

Executive Report

Ward(s) affected: All

Report of Director of Service Delivery

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## Policy on Debt Recovery

### Executive Summary

Officers were asked to look at a Corporate Debt Recovery Policy prior to the pandemic. The perception was that there was a conflict between the collection of Council Tax and Council Rents – specifically where a debtor was in arrears for both. Officers found no evidence of a problem.

As part of their investigation, officers reviewed a range of policies that are publicly available.

They found that:

- Policies vary in length and detail
- Some lack clarity
- It is not always obvious who the audience is, or who the material is appropriate to.

There is a common expectation that:

- All debts should be paid on time
- Recovery should be efficient and effective, timely and proportionate
- Income collection must be maximised
- Debtors should be treated fairly and consistently.

Not all Councils have a Debt Recovery Policy, however officers believe a policy could deliver the following benefits:

- A policy would ensure a consistent approach across the Council and establish a way forward for customers with multiple debts.
- A policy will give customers clarity, provided it is clear.
- If the policy sets out not only what we will do, but what we expect debtors to do it will be a useful document for officers when collecting debts. Specifying debtors' responsibilities is also consistent with the Future Guildford model of self service.

They concluded that it would only deliver these benefits if it was read by customers and officers and did not create an administrative burden that could not be delivered on.

To that end the proposed Debt Recovery Policy:

- Is as short and clear as possible
- Is as timeless as possible.
- Acknowledges that different legislation applies to different debts and focuses on principles and general expectations.

To ensure that the policy is inclusive and relevant to all debts all Service Leaders have been consulted. The report and draft policy have also been considered by the Service Delivery EAB. As a result of which some amendments have been made. The EAB recommends the adoption of the policy.

**Recommendation to Executive** (*delete as appropriate*)

That the Executive adopts the Corporate Debt Recovery Policy as set out in Appendix 1

Reason(s) for Recommendation:

Adopting a short, clear policy setting out both Council and Debtor responsibilities could deliver the following benefits:

- A consistent approach across the Council, and a way forward for any customers with multiple debts
- Clarity for customers
- A tool to help in the debt collection process

**Is the report (or part of it) exempt from publication?** (*delete as appropriate*)

No

**1. Purpose of Report**

- 1.1 To introduce and explain the proposed Debt Recovery Policy that the Executive is being asked to adopt.

**2. Strategic Priorities**

- 2.1 The proposed Debt Recovery Policy contributes to the theme of community by making clear that the Council does provide support for the more vulnerable and less advantaged people in our community when recovering debts.

**3. Background**

- 3.1 The report writers were asked to look at a corporate debt recovery policy in late 2019, prior to the pandemic.
- 3.2 This was not the first time that officers had considered whether a policy was needed, however by 2019 none of those involved previously were currently employed by Guildford Borough Council.

3.3 The Homeless Reduction Act 2017 was a driver for revisiting the idea of a policy.

The Act places a duty on the council to ensure that advisory services are designed to meet the needs of groups that are at increased risk of becoming homeless. These are:

- (a) persons released from prison or youth detention accommodation,
- (b) care leavers,
- (c) former members of the regular armed forces,
- (d) victims of domestic abuse,
- (e) persons leaving hospital,
- (f) persons suffering from a mental illness or impairment, and
- (g) any other group that the authority identifies as being at particular risk of homelessness in the authority's district.

There was a perceived conflict between collection of the Council Tax and Council Rents, in as much as for one the customer can go to prison and for the other they can become homeless. In attempting to avoid both the customer may be overstretched financially, and ultimately end up homeless.

#### 4. Investigation and Findings

##### Multiple Debts

- 4.1 Reviewing the earlier attempt to create a policy, officers suspect that it failed because the proposed management of multiple debts (such as Council Tax and Council Rent) could not be administered effectively or efficiently. Even now it is not possible to administer them in the way that was then proposed. This appeared to be the driver of the original work.
- 4.2 Looking at the matter afresh in 2019 officers found that Guildford Borough Council has a positive track record of debt collection.
- 4.3 Council Tax and Business Rates collection put us amongst the top 20 collectors in England, and Experience Guildford reports that we exceed others in collecting the levy. With around 57,000 accounts recovery of the Council Tax is initially by bulk processes such as reminders, final notices and summonses. In 2018 over 18,000 Council Tax reminders were issued, and over 5,000 summonses.
- 4.4 By contrast the number of Council Tenants in arrears was smaller. At the end of December 2019 640 tenants owed more than £100. The Council has around 5000 tenants. Whilst initial letters are issued visits are also made to see why the tenant is not paying. The initial assumption being that most want to pay, and that they should be able to pay because they either have an income (wages or pension) or are in receipt of benefits. If these tenants cannot pay then it is a matter of working with them on budgeting and making an individual arrangement with them to reduce the outstanding debt. Only where tenants fail to engage or to maintain an arrangement will we apply to the Court. A suspended order will generally support the arrangement that we want, and only when that is breached

does eviction occur. In 2018 orders were obtained on 36 cases and 7 tenants were evicted. At the end of March 2021 there were 565 cases (current Housing accounts and traveller pitches) with a debt over £100. There were no Court cases or evictions during 2020-21.

- 4.5 Officers are not aware of any evictions due to customers paying their Council Tax instead of their rent. The numbers are low and the individual approach by the Income Team means that any such cases would be identified prior to any application to Court. Whilst the Council Tax team always endeavours to make arrangements that clear debts during the year to avoid debt building up, senior members of the team can and do make longer arrangements on a case by case basis.

### **Other Debt Recovery Policies**

- 4.6 Guildford Borough Council is by no means the only council not to have a corporate debt policy. At least six others in Surrey do not have one.
- 4.7 Reviewing a range of policies that are publicly available shows that whilst some aspects are consistently included others are not. Officers found:
- Policies vary in length and detail
  - Some lack clarity
  - It is not always obvious who the audience is, or who the material is appropriate to.

There is a common expectation that:

- All debts should be paid on time
  - Recovery should be efficient and effective, timely and proportionate
  - Income collection must be maximised
  - Debtors should be treated fairly and consistently.
- 4.8 Councils acknowledge that some debtors have genuine financial difficulties and may need additional support. Most policies refer to sign posting to other sources of advice, and ensuring customers receive any reductions that are available to them. Reference is generally made to financial vulnerability with some guidance as to what it looks like, plus a reminder that for some debtor's vulnerability can be temporary.
- 4.9 Policies generally contain information about payment arrangements with some guidance on what an acceptable arrangement looks like. For instance, a maximum timescale, or a period of review if circumstances may change.
- 4.10 Most policies refer to a co-ordinated approach to multiple debts owed. Some set out the priority in which they expect debts to be paid (and the consequence of non-payment).

It is not easy for officers to identify where multiple debts exist, when they are dealing with high volumes. Cross checking these to other systems would result in an inefficient recovery process.

Other Councils' policies set out expectations for debtors – including that they need to volunteer that they have other debts with the Council at the point of contact. This is a practical way forward and a Policy on Debt Recovery would help these conversations to take place. For example, it could empower conversations such as:

“Thank you for calling in response to the Council Tax reminder. Our policy is to help you with all the bills that you owe us. Do you mind me asking if you are having difficulty paying us for anything else? “

## Changing Expectations

- 4.11 The Citizens Advice Bureau has long been concerned about the recovery of debt, and the level of debt faced by some individuals.
- 4.12 The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 was introduced by the government to address the problems of indebtedness. This gives someone in problem debt the right to legal protections from their creditors.

There are two types of breathing space: a standard breathing space and a mental health crisis breathing space:

- A standard breathing space is available to anyone with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.
  - A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. It lasts as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).
- 4.13 The pandemic has inevitably affected the finances of many residents and businesses. It has also disrupted debt recovery with a restriction on Court availability and enforcement activity. Revenues and Benefits staff have worked hard to ensure that residents and businesses receive any bill reductions or grants that they are entitled to. Both Council Tax and Business Rate collection rates fell – Council Tax from 98.88% in 2018 to 97.53% in 2020, and Business Rates from 99.4% in 2018 to 95.48% in 2020. No reminders were issued during the first lockdown as it did not appear appropriate with so much uncertainty. When we issued the first reminders in September they were accompanied by a covering letter reminding customers that they should be paying if their circumstances had not changed, or seeking help if they had. Housing and Benefits staff continue to promote help with rent and household expenses through both Housing Benefits and Universal Credit. Whilst the Council has seen a drop in the collection rate for Council Tax and Business Rates, Council Rent arrears have been minimised by

working with tenants throughout the pandemic, which is possible due to the smaller volume of cases.

- 4.14 Waverley Borough Council has an Income and Debt Collection Policy. Although this is publicly available the language and content suggest that it is primarily an inward-looking document. Officers feel that something simpler would suit Guildford Borough at this current time, but that this does not preclude a review with closer future working.

### **Suggested way forward**

- 4.15 Officers concluded that the problem the development of a policy was intended to solve does not exist. Residents are not choosing to pay their Council Tax in preference to their Council Rent and being evicted. If it was to happen in the future the Housing Income Team would identify it and given the low numbers special arrangements could be made. Additionally, not all councils have a Debt Recovery Policy. On this basis doing nothing is an option.
- 4.16 Officers believe a policy could still deliver some benefits:
- A policy would ensure a consistent approach across the Council and establish a way forward for customers with multiple debts.
  - A policy will give customers clarity, provided it is clear.
  - If the policy sets out not only what we will do, but what we expect debtors to do it will be a useful document for officers when collecting debts. For example, it could enable them to say the Council has a corporate policy and I am expected to collect this debt. Additionally specifying debtors' responsibilities is consistent with the Future Guildford model of self service.
- 4.17 However a policy will only deliver these benefits if
- Customers and officers read it.
  - We can make the policy work, without creating an administrative burden or a policy that we cannot deliver on.

To that end the Debt Recovery Policy should:

- Be as short and clear as possible, so that it is a document that debtors and officers can easily refer to.
- Be as timeless as possible. Policies with a lot of detail potentially constrain staff from collecting debt and need frequent amendments if there is a change of legislation.
- Acknowledge that different legislation applies to different debts but focus on principles and general expectations.

A draft policy with all of this in mind has been drawn up and is attached as Appendix 1.

## **5. Consultations**

- 5.1 To ensure that the policy is inclusive and relevant to all debts all Service Leaders have been consulted and asked
- Does anyone in your service raise debts not listed in the attached draft – if so who and what.
  - If the attached policy was adopted would your teams be able to work within it – if not what would the issues be
  - Any other feedback
- 5.2 General feedback was that the first draft of the policy was clear and precise and would be of use to staff and customers.
- 5.3 More specific feedback:
- Identified some missing debt types which have been incorporated into the second draft.
  - Some questions about a greater distinction between commercial and individual debt. The second draft has been modified to include reference to commercial contracts.
  - A comment that where possible payments should be taken up front for services. As this is a potential direction of travel for Future Guildford an exclusion has been added to the second draft.
  - That the policy needs to be in the Corporate Policy format, and should include details on monitoring (added to the second draft).
- 5.4 As a result of the consultation we have identified a need for clarity around roles and responsibilities for invoices being raised and debts collected as corporate Sundry Debts. As this is about internal processes officers believe the information should not be included in the Corporate Debt Recovery Policy as this would dilute the benefits that it is hoped to achieve. Instead it can be addressed via internal guidance from the Resources Directorate.

## **6. Key Risks**

- 6.1 No risks have been identified. The draft policy formalises and makes public existing expectations and responsibilities.

## **7. Financial Implications**

- 7.1 No financial implications have been identified. The draft policy formalises and makes public existing expectations and responsibilities. It will be published on the Council's website.

## **8. Legal Implications**

No legal implications apply

## **9. Human Resource Implications**

- 9.1 The draft policy formalises and makes public existing expectations and responsibilities, and as such should not change workload.
- 9.2 Monitoring the policy will create some additional work, however the suggestion is that this is an annual review using data from the complaints and compliments system.

## **10. Equality and Diversity Implications**

- 10.1 This report proposes introducing a Debt Recovery Policy to formalise and make public existing expectations and responsibilities around debt recovery. It does not propose changing any existing practices.
- 10.2 Creating clarity about an existing activity will benefit everyone including those with protected characteristics.
- 10.3 On the basis that we are not changing an activity and the benefits of the proposed policy will be positive for everyone, it has been concluded that the activity of creating this policy is not relevant to equality.

## **11. Climate Change/Sustainability Implications**

No such implications apply

## **12. Executive Advisory Board comments**

- 12.1 The EAB was asked:
- Should the Council adopt a Debt Recovery Policy
  - If they had any feedback on the draft 3 of the policy
- 12.2 The EAB agreed that it was a succinct, sensible and admirable policy.
- 12.3 Within this report they requested context within paragraph 4.4 of the number of tenants
- 12.4 They suggested the policy should include signposting to other advice providers. (included in draft 4 of the Debt Recovery Policy)
- 12.5 They felt that draft 3 of the Debt Recovery Policy put all the responsibility for identifying multiple debts onto the debtor, and questioned whether this was the case.

Officers clarified that they do ask customers about what they are spending their money on so that they can tease out where the debt is. That there is a balance between people taking personal responsibility and the Council supporting them to identify their priority debts and helping them to plan to get debt free. This in turn would help them feel better and ultimately ensure that they keep their home.



The conclusion was that the EAB recommended that the wording in the policy be reviewed, and a further sense check completed. (included in draft 4 of the Debt Recovery Policy)

- 12.6 If the policy is adopted the EAB asked for an “easy read” version to be made available. (Both the Web and Comms teams have confirmed that they can assist with this.)
- 12.7 Subject to the above comments the EAB support the policy and recommend that the Executive adopt it.

### **13. Summary of Options**

- 13.1 Doing nothing is an option as there is no evidence of the lack of a policy causing any problems.
- 13.2 Adopting a short, clear policy setting out both Council and Debtor responsibilities could however deliver some benefits:
- A consistent approach across the Council, and a way forward for any customers with multiple debts
  - Clarity for customers
  - A tool to help in the debt collection process.

This approach was supported by the Service Delivery EAB

### **14. Conclusion**

- 14.1 Whilst not adopting a policy is an option officers recommend that the Debt Recovery Policy (Draft 4) attached in Appendix 1 is adopted due to the benefits set out in 13.2.

### **15. Background Papers**

Equality Impact Assessment Debt Recovery Policy

Bournemouth Borough Council Corporate Debt Policy – January 2018

Chichester Corporate Debt Recovery Policy – as of October 2019

Oxford City Council Debt Management Policy – March 2015

Southend-on-Sea Borough Council Debt Collection and Recovery Policy – November 2017

Chichester Corporate Debt Recovery Policy – March 2020

Waverley Borough Council Income and Debt Collection Policy – April 2019

### **16. Appendices**

Appendix 1 - Proposed Debt Recovery Policy