

CHERWELL DISTRICT COUNCIL

CORPORATE DEBT POLICY

Summary of policy :

This policy details the principles to be adopted by the Council when undertaking the collection of debt from both citizens and businesses.

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1.1 INTRODUCTION

The Policy has been developed to help meet the Council's Corporate Plan priorities, particularly in respect of an accessible, value for money council.

The Corporate Debt Policy will be supported by other key players and agencies including: The Council's Customer Services Team, Banbury & Bicester Citizens Advice Bureau (CAB), and Capita.

The policy will be subject to an annual review.

1.2 THE NECESSITY AND OBJECTIVES OF THE POLICY

The Council's debt recovery policy has the following objectives:

"In order to maximise income for the provision of services, Cherwell District Council's Corporate Debt Recovery Team will collect all debt owing to it promptly, effectively, efficiently and economically, while ensuring fair treatment to all debtors."

1.3 PURPOSE – WHY HAVE A CORPORATE DEBT POLICY?

Cherwell District Council is required to collect monies from both its citizens and businesses for a variety of reasons.

In undertaking this collection function it is inevitable that the Council will be required to pursue the recovery of arrears from persons and or businesses that may experience difficulty in paying such accounts. An agreed policy of how the Council manages and collects debts is key therefore in ensuring consistency and best practice in such situations.

The Corporate Debt Policy identifies where responsibility for collection of different debts lie, and sets out the principals and standards in relation to contact , recovery process, repayments and benefit / money advice.

Integral to the policy is the provision of support mechanisms and practices to all customers. It details the approach to collecting debt in Cherwell and also provides practical help, advice and support in the management of multiple debts.

The policy sets the framework for a consistent and sensitive approach to collecting debt whilst at the same time ensuring that the Council continues to maximise collection performance.

This policy covers all debts owed to the Council

Including:

- Council Tax
- Benefit overpayments
- Business Rates (NNDR)
- Sundry debts, e.g. unpaid fees and charges
- Excess Charge Notices.

1.4 HOW IS IT TO BE USED?

This policy will apply to all Council departments. Some of the citizens of Cherwell may have multiple debts with the Council. The policy does not prejudice any legal action that the Council may wish to take.

It seeks to be "fair but firm" and the full range of collection and recovery methods will be used as appropriate if debts are not paid. The policy works within and takes account of relevant legislation e.g. on Data Protection, Human rights etc.

The Council will apply this policy and provide the same level of service at the initial enquiry stage. However, each service will apply its' own procedures and processes in recovery of the debt.

1.5 POLICY OBJECTIVES – WHAT ARE WE TRYING TO DO?

The aims of this policy are to:

- Ensure a professional, consistent and timely approach to recovery action across all Council functions
- Help minimise debts to the Authority
- Promote a co-ordinated approach to sharing debtor information and managing multiple debts owed to the Council.
- Ensure that individual and exceptional circumstances are given due consideration when pursuing debts
- Ensure that debts are managed in accordance with legislative provisions and best practice
- Treat individuals consistently and fairly, regardless of age, sex, gender, disability and sexual orientation and to ensure that individual's rights under data protection and human rights legislation are protected.

1.6 CONTACT WITH CUSTOMERS

We will strive to improve contact with customers by:

- Encouraging the customer to make early contact with our customer services team in respect of debt related matters
- Using plain English techniques in written letters and documents
- Coordinating publicity and marketing campaigns
- Promoting advice and support services

1.7 WHAT DOES IT COVER?

The policy covers the following:

- How people can access advice and support
- How ability to pay will be assessed
- How information may be shared
- How the Council uses collection and other external agencies
- How we will conduct personal visits to debtors
- How we will deal with irrecoverable debts
- Corporate approach for dealing with customer credits
- The Council's Corporate Complaints Procedure
- What procedures are used
- Arrangements for policy review and impact monitoring

1.8 SCOPE OF THE POLICY

1.8.1 Access, Advice and Support

Where appropriate, documentation will advise customers where to get help and advice about benefits and debt problems. This will normally include information about local Citizens Advice Bureau's and other free debt advice centres. Similarly, where appropriate, information about claiming Housing Benefit and Council Tax Benefit will be included with arrears letters. In this respect, the Council will make every effort to advise people of their right to apply for benefit assistance, including pro-active take up campaign as appropriate. The Council recognises the importance of bringing such matters to the attention of individuals at the earliest opportunity.

The Council will also advise individuals / businesses as to the range of other discounts, reliefs and reductions available at both the time an account is issued and in subsequent communications.

Staff in personal contact with customers (e.g. in the Contact Centre, Link points, visitors and other enquiry staff) will signpost them as to where they can obtain advice on benefits and debt matters appropriate to their needs.

We will ensure that all written communications uses language appropriate to the intended recipient and that plain English is the standard wherever possible. We will explain complex terminology when it is required to be used by law. All documents will be issued in a timely manner, in accordance with statutory deadlines where appropriate and will explain the legal options open to the Council to collect debts in a factual manner, taking into account the stage of recovery achieved.

1.18.2 Assessment of Ability to Pay

The Council, in pursuing debt recovery, will act in accordance with statutory regulations and advice issued by professional bodies, external auditors etc.

In terms of efficiency and effectiveness, experience shows that as a general rule, collection is maximised by pursuing debts on an individual basis in a timely manner. In addition, the existence of different recovery legislation in relation to Council Tax, Housing Benefits, Sundry Income etc, tends to support this approach.

Where it is apparent that a customer is unable to pay an account, or a number of like accounts as requested, then the aim will be, to agree an arrangement to pay (where appropriate), which takes into consideration the specific circumstances of the customer.

Ability to pay will be based on the disposable income in proportion to the level of debt, the extent of debts owing to the Council. The initial intention of arrangements to pay will be to clear the debt(s) as soon as possible and as a rule of thumb, the minimum position as far as the Council is concerned, should be that an individuals indebtedness to the Council does not worsen.

In practice this may mean ensuring that the current or most recent account is cleared, while making the maximum contribution to clearing other debts.

Staff will always seek to make realistic arrangements to clear outstanding amounts by regular payments, in preference to taking legal action for recovery.

A financial statement may be required to support a request for an arrangement. This will be a list of the customers' household income and expenditure. Documents to support the information contained in the financial statement may be requested and required before an arrangement can be agreed.

A financial statement can be completed with the help of an independent agency such as the Citizens Advice Bureau.

Persons in multiple arrears will be offered the opportunity to discuss the debt with a member of the Corporate Debt Recovery Team.

2.0 INFORMATION

2.1 PROVISION OF:

In addition to detailing the amount payable and a description of the charge, the Council will include the following information on all accounts:-

- (a) The payment options available.
- (b) A contact number for queries in relation to the accuracy of the account.
- (c) A contact number for discussing payment arrangements where the customer has difficulty in paying the amount requested on the account.

Wherever possible the contact number in (b) and (c) will be the same.

Where it is necessary to issue recovery documentation (e.g. a reminder or summons) following non-payment of an initial account, or because an instalment arrangement has not been adhered to, then the Council will include the information detailed above on such documents.

The Council will wherever possible provide information to meet specific communication needs in the following formats: -

- (a) Braille
- (b) Large Print
- (c) Audio Tape
- (d) Community Languages
- (e) Electronic format

In meeting individual needs the Council will, where practical, ensure that individual preferences are documented so that ongoing and future correspondence can be delivered in the preferred format.

The Council will ensure that wherever possible arrangements are in place to offer an interpretation service from our Link Points and over the telephone to assist persons whose first language is not English.

Correspondence with customers will refer to and deal with all / or similar accounts outstanding wherever possible.

2.3 SHARING OF:

The Council will ensure that all computer systems used to bill and recover monies, satisfy statutory requirements and offer the full range of recovery options to be pursued.

Staff involved in the collection and recovery of accounts will be given appropriate training in the use of the various computer systems as required.

Subject to any limitations imposed by the data protection act and human rights legislation, access to debtors' information contained on different systems will be made available, in order that an individuals full indebtedness can be established and properly dealt with.

In order to be successful and ensure consistency, it is necessary to establish good working practices across Council Departments, statutory and voluntary agencies, and all service providers when dealing with multiple debts.

Partner organisations should have in place policies and procedures, to ensure compliance with data protection principals, appropriate customer service standards and investigating customer complaints.

2.4 USE OF OTHER AGENCIES

Cherwell district Council, on successfully taking court action against a debtor, is empowered to enforce payment through a number of statutory remedies, including powers which impact on a person's possessions or liberty e.g. the right to seize goods, to request imprisonment etc and will apply the most appropriate remedy.

One of the remedies is Levy of Distress, which Cherwell District Council exercises through the use of an external Enforcement Agency.

To ensure effective, consistent and appropriate application of Distress, Cherwell District Council's appointment of Enforcement services is through contractual agreement, including a detailed Code of Conduct which the enforcement officers must follow.

The Council will ensure that these more 'severe' powers for example removal of goods, will only be used when all other reasonable methods have failed and where all appropriate internal and statutory processes have been properly followed.

2.5 EXCESS CHARGE NOTICES (ECN)

The Corporate Debt Recovery Team will be responsible for the recovery of unpaid ECN's once cases are passed from Parking Services and will take legal action if required. Cases will be sent in the first instance to Collection agents working on behalf of Cherwell District Council. Should this prove to be unsuccessful cases will be evaluated and court action will be considered.

2.6 VISITING CUSTOMERS

The Recovery Team Leader or Senior Recovery Officer may undertake visits to persons / businesses in arrears in order to resolve accounts outstanding.

All staff or third parties making such visits will act in accordance with the relevant policies.

The Council will make every effort where possible to co-ordinate visits to debtors so that where appropriate, different debts owed by the same individual / business can be addressed at the same time.

3.0 WRITE OFF POLICY

3.1 WHEN WRITE OFF MAY BE APPROPRIATE

It will be necessary to write off irrecoverable debts in a variety of circumstances and these can be broadly summarised below. Although the amount of the debt would normally dictate the amount of time and resource allocated in trying to collect the various debts, in the circumstances shown below the debt may be written off irrespective of the amounts involved. Each heading is detailed below explaining actions that will be taken by the Council.

3.2 REASONS FOR WRITING OFF A DEBT:

- The debt is not cost effective to pursue taking into consideration the recovery effort already undertaken. The Council will consider writing off a debt where it would cost more to recover the debt than the value of the debt itself. In the instance of Housing Benefit overpayment the Council will maintain a record of the debt and, should the debtor reclaim benefit, consider instigating recovery procedures.
- The debt is time barred under the Limitation Act.
- The debtor can not be traced – where internal and external tracing procedures have been exhausted.
- The debtor is deceased and confirmation has been received that no money is recoverable from the estate.
- The court has requested that the debt be remitted.

- The debtor's age health or other social factors make it inappropriate to pursue the debt.

Criteria to take into account when considering writing off of a debt.

Each case must be treated on its merits. Further guidance is given below on the treatment of these categories. It should be remembered that debt could be resurrected if for example, an absconder should reappear after the debt has been written off.

Small value, non-recurring debts below £50, after all appropriate recovery action has been attempted.

Debt below £500 for Council Tax & £1000 for NNDR and over 4 years old and no contact has been made with the debtor during this time.

Debts which are uneconomical to collect or where it is considered inappropriate to continue with legal or recovery action due to individuals known personal or financial circumstances. E.g. elderly or mentally impaired and suffering from hardship with non-attachable benefits.

Debts where a company has ceased to trade leaving no assets.

Debts that cannot be legally enforced e.g. statute barred.

Local Authority errors and exercising discretion not to recover a recoverable overpayment.

The Council will consider writing off debts based on the customer's personal, medical or financial circumstances. These would normally have to be considered exceptional or severe before a write off will be agreed.

These criteria can apply, regardless of how the debt arose, although the category may contribute to a decision on whether or not to write off a debt. (E.g. it may not be appropriate to write off a debt, which has arisen due to fraud even if other criteria have been met.)

The customer is under severe emotional distress (e.g. bereavement) and likely to remain so for the foreseeable future. It might be appropriate to consider deferring recovery in some circumstances. Write off may also be considered for Housing Benefit overpayment if the customer was under severe emotional distress at the time that she/he failed to disclose information.

The customer suffers severe ill health. This is also likely to lead to emotional distress and financial hardship.

The customer is declared bankrupt (although recovery from ongoing Housing Benefit can still proceed regardless of bankruptcy). If it is the Council who is making the customer bankrupt, then the Overpayment will be included in the proceedings.

The customer has died. If we are aware of the existence of an estate or we know of capital that would cover the debt, then recovery should be sought. We do not expect a partner or relative to repay out of their own funds. Considerable sensitivity is needed in these cases.

These examples are not exhaustive and are guides rather than rules. It may be appropriate to recover from a customer who suffers from ill health, but, for example, has considerable capital.

3.3 CUSTOMER REQUESTED WRITE OFF (SUBJECT TO MEETING ONE OF THE ABOVE CRITERIA)

Requests for write off must normally be in writing and signed by the customer or their authorised representative and are retained in DIP. In exceptional circumstances a formal written submission from the customer may not be required but there must be a written record in the Document Imaging system containing the necessary details. For example a member of staff may receive a telephone call and due to the exceptional personal circumstances of the customer it may be decided not to insist on written confirmation.

3.4 WRITE OFF RECORDING AND PROCESSING

Debts over £2,500 (C/Tax) £5,000 (NNDR) considered for Write off should be recorded and presented in a report.

Reports will be prepared by the Corporate Recovery Team and presented in the first instance to the Recovery Team Leader for checking.

The report will detail:

- The name and last known address of the debtor.
- The reference number if applicable.
- The date the debt was raised.
- The initial debt figure.
- The balance outstanding.
- The reason for requesting write off and recovery action to date– based on the categories in this policy.

3.5 WRITE OFF LIMITS

3.5.1 Revenues

Post Holder	Limit for write-offs	
	Council Tax	Business Rates
Portfolio Holder	Exceeding £10,000	Exceeding £10,000
Head of Finance	Up to £10,000	Up to £10,000
Service Assurance Technical Specialist –Local Taxation & NNDR	Up to £2,500	Up to £5,000
Service Assurance Officer	Up to £500	Up to £500

3.5.2 Housing and Council Tax Benefits

Post Holder	Limit for write-offs
Portfolio Holder	Exceeding £10,000
Head of Finance	Up to £10,000
Service Assurance Technical Specialist – Benefits	Up to £2,500
Service Assurance Officer	Up to £500

3.5.3 Sundry Debts

The debt will be referred back to the departments as a recommendation for write off. Once the recommendation is accepted in accordance with each departments own limits the debt will be written off in accordance with the following limits.

Post Holder	Limit for write-offs
Portfolio Holder	Exceeding £5,000
Head of Finance	Up to £5,000
Technical Accountant	Up to £1,000
Recovery Team Leader	Up to £500

3.5.4 Excess Charge Notices

The debt will be referred back to the Vehicle Parks & Town Team Leader as a recommendation for write off. Once the Recommendation is accepted in accordance with the departments own limits, the debt will be written off in accordance with the limits below.

Post Holder	Limit for write-offs
Portfolio Holder	Exceeding £5,000
Head of Finance	Up to £5,000
Technical Account	Up to £500
Recovery Team Leader	Up to £250
Senior Recovery Officer	Up to £100

No debt should be written off unless the authorising officer is satisfied that all the steps detailed in the write-off policy and guidance documents have been taken to trace the debtor and/or obtain payment.

The Head of Finance has delegated authority to write off bankruptcies and insolvencies and has authorised the Client Team Manager, The Service Assurance Technical Specialists and the Corporate Recovery Team Leader to perform these duties on their behalf.

4.0 CREDITS

Cherwell District Council will develop a corporate approach to refunding credits, in that where ever possible; checks will be made for other outstanding debts to the customer, prior to a refund being made.

Where other debts are identified, it may be necessary to obtain the customer’s permission, prior to a credit transfer.

5.0 COMPLAINTS

The Council will endeavour to resolve problems in relation to debt collection at an early stage, in an informal manner.

Where this is not possible, debtors will be advised of the Corporate Complaints Procedure, should they wish to take the matter further.

To access the Corporate Complaints Procedure please visit the following web page:
[Cherwell District Council - Compliments & complaints](#)

6.0 WHAT PROCEDURES WILL BE USED

Cherwell District Council will develop a consistent “first contact” procedure in respect of information given to customers making a debt enquiry. All customers will be informed of the options available to manage their debt(s) and of the relevant service providers who may be able to offer assistance.

Cherwell District Council has established comprehensive procedures documents for the pursuance of debt.

7.0 POLICY REVIEW AND MONITORING

The Corporate Debt Policy and its effectiveness will be monitored. This will be carried out by the Corporate Debt Recovery Team, which will meet regularly to discuss any problems and issues that have resulted from the policy.

The Corporate Debt Policy will be reviewed annually. This will enable it to be updated where necessary and take account of changes in legislation.

New approaches and ways of working will inevitably be introduced and the Corporate Debt Policy will need to be adapted to take these into account.

8.0 THE POLICY IN OPERATION

8.1 We will take practical steps to:

- Raise awareness of debt with customers
- Identify how much / how it has occurred
- Raise awareness of the implications of non-payment

8.2 For those who can pay:

- We will provide information on how to pay by advising on methods, payment frequencies and at which locations people can pay
- The Council will encourage automated payment methods wherever possible, this being the most cost efficient option
- The Council will make arrangements for the payment of accounts outside of traditional office hours and through internet technology, 24 hours a day, 7 days a week
- Wherever practical the Council will request payments in advance so as to maximise cash flow and to minimise the necessity to issue accounts requiring collection, which in turn will minimise the opportunities for debt to arise
- The Council will make available the use of electronic forms.

8.3 For those who can't pay

- We will advise what happens if debts are not paid
- We will inform who can give help / advice
- We will encourage people to get help from a range of sources
- We will make referrals to appropriate agencies

8.4 Our approach will be

- A supportive approach to debt recovery with a pro-active referral process where possible. We will deliver a service which meets the needs of each individual and sign post to other support agencies including the CAB.
- Whilst the Council will ensure that arrears are pursued in a timely manner, it does recognise that certain individuals will require more sympathetic and sensitive treatment e.g. in the case of recent bereavement, major illness or where the customer requires special assistance in handling their financial affairs.

9.0 WHAT SERVICES WILL CUSTOMERS RECEIVE?

In determining how customers can best be supported and encouraged to address debt issues, it is important that service provision at the first point of contact is delivered in a sensitive way.

Once a customer has made contact it is imperative that he / she is referred on to the most appropriate source of debt management support.

On initial contact with Cherwell District Council, customers will be informed of the options available to manage their debt(s) and of the relevant service provider. Where appropriate, customers will be informed of debt advice and support services available to them outside the Council.

Customers presenting with a single debt will be able to make a payment or where the debt cannot be cleared, a realistic agreement to pay via the first point of contact.

9.1 WHAT SERVICE WILL CUSTOMERS WITH MULTIPLE DEBTS RECEIVE?

Customers presenting with multiple debts need to believe that there is a solution to their debt problems and should be actively encouraged to share with staff, information on all monies owed, in order for the most appropriate referral to be made.

The Policy does not promote a “one size fits all” approach, but rather looks to work with the customer to take agreed steps to help address multiple debts.

To this end, the response to debt recovery will vary as different solutions will be needed to address the far ranging complexity of cases etc.

The provision of individual responses will also take into account diversity and exclusion issues. Support will be offered including access to interpreters for customers whose first language is not English, ensuring staff attending appointments are able to address the individual customer’s needs. Where requested the provision of supporting information for customers will be made available in an appropriate format, e.g. large print, Braille or audio.

Where practicable, we will also require our partners to ensure the same level of service is provided and encourage other agencies to mirror our approach to diversity and inclusion issues.

10.0 RELATIONSHIPS WITH THIRD PARTIES

10.1 Enforcement Agents

Cherwell District Council’s Corporate Debt Recovery Team uses Bristow & Sutor, an external enforcement company to act on Liability Orders that have been obtained at the Magistrates Court against non-payers. The enforcement agents are instructed to act against debtors who have not made a satisfactory arrangement for payment, or who have not provided financial details to enable an attachment of earnings or a deduction from benefit to be set up. They are also used as collection agents for the collection of Sundry debts, Housing Benefit Overpayments and Excess parking notices.

Enforcement agents, where instructed will be required to work at all times within agreed guidelines and Code of Practice; the efficiency and effectiveness of them will be monitored and appropriate action taken if required.

You can find out more about Bristow & Sutor at www.bristowsutor.co.uk

10.2 CAPITA

Cherwell District Council uses Capita to deal with the Revenues & Benefits functions.

The Corporate Debt Recovery Team will liaise with The Service Assurance Team to ensure that any errors are recorded and are reported back to Capita in a timely manner. Regular meetings between representatives from Capita, The Service Assurance Team, Customer Services and the Corporate Debt Recovery Team will be held to ensure that all parties can discuss and resolve any outstanding issues.

A Service level agreement is in place between Capita and The corporate Debt Recovery Team. This agreement is signed by both parties and is subject to an annual review.

The Corporate Debt Recovery Team will provide:

- Direct contact points
- Training and briefing sessions when requested
- Produce training material and procedure notes when requested

10.3 Citizens Advice Bureau

The Corporate Debt Recovery Team has strong links with the Banbury & Bicester CAB. They work closely together to ensure the best possible advice and help is offered to the residents of Cherwell.

The Corporate Debt Recovery Team will provide:

- Direct contact points
- Training and briefing sessions when requested
- Produce training material when requested

You can find out more about the CAB at www.citizensadvice.org.uk

10.4 Customer Services Team

The Corporate Debt Recovery Team will work closely with the Council's customer services team to ensure the best possible service to the residents and businesses of Cherwell.

The Corporate Debt Recovery Team will provide:

- Direct contact points
- Training and briefing sessions when requested
- Produce training material and procedure notes when requested

11.0 PRIORITY DEBT

There are many types of debt, but those considered as "priority" debts are those debts owed to creditors who can take the strongest legal action against an individual who does not pay.

It isn't the size of a debt that makes it priority but what creditors can do to recover their money.

Individuals are often but not always aware of the consequences of failure to pay and frequently pay to whoever shouts the loudest.

The procedures supporting this policy would ensure customer awareness of what priority debts are.

11.1 THE POLICY IDENTIFIED THE FOLLOWING AS EQUAL PRIORITY DEBTS:

- Rent arrears – as it can result in eviction.
- Mortgage arrears – as they can result in repossession.
- Council Tax – as it can result in bailiff action, attachment of earnings / benefits, bankruptcy.
- Imprisonment or loss of home.
- Other secured loans – as they can result in loss of home.

11.2 OTHER PRIORITY DEBTS

- Income Tax and VAT – as they can result in bankruptcy or imprisonment
- County Court Judgements - can result in bailiff action, Attachment of Earnings or bankruptcy
- Fines or Compensation / Costs Orders – as they can result in imprisonment
- Maintenance / child support – as it can result in repossession of goods or even imprisonment
- Hire purchase – will be considered essential if, for example it is for the purchase of a car needed to get the owner to work.
- Water Rates – as it can result in bailiff action
- Business Rates – as it can result in bailiff action, bankruptcy or imprisonment
- Benefit overpayments – as it can result in deductions from on-going rent / benefits
- Maintenance or child support – as it can result in bailiff action or imprisonment
- Penalty Charge Notices (parking contraventions) - can result in bailiff actions

The following are considered non priority debts: Credit / store cards, unsecured personal loans, bank overdrafts, credit / interest free / hire purchase agreements, catalogue debts and money borrowed from family and friends.

12.0 BAD DEBT PROVISION

The Head of Finance in conjunction with Service Accountants must ensure there is adequate provision for bad debts, in accordance with CIPFA's Code of Practice on Local Authority Accounting in United Kingdom – A Statement of Recommended Practice.

The Corporate Debt Recovery Team will ensure that, where there is little or no likelihood of receiving payment, the invoice is flagged as a potential bad debt. If income is received, the Team will 'un-park' the invoice and revert to original status.

13.0 PERFORMANCE MONITORING AND REPORTING OF DEBT

Targets for the collection of Council tax, Business rates, Housing benefit overpayment and sundry debt collection are set at the start of each financial year.

Each month a comprehensive summary report of the Council's debt position and performance will be issued to the Head of Finance and relevant members.

14.0 GLOSSARY

Safe working practice note No 50, personal safety at work policy - This covers working alone / outside visits.

The Council's Constitution - Heads of service have delegated powers for writing off of bad debt up to £5,000 and arrears for council tax and business rates up to £10,000. Any write off above that limit must be an individual portfolio holder decision.

NNDR - National Non Domestic Rates – Business Rates

DIP - Document Imaging system – The system that is used by Cherwell District Council to store all documents and can be accessed by authorised users.