

Corporate Debt Policy



**Brighton & Hove
City Council**

Update 2021

Contents

	Page
1. Introduction	1
2. Policy objectives	1
3. Structure of income collection and debt recovery	1
4. Function of the Corporate Debt Board	5
5. Links to corporate objectives	6
6. Best practice debt collection	6
7. Training	8
8. Enforcement agents	8
9. Fraud and evasion	9
10. Complaints and disputes	9
11. Use of data	10
12. Equalities Impact Assessment	10

1. Introduction

- 1.1 This policy details the council’s corporate approach to income collection and debt recovery. The delivery of this policy is overseen by the Corporate Debt Board, which has representatives from all income and debt collection services across the council.
- 1.2 The policy is aimed primarily at individual/household debtors (‘Personal Debt’) but wherever possible and where legislation allows, the principles and objectives of this policy will also be applied to businesses from all sectors (‘Business Debt’).

2. Policy objectives

- 2.1 The council has a duty to ensure that it collects income and recovers debt efficiently and effectively to ensure it fulfils its financial responsibilities to its citizens and maximises its capacity to provide local services.
- 2.2 The council must also meet legislative requirements in respect of income collection and has an obligation to collect on behalf of other organisations. The Police and Fire Authorities have dependency upon Council Tax collection, and Central Government and the Fire Authority retain a proportion of Business Rates income.
- 2.3 In collecting income and recovering debt, the council is committed to adhering to good practice. Good practice includes the recognition of fairness principles and that collection arrangements should be manageable and sustainable in the context of both the council’s duty to collect and a household’s individual circumstances.
- 2.4 Where possible, the council aims to proactively prevent debt arising or escalating, and will seek to keep citizens informed so that they are fully aware of their obligations to the council and are in a position to make good decisions that avoid additional costs and pressures. However, ultimately the council will, where appropriate, escalate recovery actions to recover hard to collect debt. When it does so, it will maintain its fairness principles while applying the correct legal options.

3. Structure of income collection and debt recovery

- 3.1 There are seven collection hubs in the council and Table A below shows those hubs and the legislation that determines their income collection, debt recovery and enforcement activities. The legislation listed is not necessarily exhaustive and the council will use any appropriate legal means to collect income or debt:

TABLE A : Collection hubs and legislation

Hub	Function	Type of debt	Main legislation
Council Tax	Council Tax income collection and associated court costs	Personal	The Council Tax (Administration and Enforcement) Regulations (1992)
Business Rates	National Non-Domestic Rates collection and associated court costs	Business	The Local Government Finance Act (1988)

Hub	Function	Type of debt	Main legislation
Benefits Overpayments	Housing Benefit Overpayments	Personal	Housing Benefit Regulations (2006) Social Security Administration Act (1992) Social Security (Overpayment and Recovery) Regulations (2013) Welfare Reform Act (2012)
Corporate Collection Team	<p>All service income and debt not collected by other hubs. Includes:</p> <p>Commercial property rents</p> <p>Adult Social Care charges</p> <p>Life Events charges</p> <p>Library service charges</p> <p>Planning and Building Control fees</p> <p>License fees</p> <p>Highways fees and fines (excludes Parking)</p> <p>Leaseholder, garage and other service charges</p> <p>Royal Pavilion, Museums and other venues charges</p> <p>Trading Standards and Environmental Health charges</p> <p>Educational facilities and lettings charges</p>	Personal and business	<p>Generally, recovery is determined by the Local Government (Miscellaneous Provisions) Act (1976). Some debt is also covered by specific legislation as stated below</p> <p>Commercial Rent and Arrears Recovery Act (2007)</p> <p>Care Act (2014)</p> <p>Licencing Gambling Act (2005)</p> <p>Fixed Penalty Notices - Section 444 of the Education Act (1996) or Section 106 of the Education Inspections Act (2006) - school fines</p>

Hub	Function	Type of debt	Main legislation
Housing Temporary Accommodation	Rental income collection and recharge debts	Personal	Rent Collection - Landlord and Tenant Act (1985)/Protection of Eviction Act (1977) Removal & storage - Sections 211/212, Part VII of Housing Act (1996)
Housing Management	Rental income, service charge collection and recharge debt	Personal	Housing Act (1985) Arrears & Escalation - Housing Act (1985 & 1986) complemented by Ministry of Justice Pre-Action Protocol for Social Landlords
Parking	Parking fine collection and associated court costs	Personal and business	Traffic Management Act (2004)

3.2 Positioned over these hubs is a Corporate Debt Team. The function of this team is to provide the analysis and support to the seven hubs to enable them to deliver optimum performance and best practice. It oversees the management of hard to collect debt, and coordinates the management of the debt portfolio and relationships with outside agencies and legal advisory services. Additionally, it is resourced to provide in-house debt collection campaigns to improve collection of escalated debt. Work prioritisation is overseen by the Corporate Debt Board. Table B shows the debt escalated to the Corporate Debt Team:

TABLE B : Debt escalation to the Corporate Debt Team

Source	Escalated function	Type of debt	Main legislation
Council Tax	Outstanding debt post liability order with no arrangement in place. Absconded debt at any stage of collection.	Personal	As stated in Table A, plus Taking Control of Goods Regulations (2013)
Business Rates	Outstanding debt post liability order with no arrangement in place. Absconded debt at any stage of collection Debt avoidance.	Business	
Benefits Overpayments	Absconded debt at any stage of collection Fraudulent and/or large debt.	Personal	
Corporate Collection Team	Absconded debt. Historical debt over 90 days.	Personal & business	
Housing Temporary Accommodation	Former tenant debt.	Personal	
Housing Management	Selective former tenant debt.	Personal	
Parking	Selective in-area escalated debt.	Personal & business	

The reference to debt in the above table is inclusive of any additional charges or court costs.

4. Function of the Corporate Debt Board

4.1 The Corporate Debt Board consists of senior representatives from all of the collection hubs and ensures a consistent approach to debt collection across the council. It delivers in line with four key principles, namely to:

- establish a proportionate, fair and effective end-to-end approach to debt management;
- use analytics to understand the debt portfolio and drive best practice for debt management;
- instil an ethos of fairness, built upon principles that recognise the impact debt collection has upon the vulnerable; and
- have a proportionate enforcement response to those who do not pay on time.

These principles are designed to ensure that while there is a financial imperative in debt collection, there is also a public sector responsibility to consider the whole picture and the potential impact of recovery and collection actions upon our citizens.

4.2 While the direct management of the hubs remains within services, the Corporate Debt Board has the primary requirement to:

- prioritise the work of the Corporate Debt Team;
- agree the financial recharging principles to support the work prioritisation;
- agree and support the service developments that align the council to best practice and the stated objectives of the Corporate Debt Policy;
- support services in restructuring to better deliver the objectives of the Corporate Debt Policy;
- develop, deliver and monitor a corporate approach to income collection enforcement;
- ensure a corporate training standard for staff undertaking debt recovery;
- oversee a cycle of continuous improvement reviews across debt recovery areas;
- embed demand management principles across debt recovery areas; and
- ensure the development of a digital framework that allows the continued improvement of corporate debt collection.

4.3 Additionally, the Corporate Debt Board ensures:

- the Corporate Debt Team and the collection hubs' procedures and associated debtor engagement activities provide debtors with the maximum opportunity to repay debts affordably while avoiding punitive additional charges, such as court costs or enforcement charges;
- services are responsible for their own financial management and have procedures to minimise debt caused by administrative delays or error;
- collection hubs operate workflows and procedures that maximise collection with proportionate and appropriate consideration and adjustment to account for individual circumstances of hardship;
- collection hubs work collaboratively in managing multiple debt; they have a holistic view of debt collection that considers the correct prioritisation of multiple debt, so that the council does not pursue collection to the detriment of its holistic aims in providing services to that household;*
- the Corporate Debt Team pursues evasion and avoidance of debt with appropriate

but proportionate vigour and assists government initiatives to prevent fraud and error, for example, the National Fraud Initiative (NFI);

- debt recovery performance is under constant review to identify opportunities to achieve efficiencies through improvements, such as sharing best practice, policy changes, process improvement, digital development, training and consolidating debt recovery functions;
- the priorities of the Corporate Debt Team align to strategic priorities;
- adherence to the Data Protection Act requirements for data sharing and information security across all income collection and debt recovery functions;
- the Corporate Debt Team and collection hubs properly employ government initiatives, such as Breathing Space, to give debtors appropriate opportunity to rationalise their debt;
- the council's approach to debt recovery co-ordinates with its welfare response to support the council's strategic aims in helping the city rapidly recover from the COVID-19 pandemic;
- all aspects of collection activity are compliant with the Equalities Act; and
- the welfare framework is effective in providing support for those in hardship or who are vulnerable.

* Parking debt/fixed penalty notices/debt incurred by way of fine is normally collected outside of this consideration where it relates to a legal penalty.

- 4.4 The Corporate Debt Board will review the Corporate Debt Policy annually to ensure it remains aligned to strategic priorities and if changes are required, will report to committee seeking approval for a revised policy.

5. Scheme of Delegation

- 5.1 Application of the Corporate Debt Policy will be in line with the delegated functions set out in the council's Scheme of Delegation to Officers.

6. Best practice debt collection

- 6.1 This policy aims to adopt fair debt collection and recovery practices, including the aspirations to:

- ensure each stage of debt collection or intervention is delivered at the earliest point to prevent the accumulation of arrears and added costs;
- ensure customers receive reminders and messages to keep them informed of their current debt status, and that these interventions are as effective as digital development allows;
- ensure that all debt is valid, accurate and only generated where due;
- ensure that bills are accurate, timely and clear, indicating available payment methods and customer support;
- provide appropriate and easy payment methods with good customer access and services to help prevent the incidence of arrears;
- provide access to contextual information so customers are clear on their responsibilities to make payment, the required timeframes to make payment, the consequences of not making a payment within the timeframe and what action to take, or advice to seek, if they have a difficulty in making a payment or dispute the amount being requested;

- make it easy for households or businesses who do fall into arrears to contact the council and agree to payment arrangements appropriate to their circumstances;
 - build in mechanisms within debt collection workflows to ensure that hardship or vulnerability is identified at the earliest possible stage and as a consequence, the customer has access to appropriate support and advice regarding benefit entitlement, budget management, Breathing Space provisions and welfare/health support;
 - filter, segment and prioritise escalated debt so appropriate action or support is put in place;
 - have a programme of training for all staff dealing with debt and income collection to ensure they understand the council's strategic approach, its fairness principles, have the skills to negotiate debt recovery, the understanding to recognise vulnerability and the knowledge to provide appropriate support or signpost for appropriate support;
 - oversee the whole debt portfolio to ensure that residual debt is actively managed, actions are proportionate and cost effective, and where appropriate, uncollectable debt is written off;
 - ensure any agencies acting on the council's behalf commit and adhere to the council's debt collection principles;
 - where specific and specialised legal action is required (bankruptcy, charging orders), there is a structured approach to risk-manage individual cases within a recognised framework of legal support and for this legal support to be developed in-house (Orbis Public Law) to minimise costs; and
 - where appropriate, commit the council to national standards of best practice.
- 6.2 The council is committed to maintaining best practice. To this end, the Corporate Debt Board will monitor the development of good practice in the field of income collection and debt recovery, and incorporate improvements into its strategies and procedures.
- 6.3 Specifically, the council is working with central government regarding the delivery of their Cross-government Debt Strategy and the input from its Fairness Sub-group. By aligning with a universal approach to public sector debt, the council will be providing a consistent approach to residents and businesses, and operating in a manner that is commensurate with an expansive model of debt collection, if that opportunity arises in the future.
- 6.4 The council will seek to comply with all nationally approved debt recovery pre-action protocols and where complementary to this policy, also seek to comply with best practice protocols. This will include the following (the list is not exhaustive):
- Collection of Council Tax Arrears Good Practice Protocol (Published by Citizens Advice, June 2017);
 - Stop the Knock (Published by the Money Advice Trust, September 2019);
 - National Standards for Enforcement Agents (Published by the Ministry of Justice, April 2014);
 - Code of Conduct and Good Practice Guide (Civil Enforcement Association (CIVEA), 2019);
 - Guidance for Firms on Fair Treatment of Vulnerable Customers (Financial Conduct Authority, July 2020);
 - Taking Control of Goods Regulations (2014); and
 - the Debt Respite Scheme (Breathing Space) Guidance for Creditors (wef 4 May 2021).

7. Training

- 7.1 The council is committed to training staff with the necessary skills to deliver this policy.
- 7.2 The council will seek to adopt or incorporate any programme of training that reflects any nationally approved debt recovery pre-action protocol or recognised best practice protocols, particularly in relation to the application of fairness and the recognition of vulnerability and hardship.
- 7.3 The Corporate Debt Board will set the programme of training.
- 7.4 The training programme will include cyclical refresher training to ensure standards are maintained.
- 7.5 The programme will include training in:
- negotiation;
 - recognition of vulnerability and mental health issues;
 - customer service;
 - equalities;
 - best practice;
 - personal safety for outside officers;
 - personal resilience; and
 - qualification based training for enforcement agents (subject to below).

8. Enforcement agents and ultimate enforcement measures

- 8.1 Best practice in collection emphasises the value of pre-enforcement actions and the diminishing use of invasive or punitive collection methods. This best practice is based upon achieving better overall outcomes in terms of debt ultimately collected and the impact of such measures in terms of stress and the longer-term welfare objectives of supporting households to have a platform of financial stability.
- 8.2 Therefore, the council's debt collection emphasis is moving to ensuring it exercises a full range of pre-enforcement engagement with debtors to establish affordable, sustainable repayment arrangements and avoids further escalation.
- 8.3 The council is committed to achieving this transition and therefore will:
- end the use of enforcement agent home visits to collect Council Tax debt in all but exceptional cases by 1 April 2022; and
 - aim to end the use of enforcement agent home visits to collect other council debt by 1 April 2023 in all but exceptional circumstances.
- 8.4 After the dates specified in 8.3, exceptional circumstances will be determined by the Corporate Debt Board after all other collection options have been exhausted.
- 8.5 The Corporate Debt Board oversees the council's activities in pursuing hard to collect debt. The Corporate Debt Team manages the portfolio of debt and is responsible for ensuring the portfolio is managed in accordance with the requirements of this policy.

8.6 When no other possible enforcement routes are available, the council will ensure that any enforcement agent activity (internal or external) meets the highest recognised industry standards of best practice. All service level agreements / contracts for enforcement agent services will reflect those standards. All enforcement agent services will be required to adhere to the standards of this policy. To ensure that the required standards are maintained, all agents/agencies will be required to:

- Adhere to the CIVEA Code of Practice and Ministry of Justice National Standards;
- have the appropriate certification under the Taking Control of Goods Regulations (2014);
- use body worn cameras in accordance with CIVEA code of practice;
- be trained to recognise vulnerability, ensuring that appropriate support is provided to vulnerable residents where identified and that the council is made aware of the circumstances.

8.7 The Council will end the use of committal proceedings against any resident for Council Tax debt from 1 April 2021 in all but the most exceptional of circumstances.

9. Fraud and evasion

9.1 The unlawful evasion of charges, taxation or fines reduces the financial resources available to the council and has a direct impact upon all residents, businesses and other organisations that rely upon council services.

9.2 Unlawful evasion or fraud to avoid payment will not be tolerated and where this is identified, the council will, in addition to taking action to enforce payment, seek to impose further penalties or sanctions. This may include prosecution for such offences.

9.3 Where this activity impacts upon other public bodies, such as HM Revenues & Customs and other authorities, the council will work with those organisations to seek legal remedy.

9.4 Where debts arise through evasion or fraud, the council will seek to recover payment in full as quickly as the law regarding the nature of the debt allows.

9.5 Where appropriate, the council will refer matters to the Police for criminal investigation. The council is also committed to fully supporting any investigation initiated by the Police, either in response to a referral or independently.

9.6 The council is fully committed to support the National Fraud Initiative (NFI) which uses data matching to identify potential fraud and error with referral to the Police or other crime investigation branches as appropriate.

10. Complaints and disputes

10.1 Any disputes raised regarding the application of this policy should, in the first instance, be raised with the relevant council service. In the event that the dispute cannot be resolved, then it shall be dealt with in accordance with the council's Complaints Procedure.

10.2 Any dispute regarding an individual debt will be dealt with in compliance to the legal requirement of the collection of that individual debt. Any such dispute will only stop the continuation of the recovery process or legal mechanism if it is appropriate in the context of the specific legislation.

11. Use of data

- 11.1 The council will collect and store personal data for the purposes of the effective billing, collection and recovery of sums due. Data retained for this purpose will be processed in accordance with the Data Protection Act 2018 and stored securely at all times. Data will be shared with agents or contractors appointed by the council for the purposes of the billing, collection and recovery of sums due. Data may also be shared within the council or with external organisations where the law allows and in particular, where it is in the interests of the debtor or where it will prevent fraud or the unlawful evasion of payment of sums due. Further details can be found on the [council's website](#).
- 11.2 The use of Body worn videos are compatible with GDPR regulations and the DPA 2019 if the data is collected in the correct manner, it is securely handled and stored and is not kept any longer than necessary. The use of Body Worn video by Enforcement Agents working on behalf of the council will be governed by a specific policy to ensure that the way it is used is lawful. A full data protection impact assessment will be undertaken, and privacy notices and retention schedules will be updated.

12. Equality Impact Assessment

- 12.1 The council has conducted an Equality Impact Assessment (EIA) in relation to the Corporate Debt Policy.
- 12.2 The EIA will be refreshed as part of the annual review of the Corporate Debt Policy.

