

# Debt Management Policy



## DEBT MANAGEMENT POLICY

### 1. INTRODUCTION

The council has a responsibility to collect the income due to it. This helps the council to pay for the services it delivers. This policy is the council's statement on how it will work with customers and partners to raise and collect debt. It outlines what the council will do to help those who are in debt. The policy recognises that it is good practice to maintain a consistent and efficient approach to managing debt. Payment in advance of services being delivered is a key objective for the council. This will help to maximise the collection of income which is vital in providing resources to deliver services.

The policy will apply to the collection of money owed to the council, primarily:

- a. Council Tax
- b. National Non Domestic Rates (NNDR)
- c. Housing Benefit overpayments
- d. Miscellaneous invoices
- e. Fixed penalty notices for parking and environmental crime
- f. Income from planning application and building regulation fees and land charges

### 2. BACKGROUND

The council has a legal duty to ensure cost-effective billing, collection and recovery of all sums due. This policy is in addition to existing legislation.

Council Tax recovery procedures are outlined in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

National Non-Domestic Rates recovery procedures are outlined in The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent regulations and amendments.

Housing Benefit overpayments are reclaimed in accordance with Regulations 99 -107 of The Housing Benefit Regulations 2006 and subsequent amendments. Where Housing Benefit has been overpaid and is no longer in payment the primary legislation governing recovery is obtained from the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992.

Miscellaneous invoices and other payments due are collected in accordance with financial regulations relevant to the type of debt. Where a debt is not covered by legislation, action can be taken in the County Court. For example, parking penalty charges are governed by the Traffic Management Act 2004.

The council may appoint enforcement agents and debt collection agencies where appropriate. Only certificated enforcement agents can be used to remove goods for council tax and NNDR and the fees charged to the debtor are governed by legislation.

The policy has been approved by the council's Executive Cabinet and will be reviewed as required and in response to any relevant changes in legislation or guidance.

### 3. PURPOSE

**The purpose of the Debt Management Policy is to set out the council's approach to the management and collection of debt and also to identify the support and practical help which will be available to customers.**

The policy provides an overarching framework which will be incorporated into individual service procedures and practices. It also enables a consistent and sensitive approach to collecting debt whilst

at the same time ensuring that the Council continues to meet its responsibility to collect outstanding amounts.

#### 4. GENERAL PRINCIPLES

The council's approach to income collection will be guided by some general principles:

- a. A professional, consistent and timely approach to collecting debt.
- b. Collection will be in line with legislation
- c. Cost-effective collection of all monies owed to the council.
- d. A co-ordinated approach towards sharing information and managing multiple debts owed to the council.
- e. Where appropriate, the council will refer debtors to advice agencies.
- f. Ensuring that the interests of all council tax payers are protected.
- g. Opportunities for the collection of income in advance are maximised.
- h. Management of debts in accordance with legislative provisions and best practice.
- i. The effective use of online capability wherever possible.
- j. Collection of income will be by the most efficient means e.g., direct debit, via the website or the automated payment line.
- k. All Council bills and invoices will be raised as soon as practicable and will include clear, relevant and full information as to:
  - i. What the bill is for
  - ii. When payment is due
  - iii. How to pay
  - iv. How to contact us if there is a query
- l. A pro-active approach to collection of debt will be maintained where this will maximise income collection.
- m. Recovery action will be mindful of the council's duty to protect its finances and collect all outstanding debts.
- n. Recovery action will be proportionate to the amount of the debt outstanding.
- o. Ability to pay will be considered. The policy promotes positive actions in assisting those who may be unable to pay.

#### 5. HELP AND ADVICE FOR CUSTOMERS

The council will offer help and advice to all customers including those experiencing financial difficulties as it wants to help its customers meet their financial commitments. At the same time the council has a duty to ensure that bills are paid as quickly as possible.

To achieve these objectives the council will:

- a. Make it easier for customers to pay by making sure they know how and where they can pay. This information is included in correspondence with customers and is on the Council's website [chorley.gov.uk](http://chorley.gov.uk)
- b. Refer customers to advice agencies for help with money management and debt if appropriate.
- c. Require the outstanding amount to be cleared as quickly as the customers circumstances will allow.
- d. Encourage customers to make contact immediately if they are unable to make a payment or if their circumstances change that affect ability to pay.
- e. Assist customers where there are multiple debts outstanding.
- f. Where relevant, ask customers to provide information regarding their finances in order to agree an arrangement
- g. Request payment in advance for services where appropriate

## 6. THE RECOVERY OF DEBTS

The council will advise debtors of the amounts and the due dates of outstanding payments. The council will also advise debtors what the next action is likely to be if payment is not made as requested.

For some types of debts the timescales for recovery are governed by legislation. The timing of recovery action will be managed in line with legislation and best practice.

The council will always reserve the right to continue with legal action. This is to protect the council's interests and prevent the debt from becoming statute barred and irrecoverable. During the later stages of recovery, the individual circumstances of cases will be considered when a decision about the most appropriate course of action is taken.

There are a number of steps which the council can take to recover unpaid debt and overdue payments.

### **Reminder**

The council will send a reminder where a payment or an instalment becomes overdue. This reminder will give the debtor a fixed number of days in which to make payment. The council may send more than one reminder in some circumstances.

### **Final notice**

A final notice may be sent where payments are brought up to date but fall behind again. The final notice informs the debtor of the legal enforcement action that may be taken if payments are not received nor a payment arrangement agreed.

### **Payment Arrangement**

The council will offer debtors an arrangement to pay where appropriate. As well as the debtor's ability to pay, the arrangement will depend on factors such as the amount outstanding, the age of the debt and whether there is any ongoing liability. Payment arrangements will be regularly monitored and reviewed. It may not be in the debtor's best interests to have a long term arrangement when liability is continuous, since the level of debt will increase as time goes by and the debtor's situation deteriorate rather than improve

### **Summons**

For some debts, failure to make payments as required may result in a summons being issued by the Magistrate's Court. This will incur further costs payable by the debtor. If payment is made in full before the court hearing date the council will not ask for a liability order which means that no further action will be taken.

Where a debtor cannot pay in full they can pay according to an arrangement as offered by the council. In these cases the council will still ask the court to grant a liability order to secure the debt.

### **Liability Order**

Where the Magistrate's Court grant the council a liability order this will incur further costs payable by the debtor. Where a liability Order is granted the council will take appropriate enforcement action as soon as possible unless a satisfactory payment arrangement is made. If a payment arrangement is not kept to, action can be taken without further notice.

### **Attachment of Earnings or Benefit**

If a debtor is working an Attachment of Earnings Order may be sent to their employer who will be required to make deductions from wages until the debt is cleared. Where a debtor is claiming certain benefits, a request may be sent to the Department of Works and Pensions for deductions to be made from benefit.

### **Enforcement Agents**

Enforcement agent is the new name for bailiffs. Enforcement agents will issue an enforcement notice which will incur further costs payable by the debtor. If payment in full is not received nor a payment arrangement agreed the case will pass to an enforcement agent. Further costs payable by the debtor are added at this stage. The enforcement agent can visit the debtor's home and seize goods to the value of the debt. This action will also incur further costs payable by the debtor. The council may also use an in-house enforcement officer.

### **Home visits**

It may be considered appropriate to carry out a visit to a debtor's home or place of business in order to secure payment of an outstanding amount.

### **Debt Collection**

Some debts may be referred to a debt collection agency. The agency may contact a debtor by telephone or in writing to request payment of a debt.

### **Tracing**

If a debtor leaves their last known address without providing a forwarding address we will use various methods to trace them. This may include professional external agencies as well as council records.

### **County Court**

County Court action may be taken to recover some types of debt. This will involve the issuing of a County Court Claim Form and may result in the debtor incurring court costs and fees as decided by the court.

### **Bankruptcy and Liquidation**

The council may take action to make a person bankrupt or to liquidate a company. A bankruptcy petition is an application to the court for a person's assets to be taken and sold to pay their debts. Bankruptcy proceedings may be instigated when a debtor owes more than £750.00.

### **Charging Order**

This is an order of the court placing a charge on a debtor's property such as their home, a piece of land or stocks and shares. A charging order can be applied for if the council still holds another court order (such as a liability order) against a person and the total amount owing is more than £1,000.

### **Committal to prison**

The council may make an application to the court for a committal to prison. The Magistrates have five options available for cases presented to them:

- a. Commit the defaulter to prison for a period of up to three months
- b. Suspend a prison sentence on the understanding agreed amounts are made
- c. Remit all or part of the debt
- d. Adjourn for a period of time if requested by the LA. The Magistrates may also adjourn the case if they feel they do not have enough evidence to make a decision
- e. Dismiss the case