopted, how will residents benefit?**

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. Supports the Manifesto commitment to freeze or reduce Council Tax	March 2017
2. Will increase the amount of non-Council Tax income	March 2017
3. Will provide additional income to the Council to allow further investment in services	March 2017
4. Will ensure that all residents contribute their fair share towards the services provided by the Council	March 2017

## 1. Details of Recommendation

### RECOMMENDATION: That Cabinet:

- i) **Approve the proposed Debt Recovery Policy and Strategy (Appendix 1 & 2).**

## 2. Reason for Recommendation

### 2.1. Background

2.2. Responsible financial management is critical to enabling the delivery of the Council's services in an efficient, effective and sustainable way.

2.3. The Council has both a legal and moral duty to all its residents, businesses, and other organisations that are active in the Royal Borough, to ensure that outstanding debts are recovered.

2.4. It is estimated that in 2015-16 the Council will bill residents and businesses around £199 million in Council Tax, Business Rates, Housing Benefit Overpayments, Adult Social Care, and Sundry Debt.

This is broken down in the table below:

Income Source	Estimated Billing in 2015-16
Council Tax	£76.2m
Business Rates	£80.6m
HB Overpayments	£2.1m
Sundry Debt (including Adult Social Care)	£40.1m
<b>Total</b>	<b>£199m</b>

## 3. Amendments included in the revised Debt Recovery Policy

- 3.1. The proposed Policy document (attached as Appendix 1) outlines the Council's duty to recover outstanding debt in a timely and efficient way, while ensuring that its processes are fair to everyone.

3.2. The Policy makes it clearer to service areas, what Council teams are responsible for collecting what type of debt, and what the service areas responsibilities are when raising a debt to a resident or a business. Performance in relation to debt, broken down by Directorate, will be produced on a monthly basis and circulated to the appropriate staff, DMT and CMT.

3.3. The revised Policy changes the emphasis that wherever possible, services should not be provided until payment has been made and cleared funds received. This reduces the likelihood of debts arising while minimising administration costs and maximising cash flow.

3.4. The Policy sets out a set of common principles across all debts that if followed will improve the speed of payment and necessity for residents or businesses to query the demand for payment. The Policy also sets out what we should do if a query is raised.

3.5. Where collection of a debt needs to be enforced three further principles will apply. These are:

3.5.1 Proportional – A balance will be struck between the potential loss of income to the Council and the costs of the enforcement action

3.5.2 Consistent – That a similar approach to enforcement will be taken in similar circumstances. The aim is to achieve consistency in the:

- Advice given
- Powers used
- Recovery action taken

Whilst taking account of:

- The debtors payment history
- The debtors ability to pay
- The social circumstances or vulnerability of the debtor

3.5.3 Transparent – That reasons and clear explanations will be given for any enforcement action taken:

- If action is required the reasons for the action should be clearly explained, in writing if required
- Timescales for actions must be clearly stated
- Communications should be in plain English unless the detailed wording is specified in regulations or legislation

3.5.4 Finally, the revised Policy sets out how each debt type will be collected, how additional costs will be applied in certain circumstances and what the considerations will be where a debt remains outstanding after exhausting all avenues and whether or not the debt should be written off.

#### **4. Inclusions in new Debt Recovery Strategy**

- 4.1. The driving principle behind the proposed new Debt Recovery Strategy (attached as Appendix 2) is to ensure all income due to the Council is collected in the most fair and effective way available.
- 4.2. The Strategy sets out the principles that the Council will use in collecting debts, as well as the standards that will be applied when dealing with our residents.
- 4.3. The Strategy covers all major debts owed to the Council including Council Tax, Business Rates, Housing Benefit Overpayments, Sundry Debts, Adult Social Care Debts, Penalty Charge Notices and Legal Costs.
- 4.4. It is inevitable that the Council will be required to collect debts from residents and/or businesses that may experience difficulty in paying. The Strategy has been developed to manage and collect debts in a fair and consistent manner, encouraging those experiences difficulties to contact us to discuss this at the earliest opportunity.
- 4.5. If residents or businesses do not, or will not pay, and no contact is made with the Council, the Strategy lays out the prompt action the Council will take to pursue the debt through the Courts using among other things, County Court Judgements, Charging Orders, Liability Orders, deductions from state benefits, deductions from earnings or the use of Enforcement Agents. In the case of Council Tax or Business Rates, an individual may also be committed to prison.
- 4.6. The Strategy also sets out categories of residents which are potentially vulnerable and the actions that we can take under those circumstances.

## 5. Key Implications

- 5.1. The table below shows the key implications of achieving all the changes being made to the Council's collection not just the implementation of the Debt Recovery Policy and the new Debt Recovery Strategy.

<b>Defined Outcomes</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date they should be delivered</b>
The % of in-year Council Tax collected	<98.3%	>98.3% <98.6%	>98.6% <99%	>99%	31 March 2017
The % of in-year Business Rates collected	<97.5%	>97.5% <98%	>98% <98.5%	>98.5%	31 March 2017
The total amount of outstanding HB Overpayments not under arrangement	>£1.7m	<£1.2m	<£0.8m	<£0.5m	31 March 2017
The total amount of outstanding Sundry Debt older than 3 months	>£2.3m	<£1.8m	<1.6m	<1.4m	31 March 2017

## 6. Financial Details

For every 0.5% collected for Council Tax the Council will receive an additional £380k.

For Business Rates for every additional 0.5% collected the Council will receive an additional £400k gross but would only retain 50% of this sum.

Both of these are collection fund items and not revenue items and will therefore be accounted for as part of the Council's overall 2016-17 budget report.

Reducing the amount of Sundry Debt outstanding older than 3-months would not impact on revenue, but would increase cash collected. As at the end of October 2015, there was £2.3m of >3-month Sundry Debt outstanding.

Reducing the total amount of Housing Benefit Overpayments outstanding would have a direct impact on revenue. As at the end of October 2015 there was £4.9m of Housing Benefit Overpayments outstanding, £1.7m of which was not under a collection arrangement.

	<b>Year1 (2016/17)</b>	<b>Year2 (2017/18)</b>	<b>Year3 (2018/19)</b>
	Revenue £000	Revenue £000	Revenue £000
<b>Addition</b>	£150	£150	£150
<b>Reduction</b>	0	0	0

The Council's debt collection will be audited internally in the new year. The audit report produced as a result of this will then be reviewed by the Audit and Performance Review Panel.

## 7. Legal Implications

There are no legal implications.

## 8. Value for Money

The amount of debt collected will increase.

## 9. Sustainability Impact Appraisal

If successful, the initiative will provide the Council with more income to sustain and improve the delivery of services to residents and local businesses.

## 10. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Risk to Collection Fund	Low/Medium	Increase cash collection	Low

## 11. Links to Strategic Objectives

Residents First

- Improve the environment, economy and transport
- Work for safer and stronger communities

Value for Money

- Invest for the future

Delivering Together

- Strengthen partnerships

## 12. Equalities, Human Rights and Community Cohesion

No equality issues, arising from this initiative have been identified.

## 13. Staffing/Workforce and Accommodation Implications

Not applicable

## 14. Property and Assets

Not applicable

## 15. Any other Implications

No other implications

## 16. Timetable for Implementation

31 March 2017

## 17. Appendices

Appendix 1 – Proposed Debt Recovery Policy  
Appendix 2 – Proposed Debt Recovery Strategy

## 18. Consultation

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	09/11/15	10/11/15	
Cllr Dudley	Lead Member for Finance and property	09/11/15	09/11/15	
Cllr Hill	Lead Member for Customer and Business Services	09/11/15	09/11/15	
Andrew Brooker	Head of Finance	03/11/15	04/11/15	
Simon Fletcher	Strategic Director of Operations	03/11/15	03/11/15	
Michael Llewelyn	Cabinet Policy Assistant	03/11/15	03/11/15	



Full name of report author	Job title	Full contact no:
Andy Jeffs	Head of Benefits and Business Services	01628 796527

## Appendix 1

# DEBT RECOVERY POLICY

## Guidelines for the billing, collection and recovery of monies due to the Council

November 2015

### Document Control

<b>Managed by:</b> Andy Jeffs	<b>Responsible position:</b> Head of Benefits and Business Services	<b>Version:</b> V1.0
<b>Contact person:</b> Andy Jeffs	<b>Approved by:</b> Cabinet	<b>Date approved:</b> 26/11/2015
<b>Contact number:</b> 01628796527	<b>Next review date:</b> November 2016	<b>Status:</b> Approved

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## **DEBT RECOVERY POLICY**

### **1. Introduction**

The Council has a duty to recover outstanding debt and in doing so seeks to ensure all monies due are collected in a timely and efficient way, ensuring that its processes are fair to everyone.

Recovery of outstanding debts relating to Council Tax, Business Rates, Sundry Debts (including Adult Social Care Debts) and Housing Benefit Overpayments is undertaken by the Benefits and Business Services team.

Parking enforcement is undertaken by the Parking Team.

Both teams are within the Operations Directorate.

The majority of customer initiated contact is dealt with by the Customer Service Centre.

This document outlines the Council's policy on the billing, collection and recovery of monies due.

Apart from setting out the recovery processes for various types of debt, the purpose of this policy is to ensure that those Council departments which raise a debt should do so with awareness that the collection of the debt may have to be enforced by the Debt Recovery Team.

This policy sets out the general principles to be applied in relation to debt management across all services provided by this Council.

### **2. General Principles**

The residents and businesses in the Royal Borough have a responsibility to pay for the services they receive and the charges for which they are liable.

Wherever possible, services will not be provided until payment has been made and cleared funds received. This reduces the likelihood of debts arising while minimising administration costs and maximising cash flow.

The cost of collection will be minimised by encouraging residents and businesses to use the most cost effective payment methods such as Direct Debit. Internet payments will also be promoted in preference to other methods.

The Council will notify the resident and/or business of the availability of relevant benefits, exemptions, discounts or other reliefs which may reduce the level of the debt or increase the income of the resident.

Where the Council is made aware that debtors have multiple debts or require budgetary advice, staff will signpost debtors to external advice agencies.

Disputes in relation to the demand or invoice, or the debt recovery process will be resolved at the earliest possible opportunity; with debtors being kept fully informed of the ways in which they can contact the Council to discuss any dispute they may have.

Where part of the debt is disputed the Council will still continue to collect the undisputed amount at the earliest possible opportunity whilst also dealing effectively with the disputed debt.

It is clearly important that the money is collected as efficiently as possible but without losing sight of the fact that this money is, in the main, collected from local residents and businesses. It is important, therefore, that the Council is seen, at all times, to be operating in a fair and reasonable manner.

In a minority of cases it will not be possible to collect the debt. In these cases the Council will ensure that there is clear guidance detailing the actions to be taken prior to an account being considered for write-off.

### **3. Common Principles across all debts**

The time and manner in which a demand or invoice is raised can ultimately affect the collection and enforcement of a debt.

Demands and invoices shall be raised as soon as possible after either the debt is incurred or the amount due is calculated.

Demands and invoices will, as a general rule, be issued on the day of production.

The issuing department will ensure that the name on the demand or invoice is correct and that first names rather than initials should be used where the debtor is a real person. The address should be checked to ensure demands, invoices and recovery notices will be received.

Sufficient evidence to secure recovery of a debt in the courts must be compiled when an invoice is raised. All documentation relating to the demand or invoice will be kept by the originating department, either in paper or a scanned image format, for 6 years after the last recovery action.

Where a demand or invoice is unpaid after the due date, the debt recovery process will begin.

The debt recovery process is different for each type of debt and these are outlined in this document. In each case the Council will use the most appropriate and effective method of recovery in order to maximise income.

Officers will employ flexibility when intervening in the recovery cycle to deal with hardship or dispute situations. This includes the ability to make deferred payment arrangements or suspend recovery action due to the debtor's lack of means.

Any member of staff, who has an interest in any debt must not participate in any form of monitoring/management of that debt and must declare their interest to the Debt Recovery Team Leader. This includes, but is not limited to:

- Self, including any business interest i.e. director, accountant, bookkeeper
- Family members
- Friends

As prompt recovery action is key to managing debt and maximising income the Council will:

- Set clear targets for the recovery of debt

- Regularly monitor the level and age of debt
- Have clear documented recovery procedures and processes
- Set and regularly review priorities for specific areas of debt and the recovery methods used to ensure maximum collection
- Regularly review irrecoverable debt and submit for write-off consideration by the Head of Finance

Performance in relation to aged debt, broken down by Directorate, will be produced on a monthly basis and circulated to the appropriate staff, DMT and CMT.

Third party Enforcement Agents will be used where appropriate.

The Debt Recovery Team will maintain a set of detailed guidelines for the collection and enforcement of each type of debt.

#### **4. Principles of Enforcement**

The Council will ensure that any enforcement action is:

**Proportional** – a balance will be struck between the potential loss of income to the Council and the costs of the enforcement action.

**Consistent** – that a similar approach to enforcement will be taken in similar circumstances. The aim is to achieve consistency in the:

- Advice given
- Powers used
- Recovery action taken

Whilst taking account of:

- The debtors payment history
- The debtors ability to pay
- The social circumstances or vulnerability of the debtor

**Transparent** – that reasons and clear explanations will be given for any enforcement action taken:

- If action is required the reasons for the action should be clearly explained, in writing if required
- Timescales for actions must be clearly stated
- Communications should be in plain English unless the detailed wording is specified in regulations or legislation.

#### **5. Council Tax**

The rules surrounding the recovery and enforcement of Council Tax are laid down in regulations.

Bills and adjustments will be issued as soon as is practical after the liability has been calculated.

Reminders should be issued within 15 working days of the date of the first overdue instalment.

The Council will make it clear to Council Tax payers the circumstances in which unpaid instalments will lead to the right to pay by instalments being lost and the full amount becoming payable immediately.

A Final Reminder will be sent where required by law.

The Council will apply to the Magistrates Court for the issue of a summons where the amount due remains unpaid, and costs, agreed with the Magistrates Court, will be charged.

Where the full amount due on the summons is not paid by the date of the Court Hearing, the Council will apply for a Liability Order at a Magistrates Court hearing, and further costs will be applied for.

Following the issue of a Liability Order, except where an arrangement to pay the amount due by instalments is agreed, the Council will issue a Notice of Liability Order letter to each debtor advising them of the amount due, requesting employment details, debtor's telephone number and asking for an offer of payment. The letter will state that it is a criminal offence not to complete and return the requested information.

The Notice of Liability Order will show the methods of enforcement available to the Council which are:

- Attachment of earnings
- Attachment of state benefit
- Attachment of councillors allowance
- Enforcement Agent (formerly Bailiffs)
- Bankruptcy
- Charging order
- Committal to prison

The Council will agree to a payment arrangement proposal at any stage prior to enforcement actions where reasonable.

Where a debtor has absconded, the Council will use its own records along with the use of a tracing agency to find where the debtor is now living.

Where a Council Tax payer contacts the Council regarding a Council Tax amount, their attention should be brought to all other Council Tax amounts due.

## **6. Business Rates**

The rules surrounding the recovery and enforcement of Business Rates are laid down in regulations

Bills and adjustments will be issued as soon as is practical after the liability has been calculated.

Reminders should be issued within 15 working days of the date of the first overdue instalment.

The Council will make it clear to Ratepayers the circumstances in which unpaid instalments will lead to the right to pay by instalments being lost and the full amount becoming payable immediately.

A Final Reminder will be sent where required by law.

The Council will apply to the Magistrates Court for the issue of a summons where the amount due remains unpaid, and costs, agreed with the Magistrates Court, will be charged.

Where the full amount due on the summons is not paid by the date of the Court Hearing, the Council will apply for a Liability Order at a Magistrates Court hearing, and further costs will be applied for.

After the Liability Order has been obtained, and where there is no agreed payment arrangement in place, Enforcement Agents will be instructed to collect the amount due.

Where a ratepayer has absconded, the Council will use its own records along with the use of a tracing agency to find where the ratepayer can be found.

## **7. Sundry Debts including Adult Social Care**

Sundry Debtors are those individuals or organisations who pay for the service provided to them by the Council.

Where possible, payment should be made and funds cleared before services are provided.

Invoices should be raised where payment in advance for a service is inappropriate.

Because there is a range in terms of value of debt and type of service user, recovery processes are tailored to the different groups of debtors.

For all debts (apart from those groups given specific treatment below), a First Reminder will be issued between 14 and 21 days of the invoice due date, and a second reminder after a further 7 days. A third reminder will be sent after a further 7 days.

After the Reminder process has been exhausted, the originating section will review the debt and advise if it can be passed to the enforcement agents after establishing with the debtor that there are no valid reasons why payment is not being made. If there is no reason for non-payment they will ensure the contact information held on Agresso is up to date and will supply to the debt recovery team any information in their possession, such as telephone number, e-mail, contact name (if a company or organisation).

If the debt is not to be immediately referred to the enforcement agents the request for a recovery hold must be authorised by the Head of Service of the originating Council section.

Where the enforcement agents have been unsuccessful, and it is determined that it will be in the Councils interest to pursue a debt further, then the Legal Team will be asked to assist in obtaining a County Court Judgement against the debtor which will allow the following:

- Attachments of Earnings
- Action by County Court Enforcement
- Insolvency

The following groups are given specific treatment:

- a. Social Services clients are an important group that need a specific approach. They will all have been through an assessment process that determines ability to pay but the recovery action needs to recognise that these clients are amongst the most vulnerable members of



our society. After initial reminders are sent reference is made to the care manager who will, in consultation with Case Officers, agree the most appropriate course for recovery action as recommended by debt recovery. This will involve a range of actions, from individually prepared statements to telephone conversations with family members, deferred payments, charging orders or as a last resort legal action.

- b. Allotment rents are generally low value transactions that fall outside usual recovery processes. If the initial reminder fails to generate a payment the Allotments manager will serve notice to quit the site in question.
- c. Sports Pitches, Hall/Venue hire and other ad-hoc fees: if an invoice is not paid after a reminder has been issued the facility is not made available to the hirer until payment has been made or arrangements have been agreed.
- d. Section 106 payments are due as set out in the Section 106 Legal agreement. This may be for example on commencement, on occupation or on a phased payment basis. Legal Services will place a Legal Charge on the property once the legal agreement has been signed, which shall be registered with the Land Registry. The standard Reminders will be sent as with other Sundry Debts.
- e. If agreed instalments on Interest Free Loans for Housing are not maintained, then no further loan may be made until the instalments are brought up to date.
- f. The amounts on Wayleaves are minimal so no recovery will take place.
- g. Due to the waiting period for awards of Housing Benefit to be assessed and applied, Bed and Breakfast invoices, the time after which a first, second and third reminder should be sent is to be agreed by Housing Options and the Head of Finance. This will be reviewed every six months.

## **8. Income from Third Party Occupation of Council-Owned Property**

This can be in the form of the rent payable under a Lease or the Licence Fee payable under a Licence. Modern leases & licences normally provide for the tenant/licensee to pay the Council on a quarterly in advance basis but some older documents may provide for payments to be made in arrears and/or on a more/less frequently basis, for example monthly or half yearly.

Before entering into a lease agreement, the Council's property services section will make use of all available information to assess if the tenant/licensee has the ability to pay the rental amount. This may include records already held by the council including business rates and previous rental information.

If the potential tenant has rented property from the Council before, the Council will have regard to the potential tenant's payment history before entering into a lease agreement, and this may be reflected in the deposit amount.

Normally tenants and licences are given a "period of grace" in the relevant lease/licence before interest can be charged by the Council on late payment. This period is usually either 14 or 21 days.

A First Reminder will be issued 14 days after the invoice due date if payment is not received in full, and a second reminder after a further 7 days.

If payment is not received in full after the second reminder, then the Council's Enforcement Agents may be instructed to collect the amount due on the Council's behalf.

The Property Services team may at this stage contact the tenant to advise of possible Enforcement Agent action, but the Enforcement Agents should be instructed if an invoice isn't paid in full at the end of the quarter.

If the Council's Enforcement Agents are unable to collect the amount due then the case will be referred to the Legal Team for court action.

In extreme circumstances Court Action may result in the Lease/Licence being forfeited, (i.e. extinguished), by the Court and the Council obtaining possession of the property.

Commercial Property under the ownership of the Berkshire Pension Fund is handled in a slightly different way. Reminders are issued after 21, 35 and 42 days after which point a list of outstanding debtors is passed to the Pension Fund Manager for follow up via their contacts/solicitors.

## **9. Housing Benefit Overpayments**

An overpayment of Housing Benefit occurs when a claimant has received more Housing Benefit than they are entitled to.

When an overpayment occurs, the Assessment Team will determine if it is recoverable from the claimant. If it is not recoverable, it will be submitted for write-off by the Assessment Team.

If a recoverable overpayment occurs, a letter will be sent to the customer explaining how much the overpayment is for, why it has occurred, and how much needs to be paid back. Normally overpayments of Housing Benefit will be recovered from the customer's on-going benefit entitlement at a specified weekly rate.

If there is no longer an apparent entitlement to Housing Benefit, an invoice will be sent asking for payment in full and offering payment by instalments.

If the claimant makes an appeal, the Assessment Team will place a hold on further recovery action until the appeal is resolved.

Following the issue of the invoice, the debtor may agree a payment arrangement with the Council.

If payment is not made in full or a payment arrangement is not agreed, a Reminder will be sent after 21 days and a further reminder after 14 days.

If full payment is not received and a payment arrangement is not agreed following the issue of the reminders, the debt will be considered for enforcement action, which may include:

- Enforcement Agents for collection
- Direct Earnings Attachment
- Attachment of State benefit
- County Court action

If the Enforcement Agents are unsuccessful, it will be determined whether it is in the Council's interests to register the debt through the County Court.

The debt may be registered with the County Court without first using the Enforcement Agents. It is anticipated that this would be done where the values are higher, and where County Court action may elicit payment in full.

If all appropriate methods of recovery have been utilised and the debt is still outstanding, then the debt is to be considered for write off.

## **10. Treatment of Costs**

Where legislation permits the Council will seek to levy and recover from the debtor all costs or fees lawfully raised as a result of the recovery action taken.

In exceptional cases, where it would not be in the public interest to pursue the costs or fees, authorised officers in the Debt Recovery Team may agree to waive the costs or fees. The decision to waive costs or fees will be in line with general guidelines approved by the Debt Recovery Team Leader, taking into account the individual circumstances of the debtor.

## **11. Enforcement Agents and Enforcement Agents Management**

The ability to refer debt to Enforcement Agents is an important tool in the recovery process. The Council appreciates the sensitivity surrounding Enforcement Agent action, therefore:

- Enforcement Agents will only be used where it is deemed to be the most effective method of collection
- Enforcement Agents will be selected with regard to their performance and customer service standards and capabilities. The Council will balance the requirement for effective debt collection with the reasonable and lawful behaviour of its Enforcement functions and Agents
- Enforcement Agents performance and contract management is in place to ensure that compliance with codes of conduct and good practice

## **12. Write-offs (all debts)**

Every effort will be made to minimise the cost of write-offs to the Council by utilising all available recovery action and all debts will be subject to the full collection, recovery and legal procedures outlined in this strategy.

Debts may be referred for write-off consideration in the following circumstances:

- Debts remitted by the magistrates court;
- The Council is unable to trace the debtor;
- The debt is a small balance and it is not cost effective to pursue further;
- The debtor has died and there are no or insufficient funds in the estate to settle the debt;
- The debtor is subject to insolvency proceedings and there is little likelihood of a dividend payment for unsecured creditors;
- The debt is not cost effective to pursue due to the likelihood of payment in relation to the cost of proceedings;

- The Council has evidence to confirm the debtor is suffering severe mental or physical illness which makes the enforcement action inappropriate;
- The Debt is Statute Barred

The limitations for authorisation of write-off of debt are those specified in the Council's Financial Regulations.

The Debt Recovery Team Leader is responsible for recommending debts for write-off to Cabinet or the Section 151 Officer as appropriate, once appropriate enforcement methods have been exhausted.

In the event of a disagreement between the originating department and the Debt Recovery Team Leader regarding recommended write off action, the Section 151 Officer will decide on the appropriate action.

Debts recommended for write-off will be referred to the Section 151 Officer or Cabinet, depending on the level of write-off, in accordance with write-off procedures at quarterly intervals and in an agreed format.

Any member of staff, Member or Contractor who has an interest in any debt must not participate in the decision making process regarding the write off of the debt and must declare their interest.

### **13. Debts owed by Council Members and Employees**

The Council will use the information it holds on Members and Employees to assist with debt recovery and to make arrangements to clear the debt by salary or allowance deduction or Direct Debit.

#### **REVISION RECORD**

<b>Date</b>	<b>Version</b>	<b>Revision description</b>

## Appendix 2

# DEBT RECOVERY STRATEGY

## Our approach to collecting monies due to the Council from residents, businesses and other organisations

November 2015

### Document Control

<b>Managed by:</b> Andy Jeffs	<b>Responsible position:</b> Head of Benefits and Business Services	<b>Version:</b> V1.0
<b>Contact person:</b> Andy Jeffs	<b>Approved by:</b> Cabinet	<b>Date approved:</b> 26/11/2015
<b>Contact number:</b> 01628796527	<b>Next review date:</b> November 2016	<b>Status:</b> Approved

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## **DEBT RECOVERY STRATEGY**

### **1. Introduction**

For the Royal Borough of Windsor and Maidenhead, responsible financial management is critical to enabling the delivery of services efficiently, effectively and sustainably. The Council has a legal duty to all its residents, and to businesses and other organisations that are active in the Borough, to ensure that outstanding debts are recovered as this is in the greater public interest.

The driving principle behind this strategy is to ensure all income due to the Council is collected in the most fair and effective way available. This strategy sets out the principles that the Council will use in collecting debts, as well as the standards that will be applied when dealing with our residents.

### **2. The Purpose of the Strategy**

The Council is required to collect money from both residents and businesses for a variety of reasons.

In undertaking this function it is inevitable that the Council will be required to collect from residents and/or businesses that may experience difficulty in paying. This strategy has been developed to manage and collect debts in a fair and consistent manner.

The strategy covers all debts owed to the Council including Council Tax, Business Rates, Housing Benefit Overpayments, Sundry Debts, Adult Social Care Debts, Penalty Charge Notices, and Legal Costs.

### **3. Our Approach**

The Council expects debt to be paid in the shortest time possible. However, where residents or businesses are experiencing financial difficulties we will encourage them to contact us at the earliest opportunity.

Different teams within the Council are responsible for recovering different types of debt:

- Benefits and Business Services – This service is responsible for collecting Council Tax, Business Rates, Housing Benefit Overpayments, Sundry Debts, and Adult Social Care Debt.
- Parking Team – The Parking Team is responsible for collecting Penalty Charge Notices
- Shared Legal Services – The Legal section is responsible for recovering debts through the County Court

### **4. Customer Contact**

The Council strives to improve customer contact with customers by:

- Ensuring all correspondence provides clear details on how to contact us
- Ensuring clear information on how to make payments is provided to customers
- Promoting advice and support services

Where residents or businesses do make contact we will aim to enter into an arrangement that is affordable to them, while ensuring that the debts are repaid in the shortest time possible.

The Council may request as much additional information about the residents and/or businesses financial circumstances as is deemed necessary in order to determine a realistic arrangement. Where multiple types of debt are owed to the Council we will make one combined payment arrangement if requested.

## **5. If People Will Not Pay**

Once a payment becomes overdue the Council will inform the resident or business in writing that they are at the risk of debt enforcement action being taken. If residents or businesses will still not pay or have defaulted on previous payment arrangements, we will take prompt action to pursue the debt through the Courts and use among other things, County Court Judgements, Charging Orders, Liability Orders, deductions from state benefits, deductions from earnings or the use of Enforcement Agents against the resident or business concerned. In the case of unpaid Council Tax or Non Domestic Rates, an individual may also be committed to prison.

If action is taken it could result in the following:

- Enforcement Agents attending the debtors property to remove goods to sell at auction to pay the outstanding balance
- Deductions being made straight from the debtors salary
- Deductions being made straight from the debtors state benefits
- A charge being registered against the debtors property
- The debtor being made bankrupt
- The debtor having a prison sentence imposed of up to three months, for unpaid Council Tax or Business Rates

## **6. Vulnerable Customers**

Whilst collection is paramount in order to provide services to our residents and businesses, we have a number of customers who can be described as vulnerable. For these customers, it may be a temporary or long term state which requires us to ensure we respond in a supportive manner when managing debt collection with such customers. While the Council has a legal obligation to pursue outstanding debt, this strategy outlines how we will do so in a manner that does not exacerbate the vulnerability of the individual.

This strategy sets out categories of residents which are potentially vulnerable and the potential actions that should be taken. However, it is not to be taken as either definitive or exclusive.

### **Vulnerable Adult Definition**

A vulnerable adult is a person aged 18 years or over who is or may be in need of community care services by reason of disability, age or illness; and who is or maybe unable to protect him or herself against harm or exploitation. Whether or not a person is vulnerable in these cases must be judged on its own merit. However, it may include, but not limited to the following:



- Physical and mental disability including long term illness
- Language barriers for customers who do not speak English
- Domestic violence, physical and mental abuse
- Homelessness
- Elderly persons
- A person recently bereaved

It is important to note the above does not constitute either an absolute list nor give automatic qualification. Each case must be decided on its own merits. It may be that a number of relatively minor issues in a number of categories may lead to overall vulnerability.

Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay; however, where a person is recognised to be vulnerable consideration should be given to:

- Allowing longer to pay
- Postponing enforcement action
- Assisting the person to claim benefits, discounts or other entitlements, referring the person to sources of independent advice
- Providing information in an accessible format

## **7. Other areas**

### **7.1 Costs**

Where legislation permits the Council will seek to levy and recover from the debtor all costs or fees lawfully raised as a result of the recovery action taken.

### **7.2 Equality Duty**

In determining this strategy consideration has been given to the Councils statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

### **7.3 Use of Data**

The Council will collect and store personal data for the purposes of effective billing, collecting and recovery of sums due. Data retained for this purpose will be processed in accordance with the Data Protection Act 1998, and will be stored safely at all times.

Data will be shared with Agents or Contractors appointed by the Council for the purposes of billing, collecting and recovery of sums due. Data may also be shared within the Council or with external organisations where the law allows, and in particular, where it is in the interest of the debtor or where it will prevent fraud.

### **7.4 Fraud**

The evasion of payments due to the Council reduces the financial resources available to the Council and has a direct impact on all residents, businesses and other organisations that rely on Council services.

Unlawful evasion or fraud to avoid payment will not be tolerated and where this is identified then action will be taken to enforce payment, the Council will seek to impose such further penalties or sanctions as the law allows.

Where debts arise through evasion or fraud the Council will seek to recover payment in full as quickly as possible, and will only agree payment arrangements in exceptional circumstances.

## **8. Other Sources of Help**

A list of external debt advice and support agencies can be found at [www.rbwm.gov.uk](http://www.rbwm.gov.uk)

## **9. Contact Information**

Council Tax

Telephone: 01628 683800

Email: [counciltax@rbwm.gov.uk](mailto:counciltax@rbwm.gov.uk)

Business Rates

Telephone: 01628 796623/796965

Email: [business.rates@rbwm.gov.uk](mailto:business.rates@rbwm.gov.uk)

Housing Benefit Overpayments

Telephone: 01628 796517/796183

Email: [debt.recovery@rbwm.gov.uk](mailto:debt.recovery@rbwm.gov.uk)

Sundry Debts

Telephone: 01628 796274

Email: [debt.recovery@rbwm.gov.uk](mailto:debt.recovery@rbwm.gov.uk)

Adult Social Care Debts

Telephone: 01628 796207

Email: [debt.recovery@rbwm.gov.uk](mailto:debt.recovery@rbwm.gov.uk)

Parking Enforcement

Telephone: 01628 683800

Email: [parking@rbwm.gov.uk](mailto:parking@rbwm.gov.uk)



**REVISION RECORD**

Date	Version	Revision description

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