

Policy: Corporate Debt Policy

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1 Scope

All service areas must follow this policy and associated procedure to ensure that the Council maximises the collection of unregulated debts and income by using a co-ordinated approach but having due regard to the customer's ability to pay. The purpose should be to maximise income to the Council.

2 Purpose

The purpose of this policy is to provide clear guidance for all Council Officers on the recording, reporting, recovery and monitoring of debt, excluding anything relating to the Council's Housing Revenue Account. The creation and recovery of Housing Revenue account debts are detailed on the Council's Housing Recharge Policy.

Some parts of debt recovery must adhere to relevant Legislation e.g. Council Tax and Business Rates, the overall principle of recovery should be efficient and effective recovery of debt owed.

3 Objective

The Council's Corporate Debt Policy has the following objective:

"In order to maximise income for the provision of services, Broxtowe Borough Council will collect all debt owing to it promptly, effectively and efficiently, while ensuring fair treatment to all debtors."

Outcome

The outcomes expected from this policy are to:

- Set out the general principles of debt management across services provided by Broxtowe Borough Council
- Ensure a consistent approach to the management of debts across the Council
- Set out provisions to assist customers to pay sums owed in a sustainable way
- Ensure individuals financial circumstances are considered on a case by case basis before enforcement proceedings are commenced.
- Enable signposting of debtors to debt advice as appropriate

4 Debts to which this policy applies

For the avoidance of doubt this policy document applies to all debts and income due to the Council including but not limited to:

- Council Tax
- National Non Domestic Rates (NNDR)
- Overpaid Housing Benefit
- Sundry Debts

5 Roles and Responsibilities

Deputy Chief Executive

The Deputy Chief Executive is the Council's Chief Financial Officer and has statutory responsibilities in relation to the council's financial affairs.

Head of Financial Services

The Head of Financial Services is responsible for regulating and controlling the finances of the Council and shall be responsible for the proper administration of the Council's financial affairs.

Heads of Service

Head of service are responsible for ensuring that invoices are raised and debt recovery commenced within the appropriate time frames. Where relevant, Heads of Service will be responsible for the appropriate reconciliation of payments received and those allocated against relevant debtors.

Responsibility of the relevant systems will be the responsibility of the relevant Head of Service.

Ensuring that Debts raised carry the appropriate VAT element if required.

6 General Principles

The general principles adopted in this policy are as follows:

- To ensure a professional, consistent and timely approach to debt recovery action across all of the Council's functions.
- To limit the circumstances in which credit is offered. To consider the customer's circumstances and ability to pay prior to granting any credit terms, and to only extend credit to those customers in a position to pay the debt in accordance with the Council's terms.
- If the customer's circumstances do not justify the granting of credit, payment in advance should be offered for the goods/services.
- For some debts, particularly those paid periodically, such as trade or garden waste, periodic rents, or licensing the preferred method of payment is by electronic means and where possible direct debit should be selected.
- To promote a coordinated approach towards sharing debtor information internally and managing multiple debts owed to the Council.
- To improve the speed of collection and the levels of income collected by the Council
- To ensure that debts are managed in accordance with legislative provisions and best practice.
- To consider the impact on the debtor of the consequences of any recovery options pursued, including their mental wellbeing and the proportionality of these.
- To try and protect customers from undue financial hardship by ensuring realistic payment arrangements are agreed upon.
- Where appropriate, to encourage the debtor to make contact with relevant organisations for debt management advice.
- To differentiate between the debtor who won't pay, and the debtor who can't pay, and take appropriate action in either case.

7 Delivering the policy

Delivering the policy involves a number of processes which are explained in more detail below:

- Raising of invoices
- Methods of Payment
- Refunds
- Collection and Recovery
- Social Inclusion – the ability to pay
- Bad Debt Provision
- Writing debts off

7.1 Raising Invoices

Before providing requested goods or services to a company, which amount to more than £25,000, for which payment will be invoiced officers must carry out a credit check and/or company search to establish the financial standing of the organisation and if concerns are raised a payment in advance should be sought.

When charging for goods and services provided the Council will make it as easy as possible for customers to pay by seeking to raise the invoice within 10 working days of delivering the service or goods or of the commencement of the period where service covers a period of time.

All invoices raised will have the council logo, contact details, details and period of debt and methods of payment. Online and debit card payment will be promoted. Where legislation requires additional information to be provided with the invoice/demand notice this will also be included.

All invoices will have a unique reference so that the customer is able to quote the appropriate document number/s to enable their account to be accessed and credited quickly and accurately.

The supporting documents relating to a demand/invoice must be made readily available to the Quality and Control Team as and when requested. Any failure to do this will result on the demand/invoice being credit noted. All documentation relating to a demand/invoice will be kept either in paper or scanned image format in accordance with the services policy which is to hold supporting documents in line with the data retention policy.

7.2 Methods of Payment

The Council will promote the use of Direct Debit as a preferred payment method, where this is possible. It will discourage the use of cash and cheque, by persuading customers to use more electronic methods of payment.

All Invoices will include Information on how and where payments can be made i.e. listing the various options we offer, for example: -

- Bank account details for bank transfers
- Card Payments
- Automated Payments
- Internet Payments

Customers may request an instalment arrangement for debts which will be considered by the Quality and Control Team. The instalment amount offered, frequency of the payments, will be based on an assessment of the likelihood of the customer meeting the arrangement. The emphasis will be put upon Direct Debit payments when agreeing such arrangements.

7.3 Collection and Recovery

Council Tax/Business rates

The collection and recovery of Council Tax and Business Rates is detailed in legislation and the process detailed below will follow the expectations of the law.

All annual bills will be issued before 1 April each year. A reminder will be sent if an instalment is missed. If part or full payment on a reminder is made but a subsequent payment is missed, one further reminder will be issued. If there is failure to make any payment after the reminder, no further reminder will be issued before recover action proceeds.

Reminders, final notices, summonses will be issued regularly and systematically on a monthly basis to conform to a process of monthly courts.

The Council will contact those who occupy newly constructed dwellings within 7 working days of notification of such a change, to offer the facility to make payments on account in advance of the Valuation Office Agency banding the property.

The Council will endeavour to update its records within a maximum of 7 working days of receiving information of a change in occupation, in order that a revised bill or refund may be issued.

The Council will encourage payments by direct debit, where this option exists, within one working day of a request being received. Notification of amounts and due dates will be given out 14 days in advance of the first instalment becoming due.

The Council will provide easy to follow forms and documentation which explain the legislation fully and concisely.

The Council will endeavour to ensure that all arrears cases referred to the Recovery Section are contacted within 14 calendar days of the arrears arising.

The Council will ensure that all legal applications and attendances at court are made and conducted in a legally correct and efficient manner and the resulting decisions are acted upon within 14 calendar days where appropriate.

Where the Council decides to deduct any arrears from earnings or Income Support/Job Seekers Allowance (income based) or Universal Credit a letter will be issued within 7 days.

A further 14 days will be given to make a satisfactory offer of payment. Where this is not done the Council will contact the relevant employer/Benefits Agency in order to make deductions.

The Council will ensure that their Enforcement Agents are monitored and close liaison is maintained throughout their contract to ensure that they operate in accordance with industry standards (Appendix 1).

Prior to Enforcement Agents being instructed to collect arrears, the Council will write to the debtor advising them.

Housing Benefit Overpayments

The collection of debt in respect of Housing Benefit Overpayments raised must follow a standard procedure, which fully documents the efforts made to settle the debt. The following principles apply to unregulated debt:

- Invoices raised in respect of Housing Benefit Overpayments are normally due for payment immediately although the maximum payment terms are 14 days unless otherwise agreed with the Deputy Chief Executive.
- If no payment is received within 14 days of the invoice date or agreed payment terms a final reminder letter will be issued.
- If no payment or offer is made, then further investigation will take place on the most appropriate method of recovery.

Sundry Debts

The collection of income in respect of invoices raised must follow a standard procedure, which fully documents the efforts made to settle the debt. The following principles apply to unregulated debt:

- Invoices raised in respect of services delivered are normally due for payment immediately although the maximum payment terms are 14 days unless otherwise agreed with the Deputy Chief Executive.
- If no payment is received within 14 days of the invoice date or agreed payment terms a final reminder letter will be issued
- If no payment is received within 7 days of the final reminder letter, a Notice of Court Proceedings (NCP) letter is issued
- If no payment is received after 7 days of the NCP letter being issued an Officer will then consider the next course of recovery action. This could be contacting the department that raised the invoice directly and asking them to contact the debtor to prompt payment, passing the debt to outside collection agency or passing the debt to Legal for recovery.

Where legislation permits, the Council will seek to levy and recover from the debtor all costs/fees that are legitimately due from the debtor to the Council or its agents. Only in exceptional circumstances, where it would not be in the public interest to pursue costs/fees will they be waived.

The Head of Revenues, Benefits and Customer Services will review the enforcement agencies to be used in respect of debt that remains unpaid after the NCP has been issued. This will include the ensuring that they follow the Enforcement Code of Practice.

Each debtor's cumulative debts will be taken into consideration when referring the debt for legal recovery. Where multiple debts are owed the Council will endeavour to consolidate those debts before taking recovery action. Only where a debt exceeds £1,200, or where a debtor consistently fails to make payments, and all other recovery options have been exhausted, will it be considered for a referral to Legal Services. Before referring to legal services evidence (eg photographs; correspondence etc) and a statement of truth from the instructing officer must be in place that will detail that this additional stage will improve the prospect of recovering the debt.

7.4 Refunds

Where refunds over £1,000 are required the officer responsible will access relevant financial systems in other areas of the Councils' Business to ascertain whether any debt is owed to the Council for any other goods or services provided, and take that indebtedness into account, before making any refund.

Likewise, when a debtor is also a supplier to the Council, the Council will seek to offset any overdue debts owed to the Council from the monies owed to the supplier. This will only be done with prior approval from the customer.

7.5 Social inclusion – the ability to pay

Ability to pay is a paramount concern when considering debt recovery.

An income and expenditure form will be used, where the debt is in excess of £500, to ensure that collection officers can ascertain a customer's total income and expenditure, and agree a consolidated affordable payment, which will clear all overdue sums in an appropriate period of time.

Where a Housing Benefit Overpayment debt will take in excess of 12 months to recover, the responsible officer can request an income and expenditure form be completed to ascertain whether the debt could be recovered sooner.

Employees will promote the services of qualified debt adviser's details in appendix 2

Where the Council is made aware that a debtor owes multiple debts to the Council and unless the debtor advises to the contrary, debts will be considered in a priority order, to avoid the customer losing their tenancy, or going to prison for non-payment as follows:

- Council Tax Arrears

- Rent arrears
- Business Rates
- Other

The Council will require such information to be provided by the debtor in order to prioritise debts.

7.6 Bad Debt Provision

The Head of Financial Services in conjunction with Service Managers must ensure there is adequate provision for Bad Debts, in accordance with CIPFA¹ Code of Practice on Local Authority Accounting in United Kingdom – A Statement of Recommended Practice.

Bad debts which are usually an amount owed by a debtor that is unlikely to be paid should be reviewed at least annually to establish if circumstances have changed and the debt is now recoverable. This is particularly relevant to debt incurred as a result of works carried out in default of statutory notices.

A separate bad debt provision is held for each service area so that any increase required in the provision will be charged to the service area concerned.

7.7 Writing Debts Off

All debts of the Council will be acted on in accordance with its Financial Rules. If the debt remains unpaid, after exhausting all appropriate recovery methods, the debt may be written off. All debts under £1,200 will be authorised by the Deputy Chief Executive. All debts of £1,200 or above will require relevant committee approval.

It would normally be expected that debts to be written off would consist of:

- All debts where a Debt Collection Agent advises they are unable to collect and all options are exhausted
- All debts where Legal Services advises the debts are irrecoverable or that legal action is unlikely to be cost effective.
- Absconded/Unable to Trace
- Bankruptcy of debtor
- Debtor is deceased and there are insufficient funds in the Estate to clear the outstanding charge
- The debt is uneconomical to collect meaning the cost of collection outweighs the value of the debt recovered
- Cumulative debts under £50, where no payment has been received within three months of sending the NCP letter.

¹ Chartered Institute of Public Finance and Accountancy

Once appropriate authorisation has been received the debt will be removed from the relevant accounting system and charged against the appropriate bad debt provision.

8 Related Policies, Procedures and Guidelines

This policy should be read in conjunction with:

- Broxtowe Borough Council's Housing Recharge Policy (Sundry Debts)
- The Council Tax (Administration and Enforcement) Regulations 1992
- Local Government Finance Act 1988 Corporate Debt Procedure
- Broxtowe Borough Council's Sundry Debt Recovery Procedure

Appendix 1

BROXTOWE BOROUGH COUNCIL CODE OF PRACTICE FOR ENFORCEMENT AGENTS

- 1) Enforcement agent firms and enforcement agents contracted by Broxtowe Borough Council to undertake specified tasks will be required to ensure that they, their employees, contractors and agents comply with the following Code of Practice at all times.
- 2) The enforcement agent firm will ensure that all employees, contractors and agents will at all times act within the scope of current legislation and ensure that all notices and other documentation left with or sent to the debtor are neither ambiguous nor misleading.
- 3) The enforcement agent firm will ensure that all enforcement agents, employees, contractors and agents have an appropriate knowledge and understanding of relevant legislation and powers. Where necessary, the enforcement agent firm will ensure that adequate training is available.
- 4) Enforcement agents and employees, contractors and agents of the enforcement agents firm will act in a responsible and courteous manner and will act in the interests of Broxtowe Borough Council at all times.
- 5) Representatives of the enforcement agents must be aware that they represent Broxtowe Borough Council in their dealings with debtors and should act accordingly at all times.
- 6) The enforcement agent firm will maintain an acceptable standard of dress among all employees, contractors and agents, consistent with the provision of a professional service.
- 7) All enforcement agents carrying out the lawful act of taking control of goods shall hold a current enforcement agent's certificate issued by the county court. The enforcement agent firm will ensure that the removal of goods is always directly supervised by a certificated enforcement agent.
- 8) Broxtowe Borough Council will appoint a supervising officer, who shall be a senior member of staff, to liaise with enforcement agents and the enforcement agents on all matters. The supervising officer and the principal of the enforcement agents shall be responsible for the operation of this Code of Practice and for resolving any complaints from debtors.
- 9) The enforcement agent firm must establish and maintain an internal complaints procedure overseen by a senior member of staff. Broxtowe Borough Council's

supervising officer shall be responsible for ensuring that any complaints received from debtors or their authorised representatives by Broxtowe Borough Council are handled efficiently and promptly.

- 10) The enforcement agent firm will bring to the attention of the supervising officer cases which are felt to be inappropriate for taking control of goods action in accordance with this code of practice, and will seek further instructions before proceeding.
- 11) The enforcement agent and the enforcement agent firm will, on returning any un-executed liability orders, report the reason(s) why taking control of goods has not taken place, together with any other additional information that is relevant.
- 12) The enforcement agent and the enforcement agent firm shall ensure that all information coming into their possession during the performance of the contract is treated as strictly confidential and is not to be used for any purpose other than performance of the contract. All data will be handled in strict accordance with the Data Protection Act 1998.
- 13) The enforcement agent firm must ensure that its employees use the title 'enforcement agent' only in appropriate work (for instance, not when acting as debt collectors or tracing agents). Enforcement agents must not misrepresent their powers, qualifications, capacities, experience or abilities.
- 14) The enforcement agent firm must declare all associated interests of companies, firms, associations and groups to Broxtowe Borough Council.
- 15) The enforcement agent firm will answer all correspondence from debtors within 5 working days of such being received, wherever possible.
- 16) Copies of the Code of Practice must be freely available from the offices of both Broxtowe Borough Council and the enforcement agent firm. A copy of the code must be given to each person who complains, or enquires how to complain, to the enforcement agent, the enforcement agent firm or Broxtowe Borough Council.
- 17) Enforcement agents must carry their identity card and their authority to take control of goods at all times and show them to the debtor when attending to take control of goods.
- 18) Enforcement agents must whenever possible verify the amount outstanding, explain fully the opportunity for making payment and make it absolutely clear that immediate payments in full, by cash, will stop further action.
- 19) Enforcement agents are to have a basic understanding of benefit application processes and sufficient training to recognise potential benefit cases.
- 20) Enforcement agents are to fully explain the consequences of non-payment.

- 21) Enforcement agents are to make it clear, when appropriate, that only the goods of the person named in the Liability Order should be taken control of.
- 22) Enforcement agents are only to call between the hours of 07.30am and 09.30pm Monday to Saturday except with the prior authorisation of the Council.
- 23) Where taking control of goods is to take place and those that are identified as exempt goods as prescribed in the Taking Control of Goods regulations, then those items may not be taken.
- 24) In all cases of alleged payment, the enforcement agent must contact or report back to Broxtowe Borough Council immediately.
- 25) Close liaison between Broxtowe Borough Council and the enforcement agent is of paramount importance throughout all operations. This is particularly important in cases of a sensitive nature or where hardship is apparent and in all such cases Broxtowe Borough Council must be appraised of the situation as soon as it becomes apparent. Sensitive cases include the following situations:
 - A Pensioner
 - A disabled person
 - Long term sickness or serious illness
 - A recent bereavement
 - A single parent family
 - Pregnancy
 - The rate or charge payer does not understand English
 - Learning difficulties
 - Mental illness
 - Severe financial hardship
- 26) In the event of any uncertainty over a forwarding address Broxtowe Borough Council must be contacted immediately.
- 27) Notwithstanding the difficulties, Broxtowe Borough Council requires enforcement agents to make reasonable efforts to contact debtors personally. In all cases entry onto or into a property for the purpose of fulfilling the obligations under the contract between the Company and the Council, shall be undertaken without force or intimidation and in as amicable a manner as possible.
- 28) No constructive taking control of goods are to be attempted.
- 29) Where it is necessary to enter the property of a third party, access must only be achieved by express consent. When such access is denied the Liability Order must be returned to the office.
- 30) Enforcement agents are to comply strictly with the Broxtowe Borough Council guidelines regarding arrangements for "staged" payments by defaulters. If enforcement agents consider the debtor genuinely cannot pay in accordance with

the said guidelines, then the Council is to be contacted for further/revised guidelines.

- 31) Advanced notice of visit schedules are to be supplied to Broxtowe Borough Council.

Appendix 2

Debt Counselling and Advice

Council employees will give advice if requested on the payment outstanding debts but they do not provide a comprehensive debt counselling service.

Council employees will refer customers to the Council's benefit employees at the customer's request or where it appears that they may be entitled to housing benefit or council tax benefit.

Customers may want to get independent advice if the enforcement agents are involved or if they wish to discuss debts and general money advice.

For customers who want free, confidential and independent advice, they can contact one of the free advice agencies shown below:-

Citizens' Advice Bureau

Council Offices
Foster Avenue
Beeston
Nottingham
NG9 2PA
Tel: 08701 264027
Web: <http://www.citizensadvice.org.uk/>

Citizens' Advice Bureau

Wellington Place
Eastwood
Nottingham
NG16 3GB
Tel: 01773 760641
Tel: 01773 718065
Web: <http://www.citizensadvice.org.uk/>

Consumer Credit Counselling Service

Wade House
Merrion Centre
Leeds
LS2 8NG
Tel: 0800 138 1111

Web: <http://www.cccs.co.uk/Home.aspx>

Nottingham Credit Union

69 Maid Marian Way

Nottingham

NG1 6AJ

Tel: 0115 8283121

Email: info@nottinghamcu.co.uk

Web: <http://www.nottinghamcu.co.uk>

Nottinghamshire Welfare Rights Service

County Hall

West Bridgford

Nottingham

NG2 7QP.

Tel: 0115 977 4018

Minicom: 01623 845017

Email: welfare.rights@nottsc.gov.uk

<http://www3.nottinghamshire.gov.uk/caring/adultsocialcare/welfarebenefits/>

