

Debt collection policy & procedures



Eastleigh Borough Council – May 2019

Contents

Section	Page
1. Introduction	1
2. Policy aims.....	1
3. Policy objective	2
4. Code of practice	2
5. Scope of the policy.....	2
6. Information and advice to customers.....	3
7. How to make payments to the Council	3
8. Recovery action	4
9. Consistency and proportionality.	4
10. Making arrangements for people in arrears.....	5
11. Changes of address and gone aways.....	6
12. Write-off policy.....	7
13. Rights to challenge.....	7
14. Complaints.....	8
15. Annual reviews & performance monitoring	8
16. Future actions	9
Appendix 1 debt recovery process	10
Appendix 2 write-off policy & procedure	12
Appendix 3 staff guidelines for making payment arrangements.....	14
Appendix 4 Table of amendments.....	16

1 INTRODUCTION

Support Services are responsible for the collection of the majority of Council debts, except for any service with its own specific regulations or policy such as Council Tax, National Non-Domestic Rates, Housing Benefits and Car Parking.

There is a high collection rate across all services as well as robust collection procedures, which will be supplemented by the formalised collection procedures detailed in this document.

In all cases we will act in accordance with relevant legislation; ensure invoices are issued promptly; ensure all customers are treated fairly; and promote and encourage people to pay promptly and regularly.

2 POLICY AIMS

It is essential that Eastleigh Borough Council demonstrates that it undertakes the administration and recovery of all debts in an efficient and effective manner. The Council has a legal duty to ensure cost-effective billing, collection, and recovery of all sums due to the authority.

In doing so, the Council will:

- Take positive action to prevent arrears occurring, for example, by providing a wide range of easy-to-use payment methods
- Take positive enforcement action against deliberate non-payers or those who delay payment
- Ensure invoices are issued promptly and remind customers promptly if they do not pay
- Encourage customers to make early contact with us to avoid build-up of debt
- Discuss payment options with customers who have fallen or are likely to fall into arrears. We will work with them and their representatives to set reasonable payment levels that they can maintain
- The Council will work towards adopting a coordinated approach with regard to multiple debts

The Aims of this Policy are:

- To be a guide to all staff involved in the recovery process
- To set out a clear debt recovery strategy
- To demonstrate the Council's commitment to the delivery of quality services to our customers
- To help reduce the loss from eventual writing-off of debts
- To fulfil the Council's obligations to collect fees and charges
- To be consistent and fair in our dealings with all customers
- To listen to and communicate with customers and treat them with due respect and courtesy
- To assist in tackling poverty by supporting customers to prevent the build-up of debt

3 POLICY OBJECTIVE

To ensure that all income due to the Council is collected on time, with minimum avoidance and in the best interest of the residents and businesses of the Borough.

How we will achieve our policy objective

In order to achieve the above we will ensure the following principles are adhered to:

- Consider that customers have a responsibility to pay
- Aim to identify those who can pay but will not or those who delay payment, so that recovery action can be taken accordingly
- Actively encourage contact at every stage of the collection and recovery process
- Acknowledge the need to provide a service that is effective, whilst treating all customers fairly and taking account of our social responsibilities.
- Acknowledge our responsibility to collect income effectively.

4 CODE OF PRACTICE

In order to have an effective Debt Collection Policy our customers need to be provided with clear and prompt information about debts due. To ensure this practice the following will be provided:

- Clear instructions on payment terms
- Timely and clear responses for any enquiries
- Easy-to-use and accessible payment options
- Clearly written correspondence, with information appropriate to the customer
- Appropriate segregation of duties throughout the process to ensure compliance with wider Council policies.

5 SCOPE OF THE POLICY

This policy applies to all staff involved in the raising and recovery of Council debts. All staff need to have an awareness of the policy, its operation and its impact on their customers. In addition, the policy applies to any external company or debt collection agent involved in the collection of debts due to the Council.

6 INFORMATION AND ADVICE TO CUSTOMERS

Information and advice to customers

All invoices raised will include the following information (where relevant) for the customer:

- Detail of the goods/services provided
- Cost of goods/services provided
- Date of invoice
- Details of how to pay
- Who to contact in relation to the goods/services provided
- Who to contact regarding issues with payment
- A link to this Debt Collection Policy

7 HOW TO MAKE PAYMENTS TO THE COUNCIL

It is acknowledged that the easier it is to pay, the more likely it is that payment will be made. Therefore, we provide a choice of convenient methods of payment and details of these options are advised on each bill.

Some of the payment methods available are as follows:

- Direct Debit
- Online
- By telephone
- Cash Kiosk (available in the Eastleigh House Reception during opening hours)

Staff should encourage, where possible, automated payment methods as a first choice of payment, because the most economical and effective payment options are available 24 hours a day, seven days a week.

- Our aim, wherever possible, is to prevent people having to incur additional costs and having to travel solely to pay bills
- Whatever the method of payment used, the Customer must ensure that payments made reach the Council by the due date
- We will actively encourage customers to contact us as early as possible if they are having difficulty paying

When customers contact us, we will:

- Provide all information regarding the debt to the customer (or direct to the service area, where relevant)
- Explain the payment terms

- Explain the different payment types
- Arrange payment terms for any payment plan less than 12 months (see Appendix 3)
- Take details of any payment plan request over 12 months and get approval from the relevant Lead Specialist
- Highlight the complaints process if applicable

8 RECOVERY ACTION

Recovery of all debts under this policy will follow the Debt Recovery Process at Appendix 1.

When is enforcement action taken?

Where payment is not made in full or a payment arrangement has not been put in place within 30 days, the Council will start the Debt Recovery Process (Appendix 1).

In all cases the Council aims to make an agreement for suitable payment to avoid such action.

Contact points

Appropriate information is included on all invoices and communications to enable those, against whom action is taken, to contact the relevant officer. Standard documents are sent out displaying the action taken and including telephone contact points for the particular section.

9 CONSISTENCY AND PROPORTIONALITY

Every measure is taken to ensure all people of like circumstances are treated with due respect and courtesy, taking account of the Council's Diversity & Equality Policy, or equivalent if amended in the future.

There are procedures for arrangements and persons requiring extra time to pay. Our customers are all treated in the same manner. There is no legal right for the Council to remit any amount due, except where the debt is found to be irrecoverable due to bankruptcy, death, inability to trace the debtor or incorrectly charged.

Throughout the process, where applicable, all debts owing to the Council will be considered and arrangements made to clear in a reasonable manner. All actions carried out are in accordance with the provisions of the Human Rights Act 1998.

The objectives are:

- (i) To seek to prevent debt potentially resulting in Social Exclusion
- (ii) To treat all debts to the Council equally
- (iii) To collect debts in the most efficient and economic manner

10 MAKING ARRANGEMENTS FOR CUSTOMERS IN ARREARS

Staff will:

- Encourage contact from customers at an early stage in the recovery process.
- Where appropriate, and possible, make arrangements within the guidelines given to them (See Guidelines in Appendix 3)
- Ensure that the Recovery Process (Appendix 1) is followed in a timely manner

When a person makes contact a realistic agreement for payment will be made where possible. If there is any doubt as to whether the agreement is realistic (either because it appears to be too high or too low) or extends beyond 12 months, approval of the relevant Lead Specialist must be obtained.

It is important to always remind the debtor to contact the Council if they anticipate problems in meeting any payment obligations.

Documentary evidence

- In some cases it may be necessary to request documentary evidence to confirm particular details when arriving at a payment arrangement. Individuals should not, however, be asked for documentary evidence unless it is absolutely necessary
- If it is necessary, the individual should be told of the particular items that require confirmation and be given a specified reasonable time limit within which to produce them
- The individual should be advised that if the evidence is not produced within the agreed timescale the offer of a payment arrangement may be rejected and further action could be taken

All information collected is governed by the General Data Protection Regulations and UK Data Protection Law. The Council has a procedure and policy in place to comply with the Act.

Maintaining current instalments

When negotiating arrangements for payment, staff should ensure that current instalments are being maintained, i.e. the arrangement will be in addition to and conditional on, the current debt being paid. When an arrangement is made on a total balance the minimum arrangement will be the current agreed instalment plus a contribution towards the arrears. If the arrangement extends beyond 12 months the approval of the relevant Lead Specialist must be obtained.

Monitoring payment arrangements

- All payment arrangements will be closely monitored by Support Services
- Prompt recovery action will be taken in respect of missed payments in line with this policy
- Action may be taken, even where payment is received shortly after the due date
- The responsibility for making sure that payment reaches the account by the due date remains with the customer
- The customer should be reminded that the date on which payments are due is the final date on which money should reach the account. This means that customers must allow sufficient time for the payment to reach the Council by the due date

When payment arrangements are not maintained

- It is important to ensure that where arrangements have not been maintained prompt action is taken to try and bring the arrangement back up to date
- Although the Council will ideally require the original agreement to be brought up to date within a short timescale, if there has been a significant change in circumstances, it may be possible to negotiate a new arrangement
- If a new arrangement cannot be put in place the Recovery Process in this policy in Appendix 1 will be followed

11 CHANGES OF ADDRESS AND GONE AWAYS

If correspondence is returned undelivered and marked 'Gone Away', or similar, and a forwarding address is not already known, efforts will be made to find a new address for the customer.

Other Council records will be checked by the officer responsible for those records to ascertain whether a new account has been set up at another address.

If a new address is found the debtors system will be amended to show the revised details and recovery will recommence at whatever stage it has reached when contact was lost.

If the person or persons cannot be traced, dependant on the level of debt, appropriate trace enquiries will be made. If enquiries result in an 'unable to trace' result then action under Appendix 1, section 5, should be considered.

12 WRITE-OFF POLICY

It is essential, as well as good accounting practice, that monies are written off in a timely manner once it has been established that the debt is not going to be recovered.

The objective of the policy in Appendix 2 is to strike a balance between protecting the Council's financial position and making sure that any customer issues are addressed.

There are various reasons for a debt being passed for write-off and several are listed below:

- The customer is deceased and there are insufficient funds with which to discharge the debt
- The customer is 'gone away' or there is no trace
- The customer is bankrupt (a claim in bankruptcy is submitted but the debt written off for administration purposes - if payments are received by the Council then the debt is written on to the account accordingly)
- It is uneconomical to pursue the debt

Write-offs will be carried out in accordance with the Councils standing orders and Financial Regulations, which are in force at that time.

13 RIGHT TO CHALLENGE

If the customer feels that the debt is invalid or for the wrong value then this needs to be put in writing, detailing the following:

- Customer name
- Account number
- Invoice number
- Reason for the challenge
- Contact details

This need to be sent to Support Services at the address below:

Eastleigh House
Upper Market Street
Eastleigh
Hants
SO50 9YN

Or by email to sundry.debtors@eastleigh.gov.uk

On receipt, the Support Services Case Management Officer will put the debt on hold and follow up the challenge with the relevant Service Specialist. Within 21 days the Support Services Case Management Officer will have taken one of the following steps and informed the customer in writing:

- The debt is valid and payment is due. If required, a payment arrangement will be offered
- The debt is incorrect and the invoice value has been corrected
- The debt is invalid and the invoice has been cancelled

14 COMPLAINTS

In addition to the above, Eastleigh Borough Council operates a corporate complaints system. This is available where any customer who is not satisfied with the standard of a Council service, and who has not been able to resolve his/her complaint with the relevant manager, wishes to make a formal complaint. Complaints can be raised using the Council's website or by emailing complaints@eastleigh.gov.uk.

The corporate complaints procedure - provides the Council with the opportunity to investigate and provide a remedy in circumstances where the Council is alleged to have been guilty of 'maladministration', which has caused injustice (and where there is no other reasonable avenue available to the complainant to appeal or seek redress). It is important to note, however, that the corporate complaints system will not entertain objections against the merits of a decision which has been properly taken and which the complainant does not agree with.

Local Government Ombudsman - In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer his/her complaint to the Local Government Ombudsman. They are independent of the Council. It must be emphasised that the Ombudsman will not normally consider a complaint where more than 12 months has elapsed since the alleged act/omission.

15 ANNUAL REVIEWS & PERFORMANCE MONITORING

It is important that Support Services performance is monitored so that the impact and effectiveness of prescribed policies is assessed and to ensure that those policies are assisting the Council in meeting its aims and objectives in each respective service area.

This Debt Collection Policy will be reviewed regularly alongside other policy and the service plans, providing a basis for measuring implementation and improving those policies.

It is the responsibility of the Support Services Operational Manager, working closely with the Lead Specialists, to ensure the above policy is effective through their monitoring, taking into account the indicators listed below:

- Percentage of debt collected each month with a comparison to the previous years' collection.
- Number and value of debts reaching each stage of recovery.
- Number and value of cases being referred to external agencies.
- Number of cases with arrears outstanding at year end.
- Value of arrears outstanding at year end.
- Number of official complaints received.

16 FUTURE ACTIONS

In order to continue to develop and monitor this Debt Collection Policy we will regularly review the areas specified below:

- Maintain a good relationship, built on trust, between the different departments within the Council and external agencies
- Continue to review the use and action of any external agency.
- Consider recommendations that could be made to the Government to amend appropriate legislation.
- Make use of advances in technology to provide alternative means of communicating with stakeholders and customers.
- Use the Internet to publish information and provide a means for people to contact the Council out of normal office hours.

DEBT RECOVERY PROCESS

The following notes cover all stages in the process for recovery of a debt through an informal reminder to legal action. These stages apply after a debt has not been paid or a payment arrangement has not been put in place and kept up to date after the standard due date (30 days in most cases).

1. Informal reminder

31 days after the invoice date a reminder will be sent by the Support Services Case Management Officer in the form of a copy invoice.

2. Informal communication from Case Management Officer

A further seven days after Stage 1, (a total of eight days overdue), a Support Services Case Management Officer will contact the debtor by telephone. During this call the officer will:

- Ensure the Customer understands the debt is due
- Explain that the debt is overdue
- Highlight the payment methods available
- Offer the option of a payment arrangement
- Explain the Debt Recovery Process and signpost to the website

If a telephone number is not on record or the customer is not contactable by email or post then Stage 3 will apply after another 14 days.

3. Final reminder

A further 14 days after Stage 2, (a total of 22 days overdue), a final reminder letter will be sent by a Support Services Case Management Officer detailing the following:

- Invoice date
- Invoice amount
- Detail of goods/services provided
- A final date of when the debt has to be paid (10 further days)
- Contact details

At this point any service will be suspended until the account is brought up to date.

4. Contact Service Specialist

If after the further 10 days in Stage 3 (a total of 32 days overdue), the debt has not been paid or a payment arrangement is not in place, the Support Services Case Management Officer will refer the debt to the relevant Service Specialist.

The Service Specialist then has 10 days to:

- Contact the customer and facilitate payment
- Contact the customer and put a payment arrangement in place
- Request the debt is put on hold due to mitigating circumstances
- Instruct Stage 5 to proceed

If no update is received from the Specialist after 10 days, then Stage 5 will automatically start.

5. Recovery action

The first stage of recovery action is to pass the debt to an external debt collection agency. The Support Services Case Management Officer will obtain consent from the relevant Service Specialist before referring any debts to the collection agency, as we need to take account of any reasons why this is not appropriate (i.e. in the case of a vulnerable debtor).

If consent is given and the debt is passed to the collection agency they will attempt to contact the debtor by letter and telephone, where appropriate, and discuss payment of the debt. They will refer cases back to the Council where there are queries over the debt or where they have been unable to make contact with the debtor. They will also inform the Council of all payment arrangements agreed and will seek our advice if the debtor is unable to pay in line with our guidelines for payment arrangements.

If the debt collection agency has been unable to recover the debt, the Council may take legal action by obtaining a County Court Judgement. This action will be taken on debts the Council believe are recoverable and consent must be obtained from the relevant specialist service area

Once the judgement has been obtained, the Council has the following options to recover the debt:

- Information Order (where the debtor is required to attend court to explain their financial circumstances)
- Attachment of Earnings Order
- Third Party Debt Order (allowing the freezing of bank accounts)
- Charging Order
- Insolvency
- County Court Bailiff/High Court Enforcement Officer

WRITE-OFF POLICY AND PROCEDURE

Introduction

Any write-off policy must be effective and lay down sufficient guidelines, without being too prescriptive. It is essential and good accounting practice that monies are written off in a timely manner once it has been established that the debt is unlikely to be recovered.

The objective of this policy is to strike a balance between protecting the Council's financial position and making sure that any anti-poverty issues are addressed.

Write-offs will be carried out in accordance with the Council's standing orders and financial regulations, which are in force at that time

Policy

When it is considered that all possible recovery action has been exhausted (Appendix 1) then write-off will be considered in line with the following guidelines.

Reasons for write-off

The following are considered to be mandatory reasons for write-off:

- Bankruptcy
- Voluntary arrangement/ admin orders
- Debts, which cannot be legally enforced

There will also be instances where recovery cannot be enforced because:

- the debtor cannot be traced
- it is deemed inappropriate to recover the monies on the grounds that it is uneconomical to collect based on the value of the debt

Where a debt is uneconomical to pursue

Factors that should influence the decision whether a debt is economical to pursue are:

- The size and age of debt, in relation to where it is in the recovery process, and the costs of certain action which could be taken to try and secure recovery
- Whether we know the current address of the debtor
- When the last action was taken to try and recover the debt
- Whether documents are in sufficient order to support the recovery of the debt

From here a decision will be made whether it is appropriate for the officers to proceed with recovery action and whether it is economically viable to do so. This decision will be taken by the relevant Service Specialist.

Where the debt is legally recoverable but the Council feels it inappropriate to pursue its recovery

At any stages of the enforcement process, it may be considered appropriate to submit a debt for write-off in accordance with financial regulations on the grounds of hardship, having regard to the following factors:

- The debtors age and state of health
- The debtors financial position and responsibilities

All write-offs will be carried out in accordance with the Councils standing orders and financial regulations, which are in force at that time.

Approval procedure

Following the approval of the relevant Service Specialist all relevant debts will be marked for write-off in the debtor system.

Approval at Cabinet must be obtained for debts over £5,000 that require write-off. The Lead Finance Specialist will produce an annual report summarising debts under £5,000 that have been either written off or debts where bankruptcy/liquidation proceedings have been taken, reversed or recovered debts. The report will also contain a schedule of debts over £5,000 which requires write-off approval.

Following Cabinet's decision, any debts not approved by Cabinet will be reinstated for further action and those approved will be written off. These write-offs will either be against the bad debt provision, where a previous provision has been made, or against the relevant service.

Reversal of written off debts

Where a debt has been previously written off and the Council receive or obtains information about the debtor that would enable the collection of the debt the written off amount should be reversed and the debt pursued. This action will only be taken where the debt can still legally be enforced.

STAFF GUIDELINES FOR PAYMENT ARRANGEMENTS

The purpose of any payment arrangement being put in place is to ensure recovery of a debt that ensures that all debts are recovered whilst being sensitive to the circumstances of the customer.

Any debt being recovered through a payment plan will be reviewed at least monthly to ensure that the payments are being made on time and that the total debt is not increasing.

1) **Payment arrangement where there is a one-off charge**

Where a payment plan is requested for a good/service which is a one-off charge, the payment arrangement must meet the following guidelines:

- The payment plan must cover all debts on for that debtor.
- Regular payments must be made during the period.
- All previous payments must be up to date.

2) **Payment arrangement where there is a recurring charge**

Where a payment plan is requested for a good/service which has a recurring charge (for example, quarterly or annually) the payment arrangement must meet the following guidelines:

- The payment plan must cover all debts for that debtor.
- The full debt must be repaid before the next payment is due.
- Regular payments must be made during the period. For clarity, one payment the day before the next charge is due is not acceptable.
- All previous payments must be up to date.

A Support Services Case Management Officer can approve an arrangement under point 1 or 2 (above) if it results in a term of less than 12 months. Anything in excess of 12 months needs approval from the relevant Service Specialist.

3) **Payment arrangement for a long-term outstanding debt**

A long-term outstanding debt is any debt which has not been fully paid and is over 12 months overdue.

Where a customer has a long-term outstanding debt and has requested to pay using a payment arrangement, rather than legal recovery, then the following guidelines must be met:

- The payment plan must cover all debts for that debtor
- Any future debt must be either fully paid or included in the payment arrangement and the regular payment proportionately increased
- Any payment arrangement must be agreed in writing (email is acceptable) by the relevant service Lead Specialist

4) **Where payment arrangements cannot be made in accordance with any of the above**

Where a payment plan has been requested by a customer and does not fall in accordance of points 1-3 (above) the plan has to be agreed by the relevant service Lead Specialist and then reported quarterly to the Director of Support Services.

TABLE OF AMENDMENTS/REVIEWS

DATE	ACTION TAKEN
29/03/2019	Policy updated