

# **CORPORATE DEBT POLICY FRAMEWORK DOCUMENT**

**Updated - December 2016**

## **1.0 Introduction**

The purpose of this document is to update the corporate debt policy for West Dunbartonshire Council.

Implementing a Corporate Debt Policy was identified as an essential element for local authorities in the coherent management of debt in terms of Regulations under the Debt Arrangement and Attachment (Scotland) Act 2002.

The Corporate Debt approach adopted aims to ensure a joined-up approach is employed by the Council to employ a system and processes which gathers together all debt owed to the Council by an individual to streamline recovery and fair and equitable treatment in dealing with the individual's debts.

This policy is the Council statement on how it will work with its citizens, customers and partners to collect debt. It outlines what it will do to help those who are in debt to manage their payments to the Council whilst paying their debts.

The policy complements the wider strategies of the Council in relation to financial inclusion and capability.

Whilst it sets out the general principles to be applied in relation to debt collection and management across all services provided by the Council, it is to be used together with more detailed procedural guidance for employees. The details of how debt collection for Council Tax, Non Domestic Rates (NDR), Rent and other Sundry Debt would work is outlined in section 5.

## **2.0 Background**

The Council has a duty to collect all debts due as quickly and economically as possible, including Council Tax, Council House Rents, Non Domestic Rates (NDR) and other Council charges. The Council's ability to deliver services to meet the needs of its residents depends heavily on its success in collecting revenues.

The Council is committed to promoting financial inclusion and capability and in doing so recognises the problems of multiple indebtedness, poverty and deprivation, and the need to break the poverty trap by helping residents to meet their liabilities in a supported, controlled and managed manner.

The Council will integrate the work of Working 4U through the advice partnership which consists of Citizens Advice Bureau, Independent Resource Centre and WDC advice services for benefit, debt and money advice into the debt collection process and recognises the benefits that these organisations can offer both the debtor and the Council.

### 3.0 Objectives

Included in the Council's Strategic Plan is the vision to improve prosperity and inclusion for all citizens and the delivery of high quality services.

Our aim is to maximise income collection and, where necessary, assisted by ensuring maximising benefits uptake where appropriate. This will be achieved through making sure that all discounts, exemptions, housing benefit, welfare fund assistance and free school meals and clothing grants have been claimed and signposting and referrals to the Advice Partnership.

We consider that individuals have a responsibility to pay all amounts properly due to the Council. To achieve this we will:

- Encourage individuals to contact the Council as soon as they have problems paying;
- Encourage individuals to pay on time and, where relevant, regularly to thereby prevent a culture of non-payment;
- Prioritise preventative measures such as advice on benefit availability and discounts and exemptions;
- Focus on the ability to pay whichever type of debt is due;
- Offer a range of easily accessible payment methods;
- Acknowledge and respect the individual's obligations to their dependants;
- Offer a sensitive and flexible approach to debt collection whilst ensuring that monies due are effectively and efficiently recovered for the benefit of the whole community;
- Take account of the whole financial situation of the debtor and collect debts in a sympathetic and efficient way while ensuring our approach is transparent, consistent and equitable.
- Aim to achieve a fair balance between the claims of competing creditors, in recognition of the need for the individual to maintain an acceptable standard of living;
- Ensure that a co-ordinated approach to debt is taken by all Council services;
- Provide advice on available charge reductions e.g. Housing Benefit and Council Tax Reduction, where appropriate;

- Offer specialist, independent debt advice by referral to the Advice Partnership;
- Recognise the debt advice provided by advice agencies as best practice;
- Treat all debtors as individuals and consider, wherever possible, individual circumstances when taking action to recover debt(s); and
- Try to reach satisfactory arrangements for payment of debts at all stages of recovery recognising that where this cannot be achieved, we will take recovery action using the appropriate legal powers.

### **3.1 The Benefits of a Corporate Debt Policy**

A corporate debt policy will:

- Enable individuals to come to realistic repayment agreements;
- Make sure that where appropriate we do take enforcement action;
- Make sure that employees will have a holistic approach to corporate debt; and
- Make sure that individuals are offered appropriate advice as early as possible to attempt to manage their debt better and facilitate better collection rates by the Council.

### **4.0 Code of Practice for Collecting Debts**

This policy applies to all debt owed to the Council. The policy will recognise the Council's strategic priority for protection of vulnerable individuals and as such we will seek to ensure that vulnerable individuals are not harmed by this policy.

Those who might be potentially vulnerable include:

- the elderly;
- lone parents and their children;
- those with additional support needs;
- people with a chaotic lifestyle e.g. in prison, etc.;
- people with disabilities or a long term illness and their carers;
- unemployed people and others reliant on benefit;
- young people; and
- people on low incomes.

## **4.1 Communication and Contact with the Council**

We will:

- Ensure all Council bills, invoices, etc are raised as soon as practicable, and will include clear, relevant and full information as to:
  - a) What the bill is for;
  - b) When payment is due;
  - c) How and where to pay; and
  - d) How and who to contact for further information and/or advice.
- Provide interpreting facilities for non-English speaking customers;
- Encourage individuals to make contact at an early stage of the recovery process;
- Provide clear information about all aspects of collection and debt recovery including where advice and help is available;
- Communicate clearly and without jargon;
- If you write to us, attempt to fully respond to your query in 10 working days. If we cannot do this, we will contact you and tell you why and who is dealing with your query, and when you can expect a full response;
- If you make a complaint, acknowledge your complaint within 2 working days and inform you who will be dealing with your complaint; and
- Respond to your first stage complaint in 5 working days and respond to a second stage complaint within 20 working days. If we cannot answer your complaint within the timescales provided we will contact you and tell you why and when you can expect a full response.

## **4.2 Collection and Recovery Process**

We will:

- Promote an approach within the Council that goods and services provided by the Council are paid prior to; or on provision/delivery;
- Provide a wide variety of payment methods;
- Provide and make widely available clear and concise information about the statutory recovery processes available to us and our approach to and provisions for people with financial difficulties;

- Use the full range of statutory powers available to us to obtain payment; and
- Make every effort to adhere to the timetable/ limits we set for recovery procedures.

### **4.3 Repayments**

We will:

- Negotiate with debtors for repayments, taking account of personal circumstances, where appropriate and making reference to the requirements under the Bankruptcy and Debt Advice (Scotland) Bill 2014;
- Recognise payment proposals from money advice agencies, when negotiating repayments with all debtors in line with the requirements in utilising The Common Financial Statement (CFS);
- Allocate repayments for multiple debts in such a way that recognises (where relevant) rent arrears as the priority of preventing homelessness and sustaining tenancies; council tax; non-domestic rates; and sundry debts; and
- We will use a variety of collection methods including attachment of earnings, court orders, bankruptcy and sequestration, deductions from income Support, job seekers allowance and employment support allowance.

### **4.4 Employees as Debtors to the Council**

It is expressly stated in the terms and conditions of employment that employees have a duty to make any payments due to the Council in good time. If a debt owed is by an employee and no sustainable payment arrangement is in place and maintained, the Council will be entitled to make appropriate deduction from employee's pay without the employee's further agreement. The employee will be notified of any such arrangement being put into place.

### **4.5 Debt Collection Agents and Sheriff Officers**

When the Council has exhausted our in-house arrears procedures the debt (including Council Tax, Non Domestic Rates, Sundry and Former Tenant Rent Arrears) is passed to the Council's Sheriff Officers for attempted collection. The Sheriff Officers will attempt to collect the debt using a variety of approaches and solutions which are appropriate to each individual case, such as:

- Issue letters, SMS text campaigning, outbound telephony campaigning;

- Conclude payment arrangements;
- Issue Notice of legal proceedings letters;
- Undertake visits to commercial premises and issue Charges for Payment together with DAIP (Debt Advice and Information Pack) served where appropriate; and
- Take enforcement action in terms of Debtors (Scotland) Act 1987 in line with legislation.

They also provide services for current rent arrears including execution of diligence which includes service of a Court Summons, service of a Charge for Payment/Charge for Removing, instructing earnings/bank arrestments and conducting evictions.

It is vital for agents undertaking any collection activity on behalf of the Council to work to a clear strategy for how these externally provided activities are selected, implemented and managed. The Council will at all times retain responsibility for any debt passed to a collection agent or sheriff officer.

West Dunbartonshire Council tenders for these services and contracts with the successful bidder. The Council will also ensure that external agents are made aware of vulnerable situations and treat all debtors with respect.

Enforcement agents/agencies must recognise that each has a role in ensuring that the vulnerable are protected and that their recovery process is as agreed between the agent/agency and the Council.

Wherever possible, enforcement agents should have arrangements in place for rapidly accessing translation services when these are needed, and provide, on request, information in large print or in Braille for debtors with impaired sight.

Collection agents and sheriff officers appointed by the Council will operate within the Code of Practice set by the Council.

#### **4.6 Late or Missed Payments**

Payment arrangements will be closely monitored, with appropriate recovery action being taken for late or missed payments.

All Council charges are due for payment by their stated due date. Failure to pay by the due date will result in the issue of reminders.

Individuals are responsible for ensuring that payments reach us by the due date. Those who anticipate problems in making payment on time will be actively encouraged to contact us to discuss alternative payment arrangements.

## 4.7 Payment Arrangement

All payment arrangements will be made on the basis that payment will be made as agreed. While entering into a payment arrangement, staff will ensure that the debtor can afford the arrangement. This is to ensure that unrealistic arrangements are not entered into which lead to additional work for the Council and inconvenience for the Debtor.

## 4.8 Write Offs

The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is appropriate in terms of good accounting practice. The Council will seek to minimise the cost of write-offs by taking all necessary action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures as outlined in our write off guidelines below .

Where it has not been possible to collect a debt, authorisation to write these debts off will be requested to:

- the Section 95 Officer if the debt is under £5,000.
- the relevant committee if the debt is valued at more than £5,000; or

Write offs will be requested in the following circumstances:

### Deceased

When a person dies and leaves no estate. Before seeking write-off approval records are checked to determine whether any estate exists against which a claim could be made.

### No Forwarding Address

Unfortunately many people in arrears leave their property leaving no forwarding address. Prior to seeking write-off approval every effort is made to trace the debtor(s). Records are checked and outside agencies are contacted to try to ascertain the debtor's address.

### Prescribed

A debt cannot be enforced after 5 years from the date it became due. The period applies in the absence of a relevant claim e.g. summary warrant or court decree, or acknowledgement of the debt via letter or payment. Where a relevant claim has been made (Summary Warrant or Decree), statute advises that all debts cannot be legally collected after 20 years of the last payment or acknowledgement of the debt and a debt automatically becomes prescribed at that point. The relevant law is contained within the Prescription and Limitation (Scotland) Act 1973.

### Unreasonable to Pursue

There are various reasons why it may be unreasonable to pursue a debt and examples include:



- Where a person is permanently hospitalised, or goes into residential care, their income is used firstly towards the cost of their care, as is any capital which the person may have. It is often unreasonable to pursue any debt from people in this category due to personal financial circumstances.
- People who cannot deal with their debt problems due to mental illness, dementia or learning disability.
- Tenants who receive a custodial sentence will have their debt written off for the period of their sentence, this will be reinstated upon their release.

#### Uneconomical to Pursue

Where the debt is below £75 we will not pursue this through court proceedings.

### **4.9 An Effective Policy**

For the policy to be effective we will ensure:

- A maximisation of payment for services and goods ahead or on provision;
- Accurate, clear and prompt billing arrangements;
- A quick response to changes in circumstances;
- Fast and accurate delivery of entitlement to any benefit, discount or charge reduction;
- Offers of referral to advice partnership as early in the process as appropriate;
- An ability to follow through on publicly known enforcement actions within previously publicised timescales; and
- The sharing of relevant information between services, subject to the Data Protection Act requirements.

### **5.0 Recovery Processes**

#### **5.1 Recovery of Council Tax**

5.1.1 Council Tax is a tax levied on all eligible domestic dwellings. The amount of Council Tax levied is dependent on the Council Tax band that the property falls into and the amount of tax the Council wishes to be raised.

5.1.2 The full rate of Council Tax is liable to be paid unless the property, owner or occupier is eligible for a reduction or exemption.

- 5.1.3 The Council Tax Administrative and Enforcement (Scotland) Regulations 1992 and the Local Government Finance Act 1992 prescribe the legislative procedures that the Council must follow in the event of non-payment of Council Tax.
- 5.1.4 Under statute where a Council Tax monthly instalment is not received by the due date then the Council will serve a Reminder on each joint and severally liable person. The Notice will ask for payment of the instalment due within 7 days. If after 7 days payment is not received the taxpayer will lose the right to pay by instalments and the full Council Tax amount is due and payable. At that point a Final Demand Notice is issued requesting payment within 14 days.
- 5.1.5 A customer who previously received a Reminder and brought their account up to date but who then falls back into arrears is issued with a Final Demand Notice.
- 5.1.6 If after 14 days from the serving of a Final Demand Notice the Council Tax remains unpaid then the Council will make an application to the Sherriff Court in Dumbarton for a summary warrant to be granted and a 10% statutory addition to be added to each outstanding Council Tax debt listed on the Summary Warrant petition. Summary Warrant Notices will then be issued to the customer detailing the total amount due including the penalty.
- 5.1.7 If the Summary Warrant Notice is not paid in full the debt will be passed to a Sherriff Officer for collection unless the debtor makes and maintains an arrangement. The Sherriff Officer can, if they do not receive payment in full, enforce one of the relevant diligences' available to them e.g. wage/bank arrestment or attachment.
- 5.1.8 On receipt of any of the above reminders from the Council or Sherriff Officers a debtor can contact the Corporate Debt Team to make arrangement for payment of any balance or to notify of any discrepancies.
- 5.1.9 Direct deductions from Department for Works and Pensions (DWP) benefits will be used for debtors on relevant welfare benefits.
- 5.1.10 Direct deduction from pay will be used where the debtor is a West Dunbartonshire Council employee (see 4.4).

## **5.2 Recovery of Non Domestic Rates**

- 5.2.1 Non Domestic Rates is a tax levied on business properties which West Dunbartonshire Council statutorily administers on behalf of the Scottish Government.
- 5.2.2 Billing is carried out annually in April and twice weekly thereafter. Bills contain all statutory data together with details of common reliefs available. In terms of the Local Government (Scotland) Act 1975 Section 8(1) rates shall be payable by ten instalments beginning in the second month and ending in the penultimate month of the year. However, WDC offers alternative payment plans (including over 12 months) in terms of Section 8(7)(a) of the Local Government Scotland Act 1975 which allows a local authority to come to an agreement with an individual to pay rates otherwise than in accordance with section 8(1).
- 5.2.3 The Local Government (Scotland) Act 1947 as amended prescribes the legislative procedures that the Council must follow to recover non-domestic rates.
- 5.2.4 Under statute where the equivalent of four monthly instalments have not been paid by the 30 September then a ratepayer loses the right to pay by monthly instalments and the balance of rates outstanding becomes payable. Similarly, if at any time after the 30 September a ratepayer is in arrears of more than two monthly instalments then the full amount outstanding is due immediately.
- 5.2.5 The Council will serve a statutory Final Notice on a ratepayer who has lost the right to pay by monthly instalments. Payment must be made within 14 days.
- 5.2.6 If after 14 days from the serving of a Final Notice the bill remains unpaid, the Council will make an application to Dumbarton Sheriff Court for a Summary Warrant to be granted and a 10% statutory addition added to each outstanding non-domestic rates debt on the Warrant petition. Summary Warrant notices will then be issued to the customer detailing the total amount due including the penalty.
- 5.2.7 If the Summary Warrant notice is not paid in full the debt is passed to our Sheriff Officers for collection.
- 5.2.8 The Sheriff Officer may enforce payment of the arrears by various forms of diligence available to them e.g. bank arrestment, money attachment, sale of attached goods. The Council also has the option once an account is at Summary Warrant stage to raise an action to petition the ratepayer for sequestration/liquidation.

5.2.9 The ratepayer can contact the Council at any stage of recovery to enter into a payment plan for repayment of the sum due or to discuss issues in relation to the amount charged. Ratepayers can only contact the Sherriff Officer for accounts at Summary Warrant that have been passed to the Sherriff Officer for collection to discuss repayment plans or issues in relation to the amount charged.

### **5.3 Collection of Council Housing Rents**

5.3.1 West Dunbartonshire Council is a landlord of approximately 10,500 council housing properties.

5.3.2 The tenancy agreement between the Council and its tenants explains the tenant's responsibility to pay rent in advance. When this fails early intervention is crucial to engage with the tenant to provide advice and support to sustain their tenancy and prevent home loss due to arrears.

5.3.3 We provide a staged, but escalated, process to recover rent arrears with legal action only taken where there is an intention to seek Decree for Eviction and Payment. Legal action will not be taken where the tenant has arrears due only to under occupancy and / or if they have engaged with the Council and have an agreed payment plan in place that they are conforming with.

5.3.4 We ensure that all seven Pre-Action Requirements (PARs) as required under the Housing Scotland Act (as amended) 2012 are met before we formally serve Notice on tenants that we intend to take court action on which could end their tenancy. Eviction is only used as a last resort where all other methods have failed. All eviction actions are discussed with and approved by the Head of Housing and Communities.

5.3.5 The Council has a separate rent collection strategy that provides more detail on collection processes for both former and current tenant rent arrears.

### **5.4 Collection of Sundry debts**

5.4.1 The Council is responsible for billing and collection of all charges levied by the Council for goods and services provided and plays a significant part in funding the Council's overall budget.

5.4.2 The responsibility for charging lies with the relevant issuing service that will ensure wherever possible that collection of the fee or charge involved takes place prior to the service being provided.

5.4.3 Invoices will be raised as soon as possible when the charge is due and payable no later than 10 days of the goods or service being supplied.

- 5.4.4 Where a debt is in dispute, the debt will remain the responsibility of the issuing service. The dispute must be resolved within 20 working days of the receipt of the complaint. Where a dispute cannot be resolved within 20 working days, the issuing service must notify the debtors team or corporate debt team of the reason, indicating when the dispute will be resolved. This will allow a hold to be placed on the account or the debt being passed to Sheriff Officer.
- 5.4.5 Debtors are advised on the invoice that payment is due immediately and payable no later than 10 days of the goods or service being supplied.
- 5.4.6 Where an account remains unpaid 21 days after the due date/date of issue debtors will be issued with a Legal Proceedings Letter giving a further 14 days to make payment. This will indicate that failure to settle the account within a further 14 days will result in the matter being referred to Sherriff Officers for collection and/or considered for court action. The process for accounts outstanding depends on the value of the account and the cumulative value of all accounts outstanding for that particular debtor. It is our intention to implement this new procedure by 31<sup>st</sup> December 2015. This factors development and testing of the new profiles, communication to relevant stakeholders, while managing business as usual especially concluding year end processes.
- 5.4.7 Where the debtor is unable to settle an account in full by the due date, an arrangement can be made to pay by instalments. In all cases the repayment period will be for the shortest term possible.

## **6.0 Performance Monitoring**

The Council's Performance Management Framework sets out how each department will monitor, manage and report on performance information from their departmental plans. Key elements of our approach are:

- Customer focus – working with our customers to identify successful outcomes;
- Outcome focus – understanding what we are trying to achieve and basing our performance management and reporting on this;
- Continuous Improvement – using customer feedback, reviewing progress and learning from good practice internally and externally to evaluate current practice and develop better ways of working; and
- Responsibility and ownership – every member of staff should understand the performance standards expected taking responsibility for improving service delivery.

The framework comprises a suite of both statutory and local Performance Indicators to assess how well the corporate debt section is performing. These

indicators are reviewed and set annually taking into account benchmarking information, previous performance and our drive for continuous improvement.

Performance measures are based on individual debt collection rates for each type of debt. Collection rates for Rent and Council Tax are reported to the relevant committee. Sundry Debt is reviewed internally. Review of Employee Debt is also being undertaken and reported to relevant committee where required.

## **7.0 Review of Policy**

The Corporate Debt policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.