

Corporate Debt Policy

Summary of policy:

This policy details the principles to be adopted by the Council when undertaking the collection of debt in Rotherham from both people and businesses. It explains how the Council will attempt to maximise debt recovery in accordance with Best Value duties whilst treating people fairly and with respect.

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SECTION 1

INTRODUCTION AND PURPOSE OF THIS POLICY

The Council is committed to treating its people and businesses fairly while collecting income due to it.

The Strategic Director for Finance & Customer Services has responsibility under Section 151 of the Local Government Act 1972 for the administration of the financial affairs of the Council. One such area of administration relates to the collection of monies due to the Council.

Rotherham Metropolitan Borough Council is required to collect monies from its people and businesses for a variety of reasons. It is inevitable that the Council will be required to pursue the recovery of arrears from persons and businesses that might have difficulty in paying some outstanding accounts. An agreed policy of how the Council manages and collects debts is vital in ensuring consistency and fairness in such situations.

The objectives of the Council's Policy on debt collection are:

- To maximise debt collection, ensuring that all income is collected and available to fund the delivery of services to the people and businesses of Rotherham.
- To ensure people and businesses are provided the information and opportunity to claim any reductions they are entitled to, in order to ensure that they are charged the correct amounts they are liable for.
- To ensure the Council supports vulnerable people and businesses to manage their financial affairs effectively, including the payment of debt to the Council.
- To ensure that the protocols governing the use of Enforcement and Debt Collection Agents and all other statutory bodies, including the Courts, are clearly set out and available to all who need to access them.

The Policy covers all debts owed to the Council and states the over-riding principles that apply to each area of debt collection. A suite of supplementary frameworks supports the Policy and explains the approach and procedures of each of the areas of Housing Rents, Parking Charges, Council Tax, Business Rates, Sundry Accounts, Housing Benefit Overpayments and Social Care Client Contributions.

Some people and businesses might have multiple debts with the Council. The Policy explains how the income collection services will work together in relevant cases to ensure that a coordinated, consistent, and fair approach is adopted to the recovery of multiple debts.

The Policy also explains the circumstances under which the Council will use Enforcement or Debt Collection Agents to help recover debt.

The Council recognises that some people and businesses might have difficulty in making some payments, and that those who are vulnerable may need help managing their affairs. The Council will ensure that people and businesses are offered as much support as possible to be able to meet all their financial liabilities.

Management controls, regular performance monitoring and independent review processes are in place to ensure compliance with the Policy and supplementary frameworks.

SECTION 2

HOW THE COUNCIL WILL TREAT PEOPLE AND BUSINESSES

Anyone getting into debt or expecting to face financial difficulties should contact the Council at the earliest opportunity. By doing so, people and businesses will give themselves and the Council the best possible chance of finding an early and effective solution to any problems.

Principles

- Bills / accounts will be produced promptly and recovery action undertaken in accordance with the Council's legal obligations.
- Trained staff will always act in a customer-friendly and non-judgmental manner, using prescribed procedures.
- Every effort will be made by Council staff to maximise income, benefits, and other entitlements for people and businesses. They will also ensure money and debt advice is promoted where appropriate.
- In cases of hardship, the Council will assist people and businesses in identifying and maintaining reasonable payment plans.
- In appropriate cases, the Council will consider suspending recovery action pending appeals or further investigation of disputes and complaints.
- All available methods of customer contact will be considered where appropriate and in accordance with health and safety requirements; including telephony, text, e-mail, home visits and a Council website that gives advice on debt related issues.

The Council will try to help people and businesses avoid debt problems escalating. When debt arises, the Council will provide as much support as possible so that any arrears can be paid in a reasonable timescale. The Council will endeavour to advise customers of outstanding debts and provide the opportunity to resolve matters before formal recovery action is taken.

For any amount owed to the Council, we will firstly advise people and businesses of any amount due and options for paying, including the timescales for repayment, and where relevant, the availability of instalments. The Council will also advise people and businesses experiencing exceptional hardship of the range of mandatory and discretionary discounts, reliefs, and reductions where appropriate.

Where any payments are not received by the due date, the Council will send out reminder notices, where appropriate, and where contact is received from people or businesses, will try to agree a reasonable payment arrangement.

The Council will signpost any people struggling to manage their finances to agencies that could help them assess their financial position and, where relevant, assist them to reach repayment arrangements with the Council and other organisations they owe money to. Details of agencies established in Rotherham which can help with a wide range of concerns including debt issues can be found at our website www.rotherham.gov.uk/money-matters/help-money-problems

Where relevant, the Council will also advise businesses of the support available to them.

Where appropriate the Council may refer debts to Enforcement or Debt Collection Agents for recovery or instigate legal proceedings through the Courts to recover the debt (See Sections 5 & 6 for these procedures).

Credit Unions

Credit Unions are community savings and loans cooperatives that help people to take control of their money. They understand the needs of people who want to borrow or save relatively small amounts, encouraging them to save what they can, and offer low cost borrowing options. Credit unions can sometimes help when a bank cannot, offering access to ordinary bank products and helping people with their finances.

Details of the Credit Unions available to Rotherham people are included on our website www.rotherham.gov.uk/money-matters/help-money-problems

Communication

The Council will ensure that all written communication uses plain language, will offer alternative formats where requested, and 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 the Council's own customer standards, and will explain the legal options open to the Council to collect debts in a factual manner, considering the stage of recovery achieved.

Human Rights

The Council's policies and procedures are fair and equitable, acknowledging human rights and natural justice, in all aspects of debt recovery.

Equalities and Diversity

The Council believes in openness, fairness, and equality in the way it provides services to Rotherham's diverse communities, and that every individual is entitled to be treated with respect. When recovering a debt to the Council, there will be no discrimination against any individual for cultural, ethnicity or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, appearance, or lifestyle.

The Council understands that some people and businesses require additional advice and assistance in order to access services and exercise their rights. All information will be provided in languages other than English, Braille or audiotape where requested. When required, interpreters will be arranged as well as practical help provided for people with impaired hearing or vision.

Vulnerable people

The Council is committed to supporting people who may be classed as vulnerable to manage their financial affairs effectively, including the payment of debt. People may be classed as vulnerable for a variety of reasons. These include, but are not limited to:

- Mental disability
- Serious long-term or acute illness
- Fragility due to advanced age or disability
- Recent bereavement
- Carers
- Single parent families
- Pregnant women
- Existence of genuine and clear barriers to communication, e.g. language difficulties, hearing impairments, visual impairments, and learning difficulties.

People that consider themselves as vulnerable, or others acting on behalf of someone who may be considered as vulnerable, should contact the Council. This will ensure that those cases can be handled sensitively and appropriately.

Officers of the Council dealing with debt matters will receive suicide prevention training and will signpost any people exhibiting suicidal tendencies to relevant support networks.

The Council is aware of potential financial exploitation of people and where this is suspected staff will act in accordance with the Council's policies.

SECTION 3

ABILITY TO PAY

The Council will operate a supportive approach to debt recovery which meets the needs of people and businesses and offers signposting to independent support agencies.

In pursuing debt recovery, the Council will act in accordance with statutory regulations and professional standards, taking practical steps to:

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

Ability to pay will be assessed based on the amount of disposable income in proportion to the level of debt overall and debts owed to the Council.

For those who can pay:

The Council will provide information on how to pay by advising on the methods available, payment frequencies and locations. Where appropriate, people and businesses will be encouraged to pay by recurring methods, i.e. Direct Debit, Bank Standing Order and Debit/Credit card, and will be advised of the consequences of non-payment.

Arrangements for repaying debt will be agreed, as a rule of thumb, to ensure that 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.

The Council will always seek to make reasonable arrangements for clearing outstanding amounts by regular payments in preference to taking legal action for recovery. A financial statement identifying household income and expenditure may be required from the customer to support their request for an arrangement.

For those who can't pay:

The Council will:

- Advise what happens if debts are not paid
- Inform who can give help / advice
- Encourage people and businesses to get help from a range of sources
- Make referrals to appropriate agencies

The Council recognises that some people and businesses will require more sympathetic and sensitive treatment, e.g. in the case of recent bereavement, major illness or where special assistance is required in handling their financial affairs and will assist those struggling to pay their debts to obtain appropriate advice and support.

Irrecoverable debts

The Council recognises that not all debts are collectable and therefore it will be appropriate in certain circumstances to classify debts as irrecoverable, where pre-determined criteria are met. The Council will need to be satisfied that one or more of the following criteria applies before accepting that a debt is irrecoverable:

- All appropriate recovery methods have been exhausted
- The debt is uneconomical to pursue
- The amount is uncollectable due to debt relief orders, bankruptcy, or insolvency
- The individual has absconded and cannot be traced
- It is not in the best interests of the Council to pursue the debt

SECTION 4

ARRANGEMENTS FOR MANAGING MULTIPLE DEBTS

The Council will adopt a coordinated approach to dealing with anyone having multiple debts with the Council, considering the circumstances and the level of debt.

In terms of efficiency and effectiveness, experience shows that 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 different debt types tends to support this approach.

Where it is apparent that people or businesses are unable to pay an account, or several accounts, the aim will be to agree an arrangement to pay, where appropriate, which takes into consideration their specific circumstances.

To improve the efficiency of the Council's approach to helping people and businesses cope with multiple debts, staff from the relevant Council services will, when required, work closely together to achieve the most appropriate outcome for the customer.

SECTION 5

PROCEDURES FOR USING ENFORCEMENT AND DEBT COLLECTION AGENTS

The Council will appoint Enforcement or Debt Collection Agents to recover debt on its behalf where necessary and where other appropriate recovery options have been exhausted. When this happens, the Council will apply procedures to ensure that those agents comply with their industry regulations and operate to the highest standards.

The Council has the provision to recover debt through several statutory remedies, including powers which impact on peoples or a business's possessions or, in extreme circumstances, liberty. The Council will pursue the most appropriate remedy available based on the individual circumstances of each case.

The work of Enforcement and Debt Collection Agents in Rotherham is covered by a Code of Practice which complies with national standards set out by the Institute of Revenues, Rating and Valuation. Further information about these agents and their powers can also be found on the Council's website www.rotherham.gov.uk/council-tax/problems-paying-council-tax but some key facts are repeated below:

- All Enforcement and Debt Collection Agents appointed to work on behalf of the Council are members of professional bodies and employ trained staff who are required to behave in a professional manner.
- If the Enforcement or Debt Collection Agent identifies a customer to be a vulnerable person, then they will complete a report for the Council to consider alternative methods of recovery. Where appropriate, agents will be instructed to withhold action; for example, to await the outcome of a dispute or appeal or to allow time for a Debt Advice Agency to review the financial affairs of the customer.
- When appointing Enforcement and Debt Collection Agents the Council will undertake a series of steps to ensure that they act fairly in accordance with the Council's Code of Practice. Regular meetings are held between Enforcement and Debt Collection Agents and the Council to review working arrangements and to ensure that the Code of Practice is adhered to.
- Complaints or disputes will be monitored to ensure that the action taken is appropriate. Should a customer have cause to complain about any actions taken then they can contact either the agent or the Council directly.

SECTION 6

PROCEDURES FOR USING THE COURTS

For Housing Rents, where a debt relates to an individual's tenancy the Council can seek possession through the County Court. This action is only considered once all other preventative options have been exhausted.

Prior to seeking possession, the Council will ensure that pre-action protocols and an approach centred on best practice to help prevent and recover the debt have been adopted. Consequently, where this has not been successful, and a case enters into court, this action will only be considered following a rigorous audit which includes details of contact history, vulnerabilities and associated communication with partners depending on the household composition.

For Parking Charges, where a Parking Penalty Charge Notice has been served and remains unpaid the Council will register the case with the Traffic Enforcement Centre (TEC) at Northampton County Court, following which, a notice of debt registration is sent to the registered keeper. Should the debt remain unpaid after 21 days then the Council will apply for a warrant to be issued by the TEC which allows Enforcement Agents to take control of and seize goods for sale to raise funds to recover the debt.

For Council Tax and Business Rates, where a debt relates to an individual the Council can seek a Bankruptcy Order through the County Court. Where a Bankruptcy Order is obtained the Court appoints an Official Receiver who has responsibility for administering the bankruptcy estate and protecting the bankrupt's assets for the benefit of their creditors. Where a debt relates to a limited company the Council can seek a Winding Up Order through the County Court that compels the company to enter into compulsory liquidation, a process in which the Court appoints an Official Receiver to liquidate the company's assets in order to repay its creditors.

Should an individual or limited company own a home or any other property, the Council can seek to obtain a judgement from the County Court, following which, a Charging Order may be applied. A Charging Order secures the debt against the home or property and once obtained the Council may apply further to the Court for an order to sell the home or property to raise funds to recover the debt.

For Sundry Accounts and Housing Benefit Overpayments the Council can seek to obtain a judgement from the County Court, following which, the Council can enforce the judgement by means of applying for an attachment from the individual's earnings. An application might also be made to transfer the debt to the High Court. The Council can then seek a writ which allows High Court Enforcement Officers to take control of and seize goods for sale to raise funds to recover the debt.

Adult Social Care debts are claimed through the County Court. If a judgement is obtained and if payment is not made in accordance with the judgement, there are various options to enforce repayment including: a warrant of execution leading to enforcement action, attachment to earnings, bankruptcy, third party debt orders and Charging Orders.

SECTION 7

STANDARDS, COMPLAINTS AND WHERE TO FIND MORE INFORMATION

The Council will adopt a flexible approach, while complying with prescribed standards of service.

How We Will Treat Customers

In determining how people and businesses can best be supported and encouraged to address debt issues, our service provision at the first point of contact will be delivered in a sensitive way.

Once a person or business has made contact it is imperative that they are referred on to the most appropriate source of debt management support.

People or businesses presenting with a single debt will be able to make a payment, or where full payment cannot be made, an agreed arrangement for payment, with the relevant service.

The Council will work with people and businesses presenting with multiple debts to find solutions to their debt problems and will actively encourage the sharing of information for all monies owed to inform those solutions.

The Council seeks to help people and businesses with multiple debt to find suitable solutions. This policy outlines the range of options available to the Council in addressing multiple debt and does not promote a “one size fits all” approach.

Each service collecting debt for the Council has established comprehensive procedures that they will follow when collecting debt.

Complaints

In the first instance, people and businesses should make any complaint about any debt recovery actions taken by the Council direct to the service collecting the debt. If any complainant is dissatisfied with the response received, they should use the Council's formal complaints procedure. For details please see our website at:

www.rotherham.gov.uk/complaints

SECTION 8

POLICY CONTROL STATEMENT

Author / owner:	Steven Ward
Approving managers:	Robert Cutts for Council Tax, Business Rates, Housing Benefit Overpayments, Sundry Debts and Social Care Client Contributions Paul Elliott for Housing Rents Martin Beard for Parking Charges
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Amendment	
Officer / Date:	Comments: