

CABINET

16th October 2018

CORPORATE DEBT POLICY

Report of the Strategic Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Key Decision: No	Forward Plan Reference: FP/050718	
Exempt Information	No	
Cabinet Member(s) Responsible:	Councillor Gordon Brown, Deputy Leader and Portfolio Holder for Planning, Environment, Property and Finance.	
Contact Officer(s):	Mr Saverio Della Rocca, Strategic Director for Resources	01572 758159 sdrocca@rutland.gov.uk
	Andrea Grinney, Revenues & Benefits Manager	01572 758227 agrinney@rutland.gov.uk
Ward Councillors	N/A	

DECISION RECOMMENDATIONS

That Cabinet RECOMMENDS TO COUNCIL:

1. To approve the Corporate Debt Policy detailed at Appendix A.
2. To approve the adoption of the Council Tax Protocol detailed at Appendix B.
3. To approve the authorisation of the Strategic Director for Resources, in consultation with the Portfolio Holder for Regulatory Services, Waste Management, Planning Policy & Operations, Property Services, Finance including Revenues & Benefits and Internal Audit to review and make minor changes to the policy and the Council Tax Protocol in line with changes to legislation, guidance and best practice.

1 PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to seek approval for a revised Corporate Debt Policy detailed at Appendix A and to approve the adoption of the Council Tax Protocol detailed at Appendix B.
- 1.2 Authority is also being sought to enable the Strategic Director for Resources to review and make minor changes to the policy in consultation with the Portfolio Holder; this will ensure that the policy and the Council Tax Protocol can be kept up to date to reflect any changes to legislation, precedents established by case law, guidance from central government and departments such as the Ministry of Justice and best practice.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The current Corporate Debt Policy was approved in January 2013 (Report 14/2013). The policy and the appendices detail numerous processes and procedures which have changed significantly over time. It is therefore sensible to review our approach to debt collection and adopt a new corporate debt policy at this time for a number of reasons:
- The existing policy was approved over 5 years ago and is now out of date and is quite rigid and inflexible;
 - Members considered debt and our approach to recovery when undertaken the Poverty Review. We said we would focus on providing help and advice and encourage customers to seek early intervention;
 - When the existing policy was written we were not collecting commercial rents from tenants of Oakham Enterprise Park or The Kings Centre so we need to include a bespoke approach for collecting commercial rents;
 - The existing policy doesn't include reporting levels of debt to members. Reporting is currently limited to seeking approval for the write off irrecoverable debts once a year, which doesn't reflect the overall position;
 - There have been a number of challenges to the approach councils take when recovering debts that have brought about a change in working practices which aren't reflected in the current policy. i.e. how we calculate and charge costs;
 - There have been significant changes in the way civil enforcement agents (former known as bailiffs) operate and the fees they can charge following the introduction of the Taking Control of Goods Regulations 2013;
 - Local Council Tax Support replaced Council Tax Benefit from April 2013 which resulted in many working age claimants having to pay Council Tax for the first time, along with other welfare reforms, often means that Council Tax can be difficult to collect from customers on low incomes;
 - The Local Government Association (LGA) and Citizens Advice Bureau (CAB) have devised a Council Tax Protocol which promotes working together, early intervention and best practice in debt collection; and

- The Ministry of Justice have introduced a Pre-Action Protocol which helps debtors to settle their debt or dispute before an application for a County Court Judgement can be made.

3 OUR PRINCIPLES

3.1 We have reviewed our principles to make sure that our approach to debt collection is robust and fair.

3.2 The following table details our principles and how we achieve and measure our success where possible.

Principle	How we will achieve the principle
Collect debts due to us in a timely manner	Request payment up front whenever possible to avoid creating debt in the first place Issue bills, invoices and notices promptly or as soon as possible
Recover and enforce debts in accordance with relevant legislation and guidance	Officers trained to achieve expertise, skills and knowledge Processes, procedures and IT systems comply with legislation and regulations
Make it easy for customers to pay	Offer a range of payment options and communicate these on documents and our website Use plain language
Encourage customers to contact us as soon as they have a problem with paying a debt	Include a written notice on all documents encouraging contact
Encourage self-help by signposting customers to advice and support agencies	Signpost to Rutland Citizens Advice in the first instance. If appropriate, make seeking advice a condition of agreeing a payment plan
Work with customers in debt to set payment plans that they can afford and review payment plans as and when their circumstances change	Officers trained to achieve expertise, skills and knowledge of payments plans Clear documentation for customers detailing any conditionality, reporting changes in circumstances and failure to pay consequences etc.
Explain the recovery process to ensure that customers understand their obligations and	Clear documentation Information on our website

Principle	How we will achieve the principle
what could happen if they don't pay	
Take a firm stance when customers evade paying their debts	Clear documentation Information on our website

4 OVERVIEW OF THE POLICY

4.1 The Council collects income from a wide variety of sources such as Council Tax, Business Rates, overpaid housing benefit, commercial rent, sundry debts and Penalty Charge Notices for parking contraventions. Every effort is made to collect monies due to us in the most appropriate and effective way.

4.2 The Council has a good track record of collecting debt, but in some cases recovery action has to be taken to enforce payment. The enforcement action we can take is different for each type of debt and this is addressed in separate sections of the policy and this is summarised below.

4.3 Council Tax and Business Rates

4.3.1 The recovery process is defined in legislation and a set process must be followed. Instalments are due on the 1st of each month. For example, the first instalment is due on the 1st April, if this instalment is not paid a reminder letter would be issued mid-April, if the instalment remains unpaid a Summons will be issued mid-May, if the sum due is not paid the Council would be able to obtain a Liability Order to take enforcement action towards the end of June. If a Liability Order is obtained a number of measures can be taken to recover the debt which include attachment to earnings, attachment to benefits, referral to enforcement agents, bankruptcy and placing a charge on the property.

4.3.2 There is always a small number of 'difficult to collect debts' where the statutory process has been largely exhausted. Officers are left with three choices a) we monitor and continue to pursue as best we can b) we pursue committal action (but this can result in the debt being expunged if a prison sentence is given so this is only used as a last resort) and finally c) we write off the debt (we only consider this if we have tried everything else or the debtor is bankrupt). We have a Recovery Lead Officer who is dedicated to tackling the 'difficult to collect debts'.

4.3.3 The Council Tax Protocol has been developed by Citizens Advice Bureau and the Local Government Association. It provides good practice guidance for local authorities, enforcement agencies and debt advice agencies when working with customers in debt. The aim of the protocol is to ensure that council taxpayers receive help and can access debt advice when they need it. The revised corporate debt policy has been written to work alongside this guidance. It is therefore recommended that the Council adopt the Council Tax Protocol at Appendix B.

4.4 Sundry Debts, Overpaid Housing Benefit and Miscellaneous Income

4.4.1 The recovery process for collecting these debts requires the Council to follow a

defined process in order to comply with County Court rules. Where possible the Council will request payment 'up front' for services. If this isn't possible we will issue an invoice which should be paid in full within 30 days. If the amount due is not paid then reminder letters are sent and ultimately we can apply for a County Court Judgement which allows us to taken enforcement action.

- 4.4.2 The Ministry of Justice introduced a new step in the process called a Pre-Action Protocol. This step is intended to give debtors the opportunity to resolve disputes, negotiate or settle the debt before it goes to Court and can be a useful part of the process when debtors are willing to engage with us.
- 4.4.3 One key type of sundry debt is adult social care fees for care and support. People are often vulnerable i.e. have a learning disability, have dementia, are in and out of hospital. It is often difficult to contact the person to discuss payment of invoices and sometimes family members have on take on the responsibility of managing the person's finances either informally or formally by Power of Attorney. If there are no family members or there are signs of financial abuse we apply for deputyship which takes a long time to obtain.
- 4.4.4 The Council has a duty of care and we cannot simply stop providing care even of if people do not pay their invoices. Debt can accrue quickly e.g. £500 a week for residential care fees if unpaid for only 2 months can quickly accrue to a debt of £4,000. The process of recovering unpaid social care debts therefore is not easy.

4.5 Commercial Income

- 4.5.1 Another key area relates to council owned business units. The Council's position, as indicated in its standard lease terms is quite clear. If payment of rent is 28 days overdue, even if it is not billed, then the tenancy is subject to forfeiture. There are some challenges to applying this strictly including:
- The Council tends to work with businesses and there are many examples whereby tenants fall behind with their rent but then catch up - we want to support businesses rather than exacerbate the situation.
 - By evicting tenants, the Council effectively creates a void unit with no income coming in - where there is no demand, giving the tenant more time to pay doesn't worsen the Councils positon.
 - The position can change quickly making decision-making about when to take action difficult.
- 4.5.2 The Council has strengthened its position in the policy by requesting a deposit in advance, insisting on payment by Direct Debit and taking prompt action if eviction is the best remedy.

5 MEASURING AND MONITORING

- 5.1 Key performance indicators will be reported to members quarterly or annually. This will include:
- The in-year collection rates for Council Tax and Business Rates (Quarterly).

- The percentage of customers paying their Council Tax by Direct Debit (Annually).
- The amount of debt that remains outstanding for previous financial years which is still outstanding at the end of each financial year, and the amount collected against the debt at the end of the next financial year (Annually).
- The percentage of overpaid Housing Benefit debt and Sundry Debts being recovered against the percentage that we have nothing in place for (Annually).
- The percentage of debt that has been referred to a civil enforcement agent or debt collection service to collect and their success rate (Annually).
- Write off requests will be reported to Cabinet along with a summary of overall performance and highlighting any 'difficult to collect' debts (Annually).
- The number of Compliments, Comments and Complaints received.

6 COMMENTS FROM INFRASTRUCTURE AND RESOURCES SCRUTINY PANEL

- 6.1 The Panel debated the draft Corporate Debt Policy on 13th September 2018 (Report Number 130/2018). The Panel were supportive of the draft policy and were particularly keen to ensure that people with vulnerabilities were identified as soon as possible and signposted to appropriate help and advice services.

7 CONSULTATION

- 7.1 Consultation is not required for any decisions being sought in this report, however Rutland Citizens Advice Bureau have been consulted and they have indicated that they support the policy and agree to adopt the Council Tax Protocol.

8 ALTERNATIVE OPTIONS

- 8.1 The Council can chose not to update its existing policy. This is not recommended for the reasons outlined at point 2.1.

9 FINANCIAL IMPLICATIONS

- 9.1 There are no direct implications but failing to collect income can reduce resources available to meet spending plans.

10 LEGAL AND GOVERNANCE CONSIDERATIONS

- 10.1 The Council is required to comply with the Civil Procedure Rules where pursuing debts. The Pre -Action Protocol has a specific set of requirements that will be adhered to in implementing this Policy.
- 10.2 Regard will also be had to the Council's duties under Section 149 Equality Act 2010.

11 DATA PROTECTION IMPLICATIONS

- 11.1 A Data Protection Impact Assessments (DPIA) has been completed. No adverse or other significant risks/issues were found. A copy of the DPIA can be obtained from Andrea Grinney.

12 EQUALITY IMPACT ASSESSMENT

- 12.1 An Equality Impact Assessment questionnaire has been completed and there are no specific issues arising.

13 COMMUNITY SAFETY IMPLICATIONS

- 13.1 There are no community safety implications arising from this report.

14 HEALTH AND WELLBEING IMPLICATIONS

- 14.1 There are no health and safety implications arising from this report.

15 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 It is timely to review our approach to debt collection and adopt a new policy at this time because of the reasons outlined at 2.1.

16 BACKGROUND PAPERS

- 16.1 Report 14/2013 Corporate Debt Policy (Cabinet 22.1.2013)

17 APPENDICES

- 17.1 Appendix A – Corporate Debt Policy (with appendices)
Appendix B – Council Tax Protocol

A Large Print Version of this Report is available upon request – Contact 01572 722577.

