



**CITY OF YORK
COUNCIL
CORPORATE DEBT
POLICY**

Version 3
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INTRODUCTION

1. City of York Council aims to be an exemplary organisation with regards to the collection of debt. This policy has been developed to provide clarity and consistency in our approach to the collection of outstanding debts. The policy affirms the use of best practice methods providing high standards of customer service dealing with all customers in a fair and inclusive manner, whilst giving careful consideration to the needs of vulnerable customers.
2. The policy demonstrates commitment to the Council's Corporate Strategy priorities, and also supports the Government's agenda to provide solutions that have prevention and intervention as key drivers for public service delivery to local people.
3. The policy has been developed in consultation with the following external agencies:
 - a) Her Majesty's Court Service (HMCS)
 - b) York Citizens Advice Bureau (CAB)
 - c) Christians Against Poverty (CAP)
 - d) *Social Inclusion Working Group (SIWG)*

The policy objective

- 4 The objective of the policy is to provide clarity and consistency in the way that income collection to the Council can be maximised in support of the Council's Income Policy and through embedding best practice methods of recovery.
- 5 The policy supports prompt, effective and efficient billing and recovery action, through making best use of available resources. It also reinforces the council's commitment to ensuring that any recovery action must take account of all relevant legislation whilst ensuring high standards of customer service.

The purpose of the policy

- 6 The policy provides a consistent framework in which the council can deliver its income collection function. It is inevitable that some customers will experience difficulty in paying their debts and it is important that these situations are managed in a consistent and fair way whilst ensuring the council can recover its debt through deployment of best practice.
- 7 The policy defines the key responsibilities, and support mechanisms available along with providing practical advice in the management of multiple debts.

- 8 The policy covers **all** debts owed to the council including:
- a) Council Tax
 - b) Non-Domestic Rates
 - c) Commercial rent arrears
 - d) Housing rent
 - e) Benefit overpayments
 - f) General debtors, e.g. unpaid fees and charges
 - g) Legal costs
 - h) Penalty Charge Notices (parking contraventions)
- 9 The policy is to be used by all income and recovery streams across the council. The full range of collection and recovery methods will be used as appropriate where debts are not paid. The policy works within and takes account of all relevant legislation e.g. Data Protection, Human Rights and seeks to treat all customers fairly.

Governance

- 10 The processes and controls associated with the Debt Policy along with the council's Income Policy are administered by the Head of Financial Procedures in Resources. All changes related to the procedures, systems and documentation contained within the policy must be approved by the Chief Financial Officer in consultation with the council's Directors and Audit team (Veritau) as set out at page 27 Paragraph 10 of the council's Financial Regulations.

Delivering The Service To The Customer

- 11 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.
- 12 Key to this is the delivery of the council's Customer Strategy and Standards. The main purposes of the Strategy are to:
- a) establish the overall aims of the council in placing the customer at the heart of all we do;
 - b) set out a specific direction for the development of customer access channels whilst considering departments and service;
 - c) provide a framework for customer service improvement, based upon clear and agreed principles;
 - d) to increase the number of customer enquiries we resolve at the first point of contact.
- 13 Once a customer has made contact it is imperative that they are given the most appropriate source of debt management support at the first

point of contact wherever possible e.g. Customers 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 relevant council department should be negotiated. Customers will be informed of all the options available to them.

Communicating with the Customer

14. We will use plain English and language that is clear and easy to understand in all correspondence. We will explain any complex terminology that we are required to use by law and avoid the use of jargon *where possible*.

We will include where relevant:

- a) Details of the amount payable;
 - b) How the charge has been calculated;
 - c) A description of the charge (if this is not shown in the calculation of the charge);
 - d) The payment methods available;
 - e) A contact *single* number for enquiries or disputes *and for discussing payment arrangements and difficulties*;
 - f) E-mail address where appropriate.
15. In meeting individual needs the council will, where practical and possible, ensure that individual preferences are documented so that ongoing and future communication can be provided in an accessible, preferred format using non-threatening language. We will review customer feedback to help identify service improvements.
16. All information can be made available or presented in a format that the customer can understand, for example other languages, large print, audiotape and Braille.
17. We *will* arrange where practical and possible to use accredited translators or interpreters if the customer uses British sign language or if English is not their first language.
18. Correspondence with customers will refer to and deal with all / or similar accounts outstanding wherever possible.

Sharing of Information

19. The council will ensure that statutory requirements are followed in the use of all computer systems used to bill and recover outstanding debts. Training and re-training will be given where required to ensure that all staff involved in the collection and recovery of debts are experienced in

the various computer systems and are fully aware of the statutory requirements governing the information maintained within the systems.

- 20 Subject to any limitations imposed by the 1998 Data Protection Act and Human Rights legislation, access to debtors' information contained in different systems will be made available, and shared across the teams responsible for debt recovery. This not only ensures that debtors can be located, but also provides a customer debt profile allowing a coordinated approach to debt collection, and a proactive way of identifying and dealing with customers priority debts. Clarification of the sharing of information will be provided to customers in appropriate correspondence and on the council's web-site.
- 21 To support the successful delivery of a coordinated debt recovery service at the council, it is vital that good working relationships and practices are established and maintained across council departments, statutory and voluntary agencies including regular meetings with the Citizens Advice Bureau, Christians Against Poverty and all service providers when dealing with debts.
- 22 All teams should have up to date written procedures in place to ensure compliance with data protection principles and appropriate customer service standards.

Providing Advice, Support and Access

- 23 Standard documentation will be provided to customers when appropriate providing help and advice about benefits and managing debt problems. This will normally include information about other support agencies including the Citizens Advice Bureau, Christians Against Poverty and York Credit Union.
- 24 The council will also make every effort to advise people of their right to apply for benefits assistance, including pro-active take up campaigns as appropriate. The council recognises the importance of bringing such matters to the attention of individuals at the earliest opportunity and where possible at the first point of contact. This can be further supported through open days and the advice points in the council's reception areas.
- 25 The council will also advise individuals and businesses of the range of other discounts, reliefs and reductions available at the time an account is issued and also in subsequent communications.
- 26 During both face-to-face contact and telephone communications, staff will *direct* customers as to where they can obtain further specialist advice on benefits and debt matters appropriate to their needs.
- 27 Wherever possible the customer's full debt profile will be provided to them in written form when recovery correspondence is issued.

The objectives of the recovery teams

- 28 The key objectives of the recovery teams are to:
- a) maximise income to the council
 - b) ensure that all customers interests are protected through the application of the debt policy
 - c) achieve an equitable share of income available to pay across all council debts
 - d) take proportional recovery action including timely issue of correspondence and court action when necessary
 - e) achieve efficiency savings by identifying solutions for customers on debt issues at the first point of contact
 - f) be fair but firm
 - g) be “preventative” for example offering payment options and other advice
 - h) help where possible to *assist customers to better manage their finances*
 - i) advise customers of advice and support agencies
 - j) encourage self help
 - k) ensure consistency in dealing with customers
 - l) share knowledge, information and expertise across the council, *and also other external agencies* within the legislative framework (Including the Data Protection Act) with regard to sharing personal information
 - m) apply best practice in relation to debt collection.

Contact With Customers

- 29 We will continually improve contact with customers by :
- a) issuing timely correspondence
 - b) taking a pro-active approach including visiting debtors where possible, in order to avoid further recovery action being taken
 - c) encouraging customers to make early contact regarding their outstanding debt(s) owed to the council
 - d) raising awareness of the consequences of non-payment
 - e) advising customers of their total debts where possible.

Assessment of Ability to Pay

- 30 During the process of recovery, the council will act in accordance with statutory regulations and advice issued by professional bodies, external auditors etc.
- 31 The council will endeavour to make payment arrangements with customers who are unable to settle their debt(s) in full, however this may involve legal action being taken against the customer where appropriate.
- 32 Payment arrangements will be made with individuals and companies giving consideration to their financial circumstances, in particular their disposable income. In doing so other factors will also be considered including the nature and level of debt and past payment history.
- 33 In considering a customer's ability to pay the minimum requirement will be to ensure that the customer's indebtedness to the council does not worsen. As priority debts rank of equal importance, the council will give due consideration to the level of the arrangements made in respect of these in order to protect the customers position.
- 34 A financial statement showing income and expenditure may be required to support a payment arrangement. The customer may be required to provide key documents and information in support of their request for a payment arrangement before this approach can be agreed.

Priority Debts

- 35 The definition of a priority debt is one that could either involve the loss of the debtor's home, or those owed to creditors who can take the strongest legal action against the debtor. It is not the size of a debt that denotes it as a priority, but the result of action that creditors can take to recover their money. Customers usually pay the creditors who shout the loudest, and are often not aware of the consequences of failure to pay priority debts. Table 1 below sets out main priority debts including the consequences of failure to pay

Table 1

<u>Type of Debt</u>	<u>Potential Consequence</u>
Rent arrears	- loss of home
Mortgage arrears	- loss of home
Utility bills	- loss of /gas/electricity
Council Tax	- bailiff action, attachment of earnings or benefits, bankruptcy or imprisonment
Business Rates	- bailiff action and imprisonment
Maintenance/child support	- bailiff action/deductions from earnings / imprisonment
Housing Benefit overpayment	- bailiff action or deductions from benefits
Income Tax	- bankruptcy or imprisonment
Other secured loans	- <i>loss of asset against which the loan is secured e.g. House , car</i>
Television License	- custodial sentence
Other debts identified to be a priority	

Customers With Multiple Debts

- 36 Customers with multiple debts *may* need additional support to find a solution to their debt problems, and should be actively encouraged to share with staff, information on all *debts*, in order that the most appropriate action can be taken to address their debts.
- 37 The policy promotes a flexible approach to working with customers to agree the steps that need to be taken to help address multiple debts. In taking this approach debt management will vary from debt to debt as different solutions will be required.
- 38 Whilst focusing clearly on the debt(s) owed to the council, this policy promotes the assistance of customers by ensuring they receive *the* help and debt advice that they need to reach realistic solutions in respect of debts owing to other organisations.
- 39 The policy promotes clarification to the customer regarding the order of priority in which customers must pay their debts, depending on the nature of the debt.

- 40 Support will be offered including access to interpreters for customers whose first language is not English or for those who are deaf or visually impaired, and staff will attend appointments when required to ensure that such customers receive the assistance they need. The provision of individual responses will also take into account diversity and exclusion issues. Where practicable, we will also require external agencies to ensure the same level of service is provided, mirroring our approach to diversity and inclusion issues.

Supporting Vulnerable Customers

- 41 We will deliver a service, which aims to meet the needs of each individual, and *direct* them to other support agencies identifying vulnerable customers at the earliest possible stage.
- 42 Whilst the council will ensure that arrears are pursued in a timely manner and in a firm but fair way, it does recognise that certain individuals will require more sympathetic and sensitive treatment. The council's Welfare Rights Visiting Officers will be used to help build relationships with vulnerable customers at an early stage. Where a customer is deemed as vulnerable or where the customer requires special assistance in handling their financial affairs, steps will be taken to deal with these customers in a more sensitive way.

Customers who can pay

- 43 The council's Income Policy sets out the various payment methods available to customers and promotes the council's commitment to maximise income.
- 44 Appropriate payment arrangements are offered where debts cannot be settled in full. The Income Manager monitors these arrangements, and further recovery action is taken following default.

Customers who can't pay

- 45 Where a customer is unable to pay the following support and debt advice will be provided where possible:
- a) Advice will be given of what happens if debts remain outstanding
 - b) When appropriate council debt recovery officers will attend the customer's home to provide advice and support especially where a customer is deemed to be vulnerable. Benefit officers may also visit to endeavour to resolve the situation and *avoid* further recovery action if possible
 - c) Information will be provided stating who can give help and advice
 - d) Encouragement will be given to customers to get help from a range of sources

- e) Referrals will be made to appropriate agencies and benefit teams
- f) Further proportional recovery action may be taken

Enforcement of collection

- 46 The council is empowered to enforce payment through a number of statutory remedies following successful court action being taken, including powers which impact on a person's possessions or liberty. This can include the right to seize goods, to evict a tenant, or to request imprisonment.
- 47 The right to Levy Distress is one of the remedies used, which is undertaken through the use of external Civil Enforcement Agents (CEA) previously known as Bailiff's in line with the Lord Chancellor's "National Standards for Enforcement Agents". To ensure effective, consistent and appropriate application of Distress, the City of York council's contract with its Bailiffs includes a detailed Code of Conduct, which the bailiffs must follow and which is regularly monitored.
- 48 The Council seeks to identify vulnerable customers before any enforcement action is taken. Court lists (Customers summonsed to Court) are shared with other Council teams which support vulnerable customers so they can flag any such cases to the recovery team for alternative action. In such cases the recovery team will note and flag the account for alternative action..
- 49 Cases will be identified for CEA action not sooner than 14 days following court, and where no agreement has been reached with the customer to clear the outstanding debt. Whilst legislation does not require the Council to issue a warning to customers that their case will be passed to CEA's for collection, the City of York Council will issue correspondence following 14 days after court action which will include a schedule of costs that the CEA's will charge in line with the Taking Control of Goods Act 2014.
- 50 Cases which have been passed over to CEA's which are later identified as vulnerable will be returned if a suitable arrangement cannot be reached.
- 51 Legislation now sets out the structure of CEA's fees, and the minimum timescale before any visit can take place (7 Days). The Council has agreed contracts with all CEA's and regular meetings take place between the Council and CEA's liaison officers so that so that customer service can be monitored.
- 52 The Council maintains ultimate control over all cases passed over to CEA's and reserves the right to have any case returned where it identifies that alternative action should be taken

- 53 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.

Further Recovery Action Including Bankruptcy

- 54 In situations where all attempts to contact customers have failed, including the use of external Bailiff action, further appropriate recovery action will be taken whilst considering individual circumstances. This may include bankruptcy proceedings or committal action. In order to identify the appropriate course of action where alternative recovery methods have been exhausted, the 24 step procedures detailed in the Income Service procedure manual must be followed. These procedures form supplementary guidance to the Debt Policy ensuring that Bankruptcy or Committal action is only taken where appropriate. A summary of the key steps are set out below and are specifically focused on averting inappropriate action being taken against vulnerable customers and that every opportunity is given to the customer to settle the debt:

- take steps to identify vulnerable customers including proper liaison with the relevant council directorates and services;
- where vulnerable customers identified the case should not be pursued for bankruptcy or committal but referred to the Council's visiting officer;
- ensure that all alternative recovery methods have been attempted before taking committal or bankruptcy action
- ensure full records are maintained of each individual case, and financial checks made to identify the next stage of action;
- consultation to be undertaken with bankruptcy practitioners & legal representatives with all recommendations recorded and acted upon;
- clear correspondence to be issued to the customer warning of the Council's next action to recover the debt;
- all communications with the customer will seek to resolve the situation to avert further action.

Debt Write Off

- 50 Each individual case needs to be considered on its own merits but inevitably there will be debts that become unrecoverable. All forms of enquiry including the use of tracing agencies will be exhausted before a debt is considered for write off. If a debtor is subsequently traced after the debt has been written off the debt will be written back onto the council's accounts providing the six-year rule does not apply. This rule states that creditors are no longer able to pursue a debtor if they have not issued correspondence regarding the debt within the last six years. The standard criteria for writing off debt are:

- a) Deceased with no assets
- b) Bankrupt with no assets
- c) In Administration/ Liquidation *with no assets* (Non Domestic Rates)
- d) Individual Voluntary Arrangement (if arrangement is adhered to)
- e) Gone away no trace
- f) Uneconomical to recover
- g) After custodial sentence for non-payment of Council Tax if instructed by the court.

51 The delegated powers for writing off debt is set out in detail within the council's Financial Regulations. The information is contained within Part D of the regulations 'Systems & Procedures' with the delegated powers detailed in the Table at page 27.

Complaints

52 All complaints will be dealt with promptly through the council's 3 stage complaint procedure by the relevant service managers.

Credits and Transfers

53 A corporate approach to refunding credits will be established so that where ever possible, checks will be made to identify other outstanding debts owed by the customer, prior to a refund being made. Where other debts are identified a credit transfer *will be undertaken*.

Irrecoverable Debts

54 The council recognises that not all debts are collectable and therefore it may be appropriate in certain circumstances to classify debts as irrecoverable, where pre determined criteria are met. The council will ensure that procedures are in place, which detail the action to be taken prior to an account being written-off. It is also recognised that accounts below a certain value may be uneconomic to collect.

Additional recovery costs

55 In order to protect the local taxpayer's resources, Bailiff fees and court costs will be passed on to the debtor when appropriate, and where legislation allows.

Procedure Notes

56 The City of York Council will develop comprehensive procedural documents for the pursuance of debt. These are subject to continual review respecting not only best practice methods, but the changing financial world and evolving technology.

Monitoring performance

- 57 The performance of the income teams will be constantly monitored to ensure they are providing an effective debt recovery service to the council. The teams will be set targets in terms of the level of recovery with performance management embedded at the core of their management.

Policy Review

- 58 The Corporate Debt Policy will be monitored and regularly reviewed on at least an annual basis. This will enable it to be updated where necessary and take account of changes in legislation.

Equalities

- 59 In order to plan and deliver the service and in developing this policy in a fair and inclusive way, the council have undertaken consultation with its Social Inclusion Working Group and assessed the impacts on people from the equality strands to ensure that we do not unintentionally discriminate against some of them by carrying out an Equalities Impact Assessment (EIA) including an action plan for going forward. This has taken account of the issues that the people in York have told us have a negative effect on people from all six equality strands, which included difficulty in accessing information and services. This is an ongoing consultation process that will help shape future service provision.