



# **Durham County Council**

## **Corporate Debt Management Policy**

**(July 2020)**

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## 1. Introduction

- 1.1 Durham County Council's overall spending is financed through a combination of Government grants and income raised locally, through the collection of local taxes and a range of statutory and non-statutory service charges. Customers, residents and businesses have a responsibility to pay for the services and goods that they receive and the charges for which they are liable.
- 1.2 The Council has a duty to ensure that all collection processes comply with the relevant legislation, which includes:
- Council Tax (Administration and Enforcement) Regulations 1992
  - Non-Domestic Rating (Collection and Enforcement)(Local Lists) 1989
  - County Courts Act 1984, Practice Directions and Civil Procedure Rules 1998
  - Charging Orders Act 1979
  - Social Security Administration Act 1992
  - Civil Enforcement of Parking Contraventions (England) General Regulations 2007
  - Insolvency Act 1986
  - Tribunal Courts and Enforcement Act 2007
  - Taking Control of Goods Regulations 2014
  - Taking Control of Goods (National Standards) 2014
- 1.3 The Covid-19 pandemic has resulted in the largest global recession and financial crisis for many years, with devastating worldwide effects. Locally and nationally, there has been a substantial increase in claims for welfare benefit, with signs of a substantial downturn in the jobs market. Despite the fact that the Government and local authorities have put in place an unprecedented amount of measures to support and protect individuals and businesses, some households may continue to struggle and potentially face a 'cliff edge' when some temporary arrangements expire. StepChange Debt Charity estimate that

£6.01 billion worth of debt and arrears have been accumulated by 4.6 million people since the outbreak began.

- 1.4 Although the majority of people and businesses pay the charges that are due, the Council does have a duty to recover outstanding debts and in doing so must ensure that the processes involved are proportionate and fair to everyone, particularly in the current economic climate.
- 1.5 Effective debt management forms an essential part of the Council's corporate and financial governance frameworks and is also critical in enabling the delivery of the Council Plan and its Sustainable Communities Strategy, and, a commitment to provide a range of quality services in the most efficient and cost-effective way.
- 1.6 Performance management in the collection and recovery of all sums owed to the Council forms part of a series of Key Performance Indicators (KPI's) used to measure effectiveness. Similarly, a supporting suite of other Performance Indicators (PI's) within the Finance and Transactional Services Improvement Plan ensures that the cost and effectiveness of recovery action taken in accordance with this strategy are monitored regularly to ensure fairness and consistency.

## **2 Scope**

- 2.1 This Policy aims to promote, encourage and support proper and equitable debt management processes for all major sources of income owed to the Council and to ensure a consistent approach to the management of debts, including:
  - Council Tax
  - Business Rates (Non-Domestic Rates)
  - Overpaid Housing Benefit
  - Sundry debt, including service charges and general income
  - Adult Social Care charges (residential and non-residential)
  - Commercial Rent

- Business Improvement District Levy (DCC act as billing and collection agent to the BID company)
- Penalty Charge Notices, i.e. Parking Fines

### **3 Key Aims**

- 3.1 The key aims of the Corporate Debt Management Policy are to set out the billing, collections and recovery processes relating to all sums due and the general debt principles the Council will apply.
- 3.2 To provide an effective and supportive debt management service with the inclusive and proactive participation of all councillors, employees, stakeholders and external agencies and to proactively support and encourage engagement with our customers.

### **4 What We Will do**

- 4.1 Maximise collection and performance, whilst acting in accordance with the appropriate legislation. Consideration will also be given to the customer's financial circumstances, their payment history, their ability to pay and the sustainability of payments and their welfare. It is important to the Council and the customer that clear and prompt information is available, especially with regard to what they need to pay and how to pay, whether this be a paper bill, electronic bill or a notification letter.
- 4.2 A range of communication services are available to customers upon request, including:
- translation and interpreting services if English is not your first language
  - sign language interpreters and other support if you are deaf or have impaired hearing
  - documents in alternative formats, for example Braille, large print, audio and disc
  - other options tailored to meet specific individual needs
- 4.3 Bills must be calculated accurately at the point of issue and charges applied in accordance with any legislative requirements. The customer should be encouraged to ensure that their charge is correct and to make contact in the event of an error. All bills issued should identify any available entitlement to reliefs, exemptions and

discounts. Where the level of debt changes, for example with a change in entitlement to Local Council Tax Reduction, clear notification will be given of what is due, when payment should be made and any arrears that may have arisen.

- 4.4 A range of flexible, convenient and modern methods of payment are available (see Section 7 – Methods of Payment), although payment by Direct Debit (where feasible) should always be promoted, as this is the cheapest and most effective method of payment to administer.
- 4.5 Payments will be allocated promptly and accurately to the customer account. Processes are in place which enable over 97% of all payments received to be automatically allocated directly to customer accounts. This ensures an effective and efficient collection service with less scope for error. Any unidentifiable payments will be investigated promptly, and there is a robust income collection process in place which contributes to the effectiveness of the debt management process.
- 4.6 The Council will ensure that the recovery process (see Section 9) is continuous, dynamic and proportionate to strike an even balance between the circumstances of the individual or the business and their obligations to the Council. Customers will be proactively encouraged to make contact to discuss their situation and the options available to them to make payment before any necessary recovery and enforcement action is taken.
- 4.7 We recognise that causes of debt vary and recovery methods should be focused accordingly. Therefore, wherever possible debt will be categorised to help focus the use of resources and concentrate action on those who 'won't pay' rather than those who 'can't pay'.
- 4.8 Customers will receive appropriate assistance, guidance and support through debt management and benefit advice. We will ensure that mutually agreed repayment arrangements are affordable and sustainable, and, that the customer understands the options available that will minimise costs and avoid accruing unnecessary debt in the future. It is planned to provide a budgeting tool to assist customers and staff with repayment resolutions.
- 4.9 The appropriate recovery action will be focused on debt collection depending on individual circumstances and the available income

or assets. The Council will seek to recover any amounts owed from the estate of deceased customers where appropriate.

- 4.10 A robust but fair and proportionate collection and enforcement of debt will be undertaken with consideration being given to vulnerability issues (see Section 15 Vulnerable People). We will also support residents and businesses in order to prevent problematic debt accruing and to improve their cash flow wherever possible. These actions will help minimise the level of debt written off thereby maximising potential income and contributing towards a strong foundation for the achievement of corporate objectives.
- 4.11 Where the customer has moved house or 'gone away' without providing a forwarding address, every attempt will be made to locate the individual where procedures allow. Action taken will be proportionate to the level of debt involved. (see Section 13 – Tracing Absconders).
- 4.12 When a debt is deemed to be non-recoverable, it will be done so at the earliest possible opportunity and dealt with in accordance with the Council's financial procedures and policies (See Section 14 – Write Offs). Action taken will be proportionate to the level of debt involved.

## **5 Anti-Poverty Reduction**

- 5.1 The Council recognises that some customers will experience personal financial difficulty either for short or longer periods, particularly in response to the Covid-19 pandemic and the wider effects of the economy in our region. Customers who find themselves in debt can often have multiple debts which can spiral and affect the whole family, their quality of life and wellbeing. All staff dealing with individuals and families in difficult situations must recognise where our customers are suffering hardship and need help and advice. Recovery action taken can often cause distress, especially where the person has other debts.
- 5.2 To help tackle these issues every effort will be made to make individuals aware of all sources of assistance, support or relief including:
- Housing Benefit and the Local Council Tax Reduction Scheme (LCTRS)
  - Universal Credit for working-age customers

- The availability of discounts, exemptions, reliefs and disregards
- Discretionary Housing Payments
- Council Tax and Business Rates Hardship Relief
- Welfare Assistance
- Welfare Rights Service
- Citizens Advice County Durham (CACD) for free, independent debt advice
- Foodbanks
- Mental Health and Wellbeing Initiatives / organisations / charities
- Other charitable and support organisations

5.3 Information relating to the above is accessible on the Council's website at [www.durham.gov.uk](http://www.durham.gov.uk) The Council may also undertake benefit, discount and reduction take-up campaigns where appropriate.

5.4 Collections and enforcement teams will also make outbound telephone calls and visits from a welfare and support perspective, where possible. This approach can be particularly targeted at those customers identified to be 'in crisis' or 'at financial risk'.

5.5 The Council will continue to work closely with stakeholders, external agencies and internal partners such as Citizens Advice, Welfare Rights, Housing Solutions, Welfare Assistance, as well as other areas of Finance and Transactional Services. A two-way protocol and portal for referrals to Citizens Advice County Durham (CACD) is in place, which includes contact arrangements as well as an agreement to withhold action for 42 days for 'live' Citizens Advice cases. This may be extended to 90 days where there is evidence that a customer is pursuing insolvency proceedings. The protocol and arrangements also apply to the Council's Enforcement Agent and Debt Collection Agent services.

5.6 Customers may also be made aware of other organisations specialising in free and independent debt advice such as Step



Change and the National Debt Helpline to access free debt counselling. Those experiencing financial difficulties should be given every assistance with money management. In appropriate cases consultation with Social Services or other appropriate agencies may be required.

- 5.7 The Council acknowledges the requirement to understand the needs of customers with low disposable income or those that are unemployed and may well fall into poverty. Special consideration will also be given to those who are no longer taking responsibility of their own finances, for example, long-term hospital patients and those with mental health problems (see Section 15 Vulnerable People).
- 5.8 Unnecessary recovery action in cases where genuine hardship or vulnerability which affects a customer's ability to pay is evidenced will not be undertaken. The same applies to cases where it is apparent that recovery action would be detrimental to health and wellbeing of the customer. Arrangements entered into on the grounds of hardship will be subject to a full and robust financial appraisal carried out by Financial Support Services in order to achieve consistency in its approach. Customers will not be asked to make unrealistic repayments at a rate that they cannot afford or is not sustainable.
- 5.9 Discretion will be used (within the appropriate legislation) to backdate Council Tax Reduction (previously referred to as Council Tax Benefit) entitlement when continuous good cause can be demonstrated. Also, in cases of genuine hardship staff should refer to the Council Tax Discretionary 13A Hardship Reduction Policy and the Business Rates Rate Relief and 13A Hardship Policy for further help and guidance.
- 5.10 With regard to assistance for young people who are leaving care, as the corporate parent, the Council wishes to maximise the support for care leavers up to the age of 25 years. Consequently, a decision was taken by Cabinet in July 2017 to grant 100% exemption from Council Tax to those care leavers who are liable to pay in their own right. Also, from a Council Tax perspective, when a care leaver moves into any household, the bill will be reduced to 50%. This provides practical help and financial assistance to care leavers whilst they are developing independent lives and their life skills.

5.11 The Local Council Tax Reduction Scheme (previously referred to as Council Tax Benefit, a change to legislation afforded councils the opportunity to determine their own scheme) is still supported to the maximum of 100%.

## **6 Prompt and Accurate Billing**

6.1 The Council recognises that prompt and accurate billing is important in reducing the debt burden on customers. For sundry debt (general charges), payment should be obtained in advance of a service provision where practicable to minimise the need for debt collection. Procedures are in place to ensure bills and invoices are issued promptly by post or by electronic means (where possible).

6.2 All bills produced will be in plain English and will clearly show:

- What the bill is for
- The period of liability (where relevant)
- The full amount due, and where appropriate, the instalment amount(s) and due date(s)
- How to make a payment (details of 'how to pay' are on the reverse of all bills and invoices)
- Contact point for enquiries including telephone, email and website details

6.3 Council Tax bills, Business Rates bills, overpaid Housing Benefit invoices and Business Improvement District levy invoices must be raised as soon as is practicable. Sundry debt invoices should be issued within five working days of the provision of service (where possible).

6.4 The Council's fees and charges are reviewed annually, invoices will reflect any increases and be issued accordingly.

6.5 Invoices with a value of less than £5 should not be raised, unless they are a statutory requirement or are required for VAT purposes. Council Tax and Business Rates bills are statutory, but where they are for a debit or credit amount of less than £1, they will be amended to display a nil balance.

6.6 Internal quality assurance checks are undertaken to ensure that changes in circumstances and applications for exemptions,

discounts, reductions and reliefs are correctly calculated and are in accordance with legislation and policy. This helps to ensure that customers are treated fairly and consistently. Delays will be kept to a minimum in order to reduce any burden of debt.

- 6.7 Customers are advised on each bill, invoice or notification to make contact as soon as possible, or within 7 to 21 days (depending on the debt type or the notification type) to notify of any relevant change to their circumstances that may affect their charge, or, of any administrative error.
- 6.8 Penalty Charge Notices (for example, Parking Fines) will include advice that any challenge must be made by the customer within 28 days of issue.

## **7 Payment Methods**

- 7.1 It is important to make it as easy as possible for the customer to pay and a wide variety of payment methods are offered.
- 7.2 A Direct Debit facility is available for Council Tax, Business Rates, Garden Waste and some types of invoices (for example, social care charges, Care Connect, music services, school transport). Direct Debit is the preferred method of payment due to the low cost and surety, however a variety of alternative methods are also available:
- Direct Debit – which can usually be set up over the telephone
  - Debit/Credit card payments can be made using the 24 hour automated payment line (0300 456 2771) or by visiting the Council website at [www.durham.gov.uk](http://www.durham.gov.uk) and selecting 'Pay For It'
  - A transfer direct to the Council's income bank account with Lloyds Bank PLC. The account number is 51009868 and the sort code is 30-92-79. The account or invoice reference number should be quoted on all payments
  - Barcode on the front of the bill, invoice (or notice in some instances). This allows the customer to make payment at any Post Office or PayPoint outlet where the barcode can be scanned, and payment taken

- PayPal is available online via our 'e-store' for most bills
- Cheques may be sent in by post
- Standing Order
- BACS, CHAPS or Faster Payments to the Council's income bank account at Lloyds Bank PLC as above

7.3 'How to Pay' advice is on the reverse of all bills and invoices and can also be found on the Council's website.

## **8 Hierarchy of Debt**

8.1 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 and will take into account the person's circumstances, legislation, the level and priority of debt and the potential for financial hardship.

8.2 Where the Council or its collection agent is pursuing multiple debts, priority is given to debts where non-payment could lead to loss of the customer's home or have direct implications upon an individual's health and wellbeing.

8.3 Customers will be advised of the importance of paying priority debts over non-priority debts. Consideration will be given to the consequences of non-payment, as remedies and the severity of such do differ. Priority debts include:

- Rent arrears and tenancy related charges
- Mortgage repayments
- Council Tax and Business Rates
- Water rates
- Gas and electricity
- Unpaid court fines
- County Court Judgments
- Unpaid maintenance and child support

- Income Tax, VAT and National Insurance contributions
- Reasonable telephone charges
- Hire purchase for goods that are essential
- Arrears relating to supported accommodation and care charges
- Invoices for any essential services or goods
- Television licence fees

8.4 There is an expectation that where the Council is owed monies in respect of priority debts that payment plans in respect of non-priority debts are renegotiated by the customer (or by a third party acting on the customer's behalf), they include the following:

- Credit card and store card arrears
- Catalogue arrears
- Bank overdrafts and unsecured loans
- Hire purchase for non-essential goods
- Money borrowed from family and friends
- Chargeable TV services

8.5 The Council will seek to deal with all outstanding debt and a holistic approach should be adopted. Where a customer owes more than one debt of the same type (for example, Council Tax), priority should be given to the current financial year's charge to help prevent further arrears accruing. Consideration must also be given to cases where costs may be incurred through non-payment in order to avoid or minimise fees and costs.

8.6 Payments will be matched to instalment values first or allocated as directed by the customer. If that is not possible, we will determine whether there is a trend or an intent by the customer as to where the monies should be directed. Again, consideration will be given to any situations where there may be potential additional fees or costs.

8.7 Where a customer has accounts involving several charge/debt types, (for example Council Tax and Overpaid Housing Benefit), and one account is in credit whilst the other is in debit, the customer should be made aware and encouraged to agree to the credit being transferred towards the debt.

## **9 Recovery Process**

9.1 The type of recovery action to be undertaken will be dependent upon the type of debt. Action will be taken promptly to avoid the debt increasing and reduce the difficulty to meet required payments. Customers must be encouraged and advised to make early contact to avoid unnecessary action and any potential fees or costs.

9.2 The Council's approach to the recovery process will be consistent, transparent, proportionate fair, courteous and professional, as will that of any agent or contractor. This will be managed by the continual review of procedures and the relevant staff training where appropriate, as well as a monthly program of quality assurance checking and performance management.

9.3 Consistency will be maintained in the advice given, the use of powers available and the recovery procedures used to ensure that similar circumstances are treated equally.

9.4 Transparency is important in maintaining public confidence, helping the customer understand what is expected of them and what they can expect from the Council. Advice and information should be clear, concise and appropriate to the customer's circumstances.

9.5 Customers should be signposted to any and all relevant support and assistance.

9.6 Recovery action will be taken in a timely manner and in accordance with the schedule of recovery, which is agreed by the Head of Finance and Transactional Services. Technology will be utilised to automate and expedite processes wherever possible to maximise efficiency.

9.7 A range recovery options are available in the absence of payment or where a repayment arrangement (see Section 11) is defaulted upon. Action will be taken in accordance with agreed internal procedures, legislation and good practice. It will be fair and

proportionate and, consideration will be given to the effectiveness and to cost(s). Local factors and/or special considerations will be taken into account for all different debt types.

#### 9.8 Council Tax Recovery Action:

- Reminder or/and Final Notice
- Summons
- Liability Order in the Magistrates Court
- Payment Arrangement
- Attachment of Benefits
- Attachment of Earnings
- Attachment of Allowances (Members)

#### 9.9 Council Tax Post Court and Enforcement Action:

- Referral to Enforcement Agent (Bailiff) debt must be £75 or more
- Insolvency (bankruptcy/winding up) - debt must be £750 or more for Winding Up
- Proceedings and £5,000 or more for bankruptcy
- Charging Order - debt must be £1,000 or more
- Committal to Prison - debt must be £750 or more

#### 9.10 Business Rates Recovery Action:

- Reminder or/and Final Notice
- Summons
- Liability Order in the Magistrates Court
- Payment Arrangement

#### 9.11 Business Rates Post Court and Enforcement Action:

- Referral to Enforcement Agent (Bailiff) debt must be £75 or more
- Insolvency (bankruptcy/winding up) - debt must be £750 or more for Winding Up
- Proceedings and £5,000 or more for bankruptcy
- Committal to Prison (individual only) - debt ELL must be £750 or more

#### 9.12 Overpaid Housing Benefit Recovery Action:

- Reminder
- Final Notice
- Direct Attachment of Earnings
- Payment Deduction Programme (deductions from DWP Benefits)
- Debt Collection Agency
- County Court Judgment
- Payment Arrangement

#### 9.13 Overpaid Housing benefit Enforcement Action:

- High Court Writ/Enforcement Agents – debt must be at least £600
- Warrant of Control/County Court Bailiff - Debts must be under £5,000
- Attachment of Earnings (County Court)
- Order to Attend for Means Enquiry (County Court)
- Third Party Debt Order (County Court)
- Insolvency (bankruptcy/winding up) - debt must be £750 or more for Winding Up proceedings and £5,000 or more for bankruptcy
- Charging Order – debt must be £600 or more.



#### 9.14 Sundry Debt Recovery Action:

- Reminder
- Final Notice
- Payment Arrangement
- Cessation of Service (where appropriate)
- Debt Collection Agency
- County Court Judgment
- Third Party Deductions (in certain instances)

#### 9.15 Sundry debt Enforcement Action:

- High Court Writ/Enforcement Agents – debt must be at least £600
- Warrant of Control/County Court Bailiff - Debts must be under £5,000
- Attachment of Earnings (County Court)
- Order to Attend for Means Enquiry (County Court)
- Third Party Debt Order (County Court)
- Insolvency (bankruptcy/winding up) - debt must be £750 or more for Winding Up proceedings and £5,000 or more for bankruptcy
- Charging Order – debt must be £600 or more

#### 9.16 Parking Fines Recovery Action:

- Notice to Owner
- Charge Certificate
- Application to Traffic Enforcement Centre
- Order for Recovery
- Warrant of Execution
- Payment Arrangement

#### 9.17 Parking Fines Enforcement Action

- Referral to Enforcement Agent (Bailiff) – debt must be £75 or more

#### 9.18 Business Improvement District Scheme (BIDs) Recovery Action

- Reminder
- Summons
- Liability Order in the Magistrates Court
- Payment Arrangement

## 9.19 Business Improvement District Scheme (BIDs) Enforcement Action

- Referral to Enforcement Agent (Bailiff) – debt must be £75 or more

9.20 The Council will always take appropriate recovery action where a customer does not pay and does not make contact to agree (and maintain) a mutually acceptable and sustainable repayment plan or fails to advise of extenuating circumstances which would prevent a resolution.

9.21 Generally, once a repayment arrangement is agreed and providing the required payments are maintained, no further action will be taken. Arrangements can be reviewed at any stage, and reasonably renegotiated if necessary, upon contact. However, in respect of Council Tax, Business Rates and BIDs, if a court summons has been issued, the customer will be advised that the application for a Liability Order will continue and once that has been obtained, only then will action cease. This is to protect the Council's position in the event of non-payment. Reasonable costs are incurred and added to the amount already owed.

9.22 Where repayment arrangements are ordered by Magistrates or County Court, it is usually necessary to obtain a variation to the order.

9.23 Where the service is advised of extenuating circumstances and/or it has been determined and substantiated that recovery action will have a significant detrimental effect on the customer's wellbeing, this may be held for a reasonable and appropriate period of time until a resolution is identified.

9.24 Recovery action may also be held where there is potential for a substantial reduction in the amount owed (for example, where an application for Council Tax Reduction has been submitted or where a relevant change in circumstance is still to be processed).

9.25 Where fees and costs are reasonably incurred, and legislation allows, they will be added to the amount(s) already owed.

9.26 Where there is non-payment and no alternative, debts (Council Tax, Business Rates, Parking Fines, BIDs and commercial rent) will be referred to the Council's Enforcement Agents for collection (see table). The minimum amount for referral is £75. The Enforcement Agent will apply statutory costs in accordance with

legislation. Sundry debt and Overpaid Housing Benefit can be referred to the Council's appointed debt collection service, the minimum amount for referral is £55.

## **10 Further Enforcement**

10.1 Customers who may be subject to further enforcement action (post Liability Order and usually once Enforcement Agent action has been exhausted) will have had several opportunities to engage with the Council and agree a repayment plan. All alternatives will be explored to secure payment (for example the issuing of an Attachment of Earnings Order).

10.2 Consideration will be given to the most effective or appropriate recovery method. This will include:

- Committal to prison proceedings (a sentence could be for up to 90 days)
- Insolvency action
- Charging Orders

10.3 Every attempt will be made to contact the customer directly. At least two written warning notices will be issued advising of the potentially severe consequences. A home/site visit will also be undertaken prior to committal to prison proceedings or insolvency action.

10.4 Staff will undertake to establish and understand the customer's circumstances and welfare as well as the potential implications of taking further enforcement actions. This includes:

- Whether the customer has the means to pay
- Whether the customer has any assets
- Payment history
- Whether the customer is vulnerable or has any other extenuating circumstances that would reasonably preclude further enforcement action being taken

10.5 The focus will rely on taking swift, robust and decisive action on persons who are identified as having funds to pay their debts readily available and understanding the situation of those

customers without readily available funds to take appropriate action or supportive measures.

10.6 Staff will record and document contact, warning notices, visits and the reasons why particular action is appropriate and pursued or rejected. Action will be proportionate, fair, equal and consistent.

10.7 Customers will be signposted to any approved and appropriate advice service or organisation.

10.8 Consideration will also be given to other wider implications:

- Ongoing liability and future charges
- Balancing the need to maximise collection whilst taking affordability into account
- A duty to those who do pay to recover against those who do not
- The Council's reputation and potential negative impacts

10.9 Insolvency action will only be taken following advice and guidance from an appointed partner specialising in that subject.

10.10 Where the Authority holds a legal charge over a property, an Order of Sale will only be applied for in accordance with the relevant legislation, civil procedure rules and good practice. In each case legal opinion will be sought. This action will always be a remedy of last resort, and as such a minimum of three visits will be conducted to establish contact, affording the customer further opportunities to engage with the Council. A full review will be undertaken to determine the individual's circumstances as well as to establish equity in the property, ensuring such action is cost effective.

10.11 It should be noted that arrangements for Deferred Payment Agreements (DPAs) in respect of social care charges are an exception to the above and are dealt with under different practice and legislation (for further information please visit the Council's website [www.durham.gov.uk](http://www.durham.gov.uk)).

## **11 Repayment Arrangements**

11.1 When discussing arrears, reasons why the debt has arisen should be established and a course of action should be determined with

the customer in order to prevent further arrears arising in the future, current liability payments should be given priority.

- 11.2 The customer must be encouraged to apply for relevant welfare benefits (as detailed in Section 5.2), especially Housing Benefit , Council Tax Reduction, Universal Credit, at an early stage once their circumstances are established. A customer can make a claim online, by telephone, in person (appointments are made at Customer Access Points) or via the Department for Work and Pensions (DWP). Our in-house Welfare Rights team and Citizens Advice County Durham are also able to assist in this area.
- 11.3 Staff are able to give some basic advice on the payment of outstanding debts. However, they are not fully trained or licensed experts in this area. Customers should be referred to Citizens Advice County Durham (which would be our preference) or signposted to StepChange Debt Charity. Information on these services and other advice agencies, such as Durham County Credit Union, who have a number of service points throughout the county, is available on the Council's website ([www.durham.gov.uk](http://www.durham.gov.uk)) and at Section 20 in this Policy.
- 11.4 Where is genuine financial hardship, officers will make the customer aware of the Council's Council Tax and Business Rates Discretionary 13A Hardship Reduction Policies.
- 11.5 Where appropriate or where a mutually acceptable and sustainable repayment arrangement cannot be agreed, a statement of means, detailing income and expenditure, including irregular income and expenditure, must be sought. The Council has adopted the use of a budgeting tool using the Standard Financial Statement (SFS). The Standard Financial Statement (SFS) has been developed for debt advice in the UK which delivers, for the first time, a universal income and expenditure statement, together with a single set of spending guidelines.
- 11.6 Where customers are experiencing financial difficulties, they should nevertheless be encouraged to negotiate a realistic single payment arrangement. In agreeing a realistic payment arrangement all relevant financial information and circumstances must be considered. Arrangements should be realistic, manageable and sustainable.

11.7 All payment arrangements will be confirmed in writing and will include service contact details. The consequences of non-payment should also be clearly explained. Arrangements can be renegotiated following a change in circumstances and upon contact.

## **12 Use and Management of Enforcement Agents and Debt Collection Agents**

12.1 The ability to refer debt to an Enforcement Agent is an important tool in the recovery process. The Council appreciates the sensitivity surrounding Enforcement Agent action and cases are only sent to Enforcement Agents where it is deemed the most appropriate method of recovery.

12.2 In respect of Council Tax and in the absence of payment, every attempt will be made to collect the debt via an Attachment of Earnings Order or an Attachment of Benefits Order rather than refer the case to an Enforcement Agent.

12.3 The Council has taken the Enforcement Agent and Debt Collection Agent service in-house and this will be supported by a contract (following a robust procurement exercise) with one external contractor for out of area debt and to provide resilience to the new service. The in-house service will provide opportunity for a more joined-up, streamlined and flexible approach to debt recovery and management and will aid a single view of debt to offer more cohesion.

12.4 Enforcement Agents are selected with regard to their performance, customer service standards and capabilities. The in-house service will adopt the National Standards for Enforcement Agents but will also ensure that the Council's values and behaviours are embedded, along with a robust Code of Conduct. The same arrangements will apply to the external contractor. Performance management measures will be implemented to ensure compliance and quality of service (this will also apply to the external contractor).

12.5 Enforcement Agents will be able to signpost customers to support including, the Council Tax Reduction Scheme, discretionary and hardship funding, Welfare Rights, Citizens Advice County Durham, Step Change and Credit Unions, Housing Solutions, social care, etc. where appropriate. By working closely with the Assessment

and Awards and Collections teams, Enforcement Agents will also identify and promote entitlements to discounts, exemption and reliefs as appropriate to maximise income for both Council Tax and Business Rates customers.

- 12.6 A key factor for Enforcement Agents will be to identify and understand vulnerable customers or customers struggling to manage the impact of Covid-19 and/or other welfare and financial issues. They will adopt a supportive and flexible approach. The customer's welfare will be the utmost priority and the relevant signposting will be undertaken. Action may be withdrawn where appropriate. The external contractor will have a dedicated team to deal with vulnerable customers and situations.
- 12.7 The Council will balance the requirement for effective debt collection with the reasonable, fair and lawful behaviour of its Enforcement Agent functions.
- 12.8 Any third party, or contractor, engaged by the Council to collect monies on its behalf will operate within strict guidelines, set out in an agreed Code of Practice.
- 12.9 If the debt has been referred to a third party to collect, the Council will intervene where there are exceptional circumstances to seek a resolution.
- 12.10 The third party will be informed of any payments received by the Council, or, changes to the charges, on debts referred for collection. This does not prejudice any statutory fees or charges levied by the third party for recovery action taken on behalf of the Council.

### **13 Tracing Absconded Customers**

- 13.1 The Council will make all necessary attempts to trace any customer that has absconded to ensure that recovery action can be continued. This will include checking all legal internal and external sources of information, social media in the public domain and using tracing agents where appropriate.
- 13.2 Where permitted by law, searches will be conducted with the help of credit referencing agencies such as Experian or TransUnion (previously Call Credit) to help trace absconders and to gain insight into a customer's ability to pay.

13.3 The timelines of tracing, allowing time for the customer to resurface, will be considered before the debt is reviewed for write off.

#### **14 Write Off (irrecoverable amounts)**

14.1 There will be limited circumstances where it is appropriate to consider writing off the amount(s) owed (or part thereof) to the Council. The reasons may be legislative, may be a directive from the Court or by local management (where circumstances dictate). Where a debt is determined as, non-recoverable or a credit as non-refundable, it will be identified as such at the earliest possible opportunity and properly dealt with in accordance with the Council's financial regulations and Write Off Policy.

14.2 The Council's constitution sets out details of the delegated powers for writing off irrecoverable amounts of Council Tax, Non-Domestic Rates, commercial rents and associated charges, Overpaid Housing Benefit, sundry debts, social care charges, Care Connect charges, school transport charges, school meal charges, etc.

14.3 When considering sundry debt (general invoices), it is important to differentiate between a write off and a credit note. A write off is an amount owed that will never be collected. A credit note is issued in various situations to correct a mistake on an invoice, for example where an invoice was overstated. A credit note must not be used as a substitute for a write off. It is financially incorrect in respect of accounting terms with potential VAT implications.

#### **15 Vulnerable People**

15.1 The Council recognises that some members of the community are considered more vulnerable due to their circumstances and may require additional support in dealing with their financial and personal affairs.

15.2 Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay. However, where it is deemed that the vulnerability impacts their ability to pay, or, recovery action would be detrimental to an individual's wellbeing, consideration must be given to:

- Allowing more flexible and extended repayment arrangements



- Postponing or withdrawing recovery action
- Assisting and signposting the person to claim benefits, financial assistance, reductions in charge, other entitlements and support
- Referring the person to sources of independent free advice
- Providing information in an accessible and acceptable format
- Agreeing a temporary repayment arrangement with lower payments than would normally be agreed
- Informing other appropriate service areas within the Authority of any concerns regarding the customer's safety or welfare

15.3 The cause of vulnerability may be temporary or permanent in nature and the degree of vulnerability will vary widely.

15.4 Staff will receive dedicated training on vulnerability and related issues to better equip them and help them to proactively identify signs at the earliest opportunity.

15.5 The following list identifies characteristics of persons who could be considered vulnerable. This list is not intended to be exhaustive and each case should be considered on an individual basis and considering all relevant factors. For the purpose of this Policy, the key factor in determining whether a person should be regarded as vulnerable will be the circumstances which give rise to the concern that the vulnerability will affect their ability to deal with financial affairs or ability to pay, or, where recovery action would be detrimental to the individual's wellbeing.

- Disabled Persons:

A person with a disability is not necessarily vulnerable for the purposes of this Policy. However, where the disability affects the person's ability to pay or where recovery action would be detrimental to the individual's wellbeing then the person should be considered to be vulnerable.

- Persons with Mental Health Impairment or Learning Difficulties:

If it is evident that the individual has mental health issues or learning difficulties which affect their ability to pay or understanding, or where recovery action would be detrimental to the individual's wellbeing then the person should be considered to be vulnerable. Further enquiries may need to be made with Social Services. A reduction in Council Tax may be applicable as there is provision within legislation for Severe Mental Health Impairment.

- Persons Experiencing Serious Illness, including Mental Illness:

A customer or a customer's partner suffering from a serious or life-threatening condition that affects their ability to pay or understanding, or where recovery action would be detrimental to the individual's wellbeing then the person should be considered to be vulnerable.

- Persons receiving Income Support, Job Seeker's Allowance, Employment and Support Allowance, Universal Credit or Pension Credit:

Those on Income Support, Job Seeker's Allowance, Employment and Support Allowance, Universal Credit or Guaranteed Pension Credit may be vulnerable for the purpose of this Policy as they may be experiencing financial hardship.

- Persons new to Universal Credit in the first 6 weeks of the claim:

Applications can take up to 6 weeks to be put into payment during which time customers may be experiencing extreme hardship.

- Unemployed Persons:

Unemployment is not an automatic indicator of vulnerability. For example, a person may have received a substantial redundancy payment and be financially secure in the short-term. However, loss of employment may result in serious financial and personal difficulties if they are suddenly unable to meet their existing financial commitments. A person who has recently become unemployed after a long period of employment may be unfamiliar with processes for claiming

benefits and may need additional assistance to understand their entitlements.

- A Person who has difficulty understanding English:

If a person does not understand either spoken or written English, vulnerability should be considered, particularly if they do not have support from family members who can speak and read English. The Council will provide appropriate translation where necessary.

- Persons Aged Under 18:

It is unlikely that a person aged under 18 years will owe any sums to the Council. However, it is possible that a person may assist or care for a parent or other older person and could contact the Council on their behalf. A person aged under 18 years may be the only person at home when an enforcement visit takes place and therefore the visit should be abandoned. The Council will always treat any person under 18 years old as vulnerable.

- Care Leavers aged 18 to 25:

As the corporate parent, the Council wishes to maximise the support for care leavers up to the age of 25 years. A 100% exemption from Council Tax is awarded to those care leavers who are liable to pay Council Tax in their own right. Also, from a Council Tax perspective, when a care leaver moves into any household, the bill will be reduced to 50%. The Council considers care leavers to be vulnerable.

- Persons Recently Bereaved:

A person suffering the recent bereavement (this may be up to 52 weeks) of a partner, child or close relative may be considered to be a vulnerable person.

- Lone Parents:

A lone parent is not necessarily a vulnerable person and it is recognised that some lone parents are financially secure. However, lone parents, and in particular those with very young children, may have difficulty in undertaking employment and are therefore reliant on welfare benefits.

- **Pregnancy:**

A person in the later stages of pregnancy may find dealing with serious financial issues stressful, particularly if they are not supported by a partner, or if they are living on a low income. Any additional essential expenditure due to the pregnancy or birth of a child can often compound this situation.

- **A person that has difficulty reading or writing:**

A person may be regarded as being vulnerable if they have difficulties in reading or writing because they are either unable to, or, do not understand written notices. People who have difficulty reading or writing may be embarrassed and reluctant to reveal their difficulties. If there is concern that a person has such difficulties, sensitivity must be applied when dealing with such cases.

- **Ex service personnel and veterans:**

Support for ex-service personnel, particularly those who may have suffered ill health or injury as a result of service is a national priority. The Council has signed the Armed Forces Community Covenant and is committed to working serving and ex-service personal and partners to support members of the armed forces community including regulars, reservists, veterans and their families.

- **Homeless Persons:**

A homeless person is likely to experience both personal and financial hardship. Individuals must be signposted to all relevant support and assistance, particularly Housing Solutions, Welfare Assistance, etc.

- **Victims of Domestic Abuse:**

Domestic abuse may be physical, mental or emotional harm and/or financial loss, and, may result in depression, anxiety, other mental health issues. It can occur across society regardless of age, gender, sexuality, wealth, ethnicity or geography and is not limited to couples but also, between family members or those living in the same house.

- Carers:

Carers are often in very stressful, emotional and sensitive circumstances and may be financially disadvantaged, which may result in the need for extra help and support.

## **16 Performance Monitoring**

- 16.1 This Debt Management Policy is underpinned by robust performance management. A range of key performance indicators and targets will be agreed and set annually to monitor the cost and effectiveness of recovery action taken.
- 16.2 Monthly and quarterly monitoring of these targets will be undertaken and reviewed.
- 16.3 Budget managers will utilise the relevant debt management information/tools available to them, i.e. Business Intelligence.
- 16.4 Internal audits and quality checks on work processes, procedures and accounts will be reviewed regularly to ensure compliance, governance, accuracy, fairness and consistency.
- 16.5 Collection rates will be monitored to identify performance against targets set for the collections of debts. Performance is benchmarked with other local authorities.
- 16.6 Records will be maintained to identify the number of cases progressed at each stage of the recovery process.
- 16.7 Complaints will be monitored and recorded to help enable service improvements, to address non-compliance/unacceptable behaviours or actions and to identify learning opportunities and training requirements.
- 16.8 Service Level Agreements will be monitored.

## **17 Costs and Interest**

- 17.1 Where legislation allows, statutory and/or reasonable fees and costs incurred in taking recovery action will be added to the amount(s) already owed.
- 17.2 In certain circumstances the level of costs will be a determination by the Court. However, where financial hardship has been

determined, officers will have discretion not to enforce costs but the justification for this must be documented.

- 17.3 At the discretion of the Court, under Section 69 of the County Courts Act 1984, interest may be added to a sundry debt once the County Court Judgment is obtained. Interest accrues on a daily basis at a rate of 8% from the date of the invoice until the date the County Court Judgment is granted.
- 17.4 If a charging order is obtained, for any debt stream, under the County Courts (Interest on Judgment Debts) Order 1991 Section 4(2) interest of 8% also accrues from the date the final charging order was granted, until the date the debt is paid in full. Again, this is at the Court's discretion and would be decided by the Judge when the final charging order is granted.
- 17.5 Whilst interest is not an incurred expense, it does compensate for the additional cost in obtaining a Judgment and for the loss of cash flow.
- 17.6 Appropriate officers (those managing cases and representing the Council at Court) have delegated powers which allow the discretion to remove all or part of the interest charged should circumstances justify this. For example, this may be in cases where Court mediation is instigated, and a negotiated agreement reached.

## **18 Performance Monitoring**

- 18.1 The application, effectiveness and fairness of the Debt Management Policy in practice is monitored on a weekly/monthly/quarterly basis by officers within the Council's financial services and by officers from other key services within the Council. This work includes a review of the detailed procedures that underpin this Policy and ensures that the Council is proactive in identifying potential issues. These processes are an integral element of the Council's core key financial systems and will be subject to annual review by the Internal Audit Section.
- 18.2 External audit services will also review aspects of the Council's debt management approach/arrangements.
- 18.3 The Debt Management Policy and recovery procedures are issued to all staff involved in the billing and collection functions and recovery of sums due to the Council.

18.4 The Council is committed to continuous improvement and it is critical that new approaches and ways of working are introduced to make improvements. This includes examining and implementing digital debt interventions to support response. This policy will be subject to regular review and assessed on its contribution to the improvement process. The Finance and Transactional Service teams have robust mechanisms in place to review the effectiveness of the application of this Policy in practice.

18.5 This Debt Management Policy will be subject to a formal annual review, appropriate internal and external stakeholders, including Citizens Advice County Durham will be invited to contribute and comment.

## **19 National Disasters / Covid-19**

19.1 In these instances, the Council will consider extraordinary measures and potentially implement additional support and take alternative approaches.

19.2 Wider implications may include Government guidance and changes to legislation at short notice.

19.3 Given the severity of the spread of COVID-19 and the measures that the Government and financial institutions have taken, the Council reconsidered its approach to debt collection. The supportive measures taken by the Government include:

- 12-month Business Rate holiday for all retail, hospitality and leisure businesses
- Business grants funding
- Business Interruption Loan Scheme
- Business Bounce Back Loans
- Self-employed Grants
- HMRC – Time to Pay Scheme
- Mortgage, loan and credit payment holidays
- Changes to Statutory Sick Pay (SSP)

- A ban on housing and business evictions for non-payment of rent (defined period)
- Increased personal allowances for welfare benefits including Universal Credit
- £500M Hardship Fund designed to further assist working-age Local Council Tax Reduction Scheme (LCTRS) claimants with a £150 top-up towards their Council tax liability.

19.4 The Council took a proportionate approach, in addition to the above, and extended its support to help customers avoid financial hardship and to assist them in managing their finances, helping them to 'bridge the gap by:

- Cessation of all recovery action, initially for a 3-month period, extended subject to ongoing review
- Extending the Council Tax Hardship Fund payments to £300 per household (pro rata for those owing less than £300) for those working-age LCTRS claimants to top-up the reduction to their Council Tax liability
- Offering a Deferred Payment Scheme where payments for Council Tax and Business Rates could be delayed for a period of 2 or 3 months
- Paying out Business Grants quickly and efficiently
- Providing Additional funding for Welfare Assistance and Discretionary Housing Payments
- Providing an additional specific Council Tax Discretionary 13A Hardship Policy and scheme
- Providing a wider range of signposting, both in content and to reach more customers
- Issuing a non-statutory reminder/advice notice before taking legislative recovery action
- Taking a much more flexible and supportive welfare approach to debt collection, for example, welfare telephone calls/visits specifically targeted at those customers in crisis and those at risk of crisis



- Postponing enforcement action for at least 6 months and giving more credence and consideration to the need for forbearance in cases of vulnerability and hardship

19.5 The Government Debt Management Function (GDMF) which is part of the Fraud, Error, Debt, and Grants Service of the Cabinet Office, issued a guidance document covering key principles and standards for all Government organisations to consider in their delivery of operational debt management processes during and post Covid-19. The Council adopted and applied their standards and 'Principles of Fairness' as part of a review of its debt management and collection.

## **20 Signposting – Advice and Support**

20.1 The Council is committed to providing as much support and advice to our customers as possible. Every attempt will be made to take a proactive approach to this and to working with our partners and stakeholders, such as Citizens Advice County Durham, to maximise opportunity.

20.2 Correspondence and documentation wherever possible will advise that free independent debt advice can be sought at Citizens Advice County Durham.

20.3 The Council's website also provides further support and advice (particularly for the current circumstances [www.durham.gov.uk/covid19money](http://www.durham.gov.uk/covid19money)).