



Bournemouth Borough Council Corporate Debt Policy

1. When is the policy effective from?

The policy is effective from 1 April 2018. It will be reviewed in January 2020, or at an earlier time dependant on decisions regarding the Local Government Review.

2. Why do we have this policy?

Reason

The Council has a duty to ensure that all monies owed to it (debts) are collected efficiently and effectively for the benefit of all Bournemouth residents.

Purpose

This policy details the Council's corporate approach to debt recovery including how it prioritises debt outstanding. It should be read in conjunction with the Financial Regulations and Procurement Rules. The Council will make every effort to ensure that best practice is applied to all debt collection and recovery activities within appropriate legal powers. This policy applies to both individuals and companies subject to the application of relevant legislation.

The key aims of this policy are:

- to improve the levels of income collected by the Council and reduce levels of arrears (debt);
- to use cost effective and fair collection and recovery practices in the pursuance of all debts owed to the Council;
- to ensure a professional and timely approach to recovery action across all of the Council's functions; and
- to treat individuals consistently and fairly regardless of age, sex, race, gender, disability, sexuality or religious belief and to ensure that individual's rights under Data Protection and Human Rights legislation are protected.

3. Who must comply with the policy?

This policy applies to all staff responsible for the administration and collection of debt for the Council.

It does not apply to BH Live who have their own debt collection arrangements.

4. What is the policy?

The Council's policy is, first and foremost, that all debt due to the Council is payable and all necessary steps should be taken to ensure that it is recovered.

The Council recognises that some people do not pay their debts for a variety of reasons. This may include poverty or other financial hardship, which the Council will balance against its duty to collect. Conversely, this policy outlines a robust approach to those who can pay but won't pay.

The Council's debt collection and recovery policy is fair to everyone regardless of their age, race, gender, disability, sexuality or religious belief. This policy is in addition to existing legislation and is designed to enhance the procedures already in place to collect debt.

The need for people in debt to communicate their financial status is important. Where a person makes contact with the Council, their circumstances will be considered with a view to agreeing a reasonable payment arrangement (taking into consideration any statutory constraints or timescales), minimising recovery action and helping to alleviate hardship. Where people fail to make contact or maintain agreed arrangements, recovery action will continue.

No policy can ever completely address the difficulties faced by some people and families on low incomes. The approach to recovery will therefore be sensitive to individual circumstances and take into account multiple debts owed within statutory limitations.

The Council will:

- provide individual debtors in financial hardship with advice on relevant benefits, discounts, relief and exemptions to prevent a worsening situation;
- consider longer-term payment arrangements for debtors suffering genuine hardship, although this may not be available for some debts with statutory timescales, such as Penalty Charge Notices (parking fines);
- take into account all debts owed to the Council, with the debtor's consent, to ensure that the Council does not increase hardship where different Council services are seeking to recover debts; and
- maintain and review this policy, as necessary, so that it remains in line with any anti-poverty strategies and actions approved by the Council.

5. How is this policy implemented?

This policy supports existing legislation and is designed to enhance the procedures that are in place to assist with the collection of debt. Although there are variations in the procedures relating to different debts, they must reflect the Council's requirement for a corporate approach to recovering debt as set out in this policy.

5.1 Fair debt collection

There are various methods available to recover outstanding debts that are mentioned in this policy. The Council may appoint enforcement agents to recover local taxation arrears and other debts where authorised to do so. Only certificated enforcement agents can take control of goods for local taxation and parking. The fees charged to the debtor are governed by legislation. The ability to pay is a paramount concern when considering debt recovery.

This Council supports fair debt collection and recovery practices and makes the following commitments to support this. It will:

- ensure there is a process in place to ensure that bills are accurate, timely and clear;

- provide appropriate and easy payment methods (e.g. Direct debit, on line, automated payment line);
- encourage people and businesses that fall into arrears to contact us and agree to payment arrangements appropriate to their circumstances and the Council's requirements;
- help to reduce the effect of debt on people on low incomes by informing people of the general availability of income-related benefits such as Job Seekers' Allowance, Tax Credits, Universal Credit, Pension Credit and by ensuring that maximum benefit take-up occurs;
- advise people and businesses where they can get independent advice with financial problems (e.g. Citizens Advice Bureau). A list of organisations where money management and budgeting advice can be obtained is attached to this Policy;
- identify deliberate non-payers or those who delay payment and take timely and effective enforcement action;
- focus on collecting the charge set rather than how the charge is arrived at. Most charges and debts have a process for appealing the charge. The debt and/or charge should be paid in the first instance pending the outcome of any dispute/appeal. The Council gives a commitment that payment will not prejudice the outcome of any appeal process and that it will refund the payment should the appeal be successful; and
- consider reducing or remitting debt in cases of extreme hardship where legislation and discretionary powers allow for this.

5.1.1 Vulnerable People

Debtors who are known to be vulnerable or are discovered in the course of collection to be vulnerable will be treated with sensitivity. Depending on the type of debt, they may be referred back to the service departments to reconsider the method of recovery.

Whilst not an exhaustive list, examples of potentially vulnerable persons are:

- The elderly
- People with an disability
- Those who are seriously ill
- Those who have a diagnosed terminal illness
- The recently bereaved
- Single parent families on low incomes
- A household with young children where social deprivation is evident
- Pregnant women
- Those who have difficulty in understanding, speaking or reading English
- Cases reviewed under Adult Social Care

Vulnerable debtors and those lacking mental capacity may need a designated 'litigation friend' to deal with the proceedings.

5.2 Prioritisation of Recovery

All debt is recoverable. Priority of recovery will be based upon various factors such as:

- Age of debt
- Amount
- Debtor Type
- Number
- Creditor Type

5.3 Limitations on Recovery

The ability to recover a debt may be limited by:

- Legislation
- Vulnerability
- Age of Debt
- Amount

Referrals to enforcement or collection agents to collect debts or take control of goods will only be undertaken where there is a reasonable likelihood of recovering the debt.

5.4 Charging Orders

A charge against the property will be considered if the liable party is the owner. Upon obtaining a charge, consideration will be given to ordering a sale of the property to repay the debt owed. This will be based on several factors such as the amount owed, the lack of a suitable offer of repayment, the composition of the household and the liable party's capacity.

5.5 Use of Enforcement & Collection Agents

The Council reserves the right to use Enforcement Agents and collection agents as it sees fit, where it is allowed by law to so do.

Enforcement Agents are governed by Regulations made under the Tribunals, Courts & Enforcement Act 2007 such as The Taking Control of Goods Regulations 2013, The Taking Control of Goods (Fees) Regulations 2014 and The Certification of Enforcement Agents Regulations 2014.

Enforcement Agents will be expected to be members of the Civil Enforcement Association (CIVEA) and comply with the CIVEA Code of Conduct. If not members of CIVEA, they will be expected to demonstrate similar codes of practice and complaints handling.

The Council may issue specific instructions as to its own requirements on the conduct of enforcement and collection agents acting on its behalf either directly or through partnership arrangements.

5.6 Insolvency

Bankruptcy and liquidation proceedings will be considered where the debt or combined debts are above the statutory minimum threshold and it is considered cost effective to do so.

The Council may appoint or approve an insolvency practitioner to act on its behalf in any insolvency proceedings either on its own or with others.

5.7 Writing off Debt

Where debts are considered uneconomic to collect or are otherwise irrecoverable (for example where the debtor has absconded or is insolvent) they will be reported to the relevant Council Officer at regular intervals for that Officer to consider whether the debt should be written off in accordance with Part E, paragraphs 9 f) & g) & 10 m) of the Council's Financial Regulations and Procurement Rules. This must be at least once a year and before the end of the financial year.

The Council reserves the right to reinstate, within statutory deadlines, any debt where it becomes apparent the circumstances for write off are no longer applicable, i.e. a debtor is traced/ funds become available. Where the debt has been approved to be written off, the relevant service area's (the area for the source of the debt) budget will be adjusted.

5.8 Credit Balances

Where an account has been overpaid or falls into credit for some other reason, with the agreement of the customer, the overpayment or credit will be refunded or may be transferred to reduce another debt owed by the customer. All refunds will be in pounds sterling, by cheque or electronic transfer to a UK bank account.

Where the credit is over £25.00 and no bank details are held, a cheque can be produced. A cheque will not be produced for less than £25.00 due to the costs involved in production. Where the credit is over £2.00 and bank details are known, a refund will be paid via BACS. Customers can contact the Council at any point to provide their bank details to enable a refund to be paid.

Where a customer has moved and the current address is unknown, the Council will remove the credit balance. Where the credit is below £2.00, it is considered uneconomic to process a refund.

These balances will be reported at regular intervals, at least once a year and before the end of the financial year to the relevant Council Officer, depending on the amount and reason, for that Officer to consider whether the credit should be written back to the relevant account.

The criteria for whether the S151 or the Senior Responsible Officer should authorise the writing back of credit will be the same as for writing off debt in Part E paragraphs 9 f) & g) & 10 m) of the Financial Regulations.

Specific Debt Recovery

Council Tax

Council Tax recovery procedures are laid down by statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments. Reminder Notices and Final Warning notices will be issued as required by law.

Continued non-payment after the issue of Reminder and Final Notices may result in the issue of a Summons and Liability Order from the Magistrates' Court.

Enforcement action can include collection by an Enforcement Agent, attachment to benefits or earnings or ultimately insolvency proceedings, committal to prison or a charge against the property, which can lead to an order of sale.

Non-Domestic Rate (Business Rates)

Non-Domestic Rates recovery procedures are laid down by the Non-Domestic Rate (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent regulations and amendments.

Reminder Notices and Final Warning notices will be issued as required by law.

Continued non-payment after the issue of Reminder and Final Notices may result in the issue of a Summons and Liability Order from the Magistrates' Court.

Enforcement action can include collection by an Enforcement Agent, attachment to benefits or earnings or ultimately insolvency, committal to prison (for an individual) or a charge against the property, which can lead to an order of sale.

Housing Benefit & Council Tax Support

Housing Benefit overpayments are reclaimed in accordance with Regulations 99 – 107 of The Housing Benefit Regulations 2006 (as amended). In addition, there are debt recovery procedures in place where Housing Benefit has been overpaid but where the debtor is no longer in receipt of payment.

How to repay a benefit overpayment can be found at:

<http://www.bournemouth.gov.uk/Pay/PayingMyBenefitsOverpayments.aspx>

Changes to Council Tax Support will be in accordance with the Council's Council Tax Support Scheme Policy and the Council Tax Support Scheme (Prescribed Requirements) (England) Regulations 2012 or as subsequently amended.

Council Tax Support is a discount on the council taxpayer's bill. Where Council Tax Support is altered so that their award is reduced and therefore the recipient has more Council Tax to pay, that additional Council Tax is recovered in the same way as Council Tax in general.

Local Authority Housing Rents

What may happen if customers get behind with paying their rent is explained on the Council's website at:

<http://www.bournemouth.gov.uk/Housing/YourCouncilTenancy/PayingYourRent/RentArrears.aspx>

Housing Chargeable Repairs

Repairs to remedy damage to local authority properties by either the actions or neglect of the tenant will be recoverable, in the first instance, from the tenant.

Adult Social Care Fees & Homecare Charges (Central Debt Recovery)

Every effort is made by the FAB team, Financial Management Officer(s) with the Finance Support Team to identify benefits that may be claimed by people liable to pay towards the cost of their personal social care services. Where applicable assistance is given to complete the application process.

Car Parking

Parking Management currently has its own local procedure where the collection of debt is registered with the Traffic Enforcement Centre (TEC) (part of Northampton County Court). Instalments are not offered for the payment of car parking debt. However, if an Enforcement Agent is instructed to recover the debt, they may use their discretion and make a repayment arrangement depending on their assessment of an individual's circumstances.

5.9 Miscellaneous Income (Sundry Income)

The overall debt is the responsibility of the service department which originally raised the debt/charge. The Sundry Income team is responsible for collecting the debt and acting on behalf of the service department and liaising on matters of debt enforcement.

Sundry debt arrears are collected in accordance with local procedures that are reviewed annually and reflect best practice wherever practicable (see Appendix 2 for high level process details). On certain debts, interest may be charged and costs incurred. The debtor will be made aware of any additional costs in advance so that they have the opportunity to avoid this wherever possible.

The corporate income system must be used unless specifically approved by audit and management assurance. Failure to do so means that the Sundry Income Team will be unaware that an invoice has been raised and will be unable to recover any monies owed.

Where the Sundry Income Team is recovering a debt on behalf of a service unit and a debtor has not responded to an invoice and reminders, the head of service responsible for the section to whom the debt belongs will be contacted for their instruction as to whether:

- the debt should be written off, or
- to provide further information for the debt to continue to be pursued, or
- to provide authorisation for escalation to the County Court.

If the head of service does not provide instructions as to the next course of action, the matter will be escalated to the Service Director and then the Executive Director. If this doesn't resolve the matter, it will be referred to the Chief Finance Officer.

5.10 Interest and Cost charges

Debtors are made aware with their invoice of the possibility of interest and charges being levied, should their payment be received late. In the majority of cases, this does not present a problem and payments are received on time.

However, in a minority of cases, where debts are received late, in accordance with legislation, such as the Late Payment of Commercial Debts (Interest) Act 1998, interest and charges can be levied. The interest and charges applied are prescribed by the Government and will be applied to all debts with the exception of the following:

- debts incurred by public service bodies, charities and private individuals;
- Any debt under £1000, regardless of the debtor type; and
- Any payments received less than 14 days late, regardless of the debtor type.

However, should a debt in excess of £1000 from those excluded debtors remain unpaid after a period of time, such as 90 days, interest and charges will be applied.

5.11 Writing Back Debt and Costs (see also 4.7)

Where:

- the Sundry Income Team are recovering a debt on behalf of a service unit, and
- a notice requiring confirmation of the next action to be taken has been issued to the service unit concerned, and
- no reply has been received within 28 days of the issue of that notice, and
- the debt is older than 120 days

consideration will be made after consultation with the Chief Finance Officer (or such other officer as is authorised) to have the debt written back to the responsible service unit.

In the case of Council Tax and Non-Domestic Rate, at the end of the financial year a list of cases will be prepared where the balance outstanding is less than the costs incurred for obtaining a summons and liability order. Where this balance is considered unrecoverable, consideration will be given for these costs to be reversed in consultation with the Chief Finance Officer or such other officer as is authorised .

6. Roles and responsibilities

| Debt type | Recovered by |
|---|--|
| Council Tax | Revenue & Benefits |
| Non Domestic Business Rates (NDR) | Revenue & Benefits |
| Housing Benefit/Council Tax Reduction Overpayment Recovery | Revenue & Benefits |
| Local Authority Housing Rents | Housing Landlord |
| Housing Chargeable Repairs | Housing Landlord and Revenue & Central Debt Recovery Team |
| Sundry (Miscellaneous) Debtors | Revenues and Central Debt Recovery Team |
| Adult Social Care Fees & Homecare Charges | Revenue and Central Debt Recovery Team |
| Parking Fines | Parking Management |

This policy will be made available to all staff dealing with income collection and recovery.

Each unit/section will be responsible for ensuring that this policy is adhered to and implemented effectively. Management have a responsibility to monitor and report debt arrears on a monthly basis and to seek advice from the Chief Finance Officer if support is required to manage a debt issue.

The Council's Internal Audit team will test compliance with this Policy.

Supporting information

Further information on matters related to this policy is available at:

The Council's Website <http://www.bournemouth.gov.uk/Home.aspx> for the relevant service.

Bournemouth Borough Council Financial Framework and Spending Rules can be found at

<http://www.bournemouth.gov.uk/councildemocratic/AboutYourCouncil/AboutYourCouncilDocs/Constitution/bournemouth-borough-council-fin-regs-approved-22-january-2013-v1-01.pdf>

Available methods of payment are shown on the Council's website:

<http://www.bournemouth.gov.uk/Pay/Pay.aspx>

The Civil Enforcement Association (CIVEA):

<http://www.civea.co.uk/>

Budgeting and Money Management advice can be obtained from the organisations listed in Appendix 1 below:

APPENDIX 1: List of Organisations that provide free budgeting/money management/debt advice

| Name | Services | Contact Phone | Contact email or website | Opening hours |
|---|--|-----------------------------------|--|--|
| Boscombe Independent Advice Centre | Debt and money advice for those in Boscombe/Springbourne area only | 01202 397532 | admin@boscombeiac.org.uk | Various times and venues |
| Christians Against Poverty | Debt counselling Home visits Negotiates affordable payments with creditors | 0800 3280006 | www.capdebthelp.org | |
| Citizens Advice Bureau | Help if you are in debt. (they do not give general money management advice) | 03444 111444 or 03444 245 1291 | www.bournemouthcab.co.uk | Various times and venues |
| Faithworks Wessex | Budgeting support Home visits | 01202 429037 | www.faithworkswessex.org.uk | |
| National Debtline | Free, confidential debt advice | 0808 8084000 | www.nationaldebtline.co.uk | Mon to Fri 9am to 9pm Sat 9.30am to 1pm |
| Payplan | Free confidential advice on debt problems | 0800 280 2816 | www.payplan.com | Mon to Fri 8am to 9pm Sat 9am to 3pm |
| Royal British Legion | Advice and guidance to the Armed Forces community | 0808 802 8080 | www.britishlegion.org.uk | |
| Shelter | Housing and legal advice Budgeting advice | 0808 800 4444 | www.shelter.org.uk | |
| Step Change Debt Charity | Free debt advice and solutions Support provided on the phone or on line. | 0800 138 1111 | www.stepchange.org | Mon to Fri 8am to 8pm Sat 8am to 4pm |
| The Money Advice Service | Debt advice | 0800 138 7777 | www.moneyadvice.service.org.uk | Mon to Fri 8am to 8pm Sat 9am to 1pm |

APPENDIX 2: Process for collecting debts

| Process Start Day | Invoice generated | 30 day Payment Terms |
|--------------------------|-----------------------------------|---|
| L1 | First Reminder | Non corporate debts - Issued 5 working days after the invoice is overdue. No reminder for corporate debts. Automated process on corporate debtors system. |
| L2 | Final Demand | Non corporate debts - Issued 10 working days after 1 st reminder. Corporate debts, a Final Demand should be issued 5 working days after the invoice is overdue. Automated process on corporate debtors system. |
| L3 | Phone call x 2 | Every effort should be made to contact the customer by telephone if the invoice is unpaid. |
| L4 | Additional action | Sundry Income team to engage with Service Departments to identify any additional information that may assist further recovery action. Advice can be sought from senior manager or Legal Services. |
| L5 | Council's Legal Services | In the occasional cases where recovery is not already being undertaken by the Sundry Income Team, all relevant information is to be transferred to the Council's Legal Services for them to consider and pursue one of the enforcement options available based on nature of the debt. |
| L6 | Recovery action undertaken | Payments monitored or recovery action recommences. |
| L7 | Write off | Will only be considered when all available recovery actions have been exhausted |