

## **Mid Devon District Council**

### **Corporate Recovery Policy**

<b>Contents</b>	<b>Description</b>
1	Purpose – Why is a policy required
2	Aims and Principles
3	Scope
4	Priority of Debt
5	Vulnerability
6	Methods of Payment
7	Payment Arrangements
8	Offsets
9	Write Offs
10	Performance Monitoring
11	GDPR
12	Operational Procedure
13	Complaints
14	Version Control

## **1. Purpose – Why is a policy required**

The Corporate Debt Policy identifies where responsibility for collection of different debts lies and sets out the principles and standards in relation to contact, recovery process, repayments and benefit / money advice.

Included in the policy is the provision of support mechanisms and practices to all customers. It details the approach to collecting debt at MDDC.

The policy sets the framework for a consistent and sensitive approach to collecting debt whilst at the same time ensuring that the Council continues to maximise income collection and arrears recovery performance.

## **2. Aims and Principles**

This policy aims to achieve a balance between the financial needs of MDDC and the needs of our customers by:

- Applying common repayment and debt management principles to all the debts that it has to collect; giving regard to the relevant legislation that governs the recovery of each type of debt.
- Applying common considerations and principles across all Council departments when assessing the customers' circumstances and ability to pay.
- Recovering debts by agreed arrangements that are realistic and sustainable or, where possible, by attachment to earnings or benefits in preference to the use of external agents.
- Recognising that households dependent on means tested income replacement benefits and / or with multiple debt problems may face particular problems and need extended repayment periods.
- Endeavouring, where multiple debts are owed to the Council, to agree payment arrangements on the principles of preventing further debt whilst allowing all debts to be repaid. In practice this may mean that current liabilities are paid whilst a smaller amount is agreed to clear older debts.
- Working in partnership with local advice agencies and signposting customers to advice and support agencies available to them and encourage self-help.
- Ensuring that both internal recovery officers and external agents contracted to the Council, work to the agreed Code of Conduct.
- Raising awareness of debt with customers and clearly identifying how much / how it has occurred and raise awareness of the implications of non-payment.
- Using the full range of collection remedies as appropriate if debts are not paid. The policy does not prejudice any legal action that the Council may need to take.
- Promoting ways to pay and support that is available to customers.
- Applying this policy to all departments and providing the same level of service at the initial enquiry stage. However, each department will apply its' own procedures and processes in recovery of the debt.
- Maximising income for the Council, including rent income due to the Housing Revenue Account for Council houses and garages to ensure that all Council Tax and rent payers' interests are protected.
- Achieving an equitable allocation of income available to pay across all Council debts.

- Achieving efficiency savings by identifying solutions for customers on debt issues at the first point of contact.
- Being 'firm but fair'.
- Being "preventative" by, for example, offering a wide range of convenient payment options and advice, such as budgeting, managing money and dealing with debt.
- Referring customers to the 'Customer Welfare Officer' to assist with 'financial vulnerability'.
- Helping, where possible, to maximise customer's income and increasing their ability to pay.
- Signposting customers to support agencies.
- Ensuring consistency of approach and high standards of service when dealing with customers.
- Sharing knowledge, information and expertise across the Council and other agencies whilst striving to comply with legislation such as the Data Protection Act, etc.
- Applying best practice in relation to debt collection.

### 3. Scope

This Policy applies to the collection of all income streams, including **(not restricted to)**:

- Council Tax
- Business Rates
- Housing Benefit Overpayments
- Sundry Income ( invoices raised for a variety of Council Services) also, Commercial Rent Arrears, Penalty Charge Notice's
- Council House Rents
- Commercial Rents
- All COVID19 support grant repayments

### 4. Priority of Debt

There are many types of debt, but those considered as "priority" debts are those that are owed to creditors who can take the strongest legal action against an individual who does not pay. To be clear it is not the size of the debt that makes it a priority but what creditors can do to recover their money; individuals are not always aware of the consequences of failure to pay.

The Council will look to raise awareness in this area with its customers. Officers must factor in other non-Council "priority" debts when giving consideration to a customer's ability to repay monies owed to the Council.

The procedures supporting this Policy will ensure that officers can effectively deal with repayments of debts.

Priority debts are listed below.

## Equal priority debts

The Policy identifies these as:

- Rent arrears – as they can result in eviction
- Mortgage arrears – as they can result in repossession
- Council Tax and Business Rates – as they can result in enforcement action, deductions from earnings/benefits (Council Tax only), bankruptcy or imprisonment
- Other secured loans – as they can result in the loss of a home

## Other priority debts:

- Utility debts – as they can result in disconnection
- Income Tax & VAT – as they can result in bankruptcy or imprisonment
- County Court Judgements – as they can result in enforcement agent action, Attachment of Earnings, Charging Order or bankruptcy
- Fines or Compensation – as these can result in imprisonment
- Hire Purchase – will be considered if, for example, it is for the purchase of a car needed to get the owner to work
- Benefit Overpayments – as they can result in deductions from benefits or earnings
- Maintenance or child support arrears– as they can result in enforcement agent action TV License?

## Non priority debts

Credit/Store cards, unsecured personal loans, bank overdrafts, credit/interest free/hire purchase agreements (other than above), catalogue debts and money borrowed from family and friends.

All income and arrears will be actively pursued in accordance with this policy, however, in instances where multiple debts exist due regard to the hierarchy of debt detailed above should be taken.

## 5. Vulnerability

The Council has created a **(protocol – this is being written)** this will be used to engage with our external stakeholders to deliver on our promise to help the vulnerable. Although not an exhaustive list for reference these stakeholders include Citizens Advice, Step Change, Christians against Poverty, Churches Housing Action Team (CHAT), Shelter and Navigate. The Council recognises that personal indebtedness and debt recovery action can potentially cause distress, particularly where the person has other debts or is on a low income. The Council will make every effort to support customers in managing their Council debts and will engage with relevant welfare and debt agencies where appropriate.

It sets out a strategy to increase the likelihood of successful collection without causing unreasonable distress.

MDDC also recognises Government programs such as 'Breathing Space'  
<https://www.gov.uk/government/news/breathing-space-to-help-millions-in-debt>

Draft Regulations: <https://www.legislation.gov.uk/ukdsi/2020/9780348209976/contents>

***“Government’s new breathing space period will freeze interest, fees and enforcement for people in problem debt, with further protections for those in mental health crisis treatment”***

MDDC will flex the policy in accordance with regulations, commercial considerations and local need, one size doesn’t fit all where vulnerability is concerned.

## Definition

A vulnerable person is a person who, by characteristics and/or circumstances, is unable to act or respond appropriately to the normal collection procedures, or for the same reason is unreasonably affected by them. The Council recognises that vulnerability can come in many forms and it can also be multi layered. Vulnerability can also be temporary, permanent or come in a series of episodes and anyone at any time could potentially be deemed vulnerable. The characteristics or circumstances that **may** lead to identifying a person as vulnerable are as follows:

This list of factors is not definitive and all of our customers’ circumstances must be taken into account.

• Carers
• Care Leavers
• Cognitive Impairment
• Debt Management where overall debts need to be managed
• Disability
• Financial poverty
• Learning difficulty (including literacy difficulties)
• Language difficulty
• Pregnancy
• Lone parents – with young children
• Medication
• Mental Health
• Physical health
• Possession proceedings
• Probation service involvement
• Recent bereavement
• Substance abuse
• Social Care services involvement
• Terminal illness
• Victim of abuse
• Victim of war
• Homelessness

This list of factors is not definitive and all of our customers’ circumstances will be taken into account.

## 6. Methods of Payment

The Council recognises that the easier it is to pay, the more likely it is that payment will be made and the less likely that debts will accrue. The Council's preference is for low cost payment methods and those that provide a high degree of accuracy and certainty, such as Direct Debit, internet banking, use of the Council's website and automated telephone payments.

To provide our customers with the greatest flexibility payment via **'Payzone'** facility is also offered.

The Council remains proactive in trying to "channel shift" customers, where possible, to encourage them to make payments that cost the least in transaction fees.

The Council no longer accepts payments by cheque.

## 7. Payment Arrangements

Although various scenarios may be encountered, in general terms, any arrears should be paid within a maximum of twelve months from when they were incurred. However, in many instances, officers will make informed decisions to spread the arrears over a longer period to aid repayments. It is Council policy that only in exceptional circumstances can an arrangement be made up to a maximum of six years. However, regulatory schemes such as **'breathing space'** payment plans may see up to a 10 year payback.

## 8. Offsets (credits)

In the interests of efficiency, the Council will offset any customer credit balances against other amounts they may owe, before providing a refund - any such arrangements will be undertaken in a fair and legal manner and with the customer's agreement wherever possible.

## 9. Write Offs

The Council recognises that a small proportion of its overall income may not be collectable due to matters beyond its control. Where a debt is assessed to be irrecoverable it will be subject to a write off process that is consistent with recognised accounting practices. The Council will seek to minimise the cost of write offs by taking all appropriate action to recover all amounts due.

Income deemed irrecoverable must satisfy one of the pre-determined criteria including but not restricted to:

- the customer has died and there are no or insufficient funds in the estate
- the customer cannot be traced
- it is uneconomical to pursue the debt
- the income is uncollectable due to bankruptcy/insolvency
- all recovery methods have been exhausted
- it is not in the public interest to pursue e.g. at risk and vulnerable service users
- the debt is prescribed under the Limitation Act 1980

All write offs will be carried out in accordance with the relevant provisions contained within the Council's Financial Regulations.

It should be noted that just because a debt is written off it does not rule out the possibility of writing the debt back and pursuing it to the full extent of the law. Examples of this may occur is if a debtor absconds with no forwarding address but is subsequently traced or when an individual/company goes bankrupt or is made insolvent, when partial/full dividend(s) can be received many years later and the payments written back onto the account.

Where a cash credit is showing on an account and the Authority is unable to refund or transfer, the Authority will write the value back on returning the account to zero. These accounts would have to be in credit for a period greater than 13 months before this housekeeping takes place.

## **10. Performance Monitoring**

The Council recognises that prompt recovery action is essential for effective debt management. The Council will:

- seek to maximise income generation and maximise income received by the due date
- regularly monitor the level and age of its debt
- set clear targets for the recovery of debt
- have clearly documented recovery procedures
- assess recovery methods to ensure maximum returns
- regularly review irrecoverable debts for write off

To ensure the Council achieves its objectives a range of high level indicators have been developed to monitor performance. Key indicators include:

- In year collection targets - Council Tax and Business Rates
- All years collection - Housing Benefit Overpayments
- Top 20 outstanding Sundry Debts progress report
- Old Sundry Debt (frozen at 31 March) targeted reduction in following financial year
- Housing Income Collection Rates, responsive maintenance, housing voids and tenant satisfaction

The Council recognises that failure to achieve income and collection targets will have financial and service consequences. Performance will be reviewed on a quarterly basis by the Business Intelligence and Performance Manager, liaising as appropriate with other relevant staff, and this information will be reported as part of the Council's wider performance updates to the Leadership Team, Corporate Managers, Group Managers & Members as required.

Where an external enforcement agency assists in the Council's collection it will also be required to produce detailed performance and management information on a regular basis. Mid Devon Council is part of a "framework" agreement consisting of three companies to aid collection of all debts.

## 11. Confidentiality

We will use the personal information and financial details you give us, and any supporting evidence you send us, to process your claims for example for, Housing Benefit, Council Tax Reduction, Discretionary Housing Payments and any other local award or reduction that you might be eligible for that the local authority is responsible for administering.

We will also use the information to provide you with any money advice and support needs that you may have.

We may pass the information to other agencies or organisations such as the Department for Work and Pensions and the Inland Revenue, HMRC as allowed by law. The authority is under a duty to protect the public funds it administers, and to this end we may use the information you have provided for the prevention and detection of fraud. We may also share information with other bodies responsible for auditing or administering public funds for these purposes. We may check information you have provided, or information about you someone else has provided, with other information held by us.

We may also collect data or information about you from certain third parties, or give them information to:

- Make sure the information is accurate
- Protect public funds
- Prevent or detect fraud and any other crime
- Support National Fraud initiatives
- Provide money advice and support

These third parties include government departments, local authorities and private-sector companies, including creditors, credit reference agencies and other organisations such as banks and financial institutions that may lend you money. We will not give information about you to anyone else, or use information about you for other purposes, unless the law allows us to in accordance with our data protection obligations and in observance of the requirements of the Data Protection Act/GDPR 2018.

The Council will ensure that all information about a customer's personal and/or financial circumstances is secure and dealt with in the strictest confidence.

## 12. Operational Procedures / Enforcement Remedies

The Council will ensure that processes around income and arrears management are robust and the most effective collection remedy is used.

Financial decisions will be made by identified officers and agreed by the s151 Officer as required. These arrangements will be clearly detailed in Financial Procedures/Rules, and operational procedures and guidance.

Enforcement Remedies such as those listed below may be applied in the collection of arrears:

- Magistrates Court, Liability Orders
- County Court, CCJ
- High Court, Insolvency

- High Court, Enforcement
- CRAR – Commercial Rent Collection / Forfeiture
- PCN – Warrants of Execution

Other:

- Attachment of Earnings
- Attachment of Benefits
- Enforcement Agents
- Charging Orders/ Forced Sale
- Committal to Prison
- Special Arrangements

The following table sets out the various collection pathways for the major debt streams within the Council's debt portfolio, however it should be noted that the Council operates many of its recovery pathways in co-operation with private and public sector partners to rationalise services and achieve efficiency.

As such the Council retains the option to utilise collection and enforcement agents from both the private sector and the courts to carry out associated or appropriate enforcement actions on behalf of the Council to prevent or mitigate the need to escalate debts along the collection pathway shown below.

## ENFORCEMENT REMEDIES BY DEBT TYPE

Type of Debt	Charging Method	Default Collection Pathway	Appeals	Final Collection Persistent/deliberate Defaulters
Council Tax	Bill	Magistrates Court	Banding VOA Liability Magistrates Court Internal MDDC Review Valuation Tribunal	Special Arrangements Attachment of Benefits Attachment of Earnings Enforcement Agents ( Bailiff) Insolvency Charging Order Committal
Business Rates	Bill	Magistrates Court Court of Suitable Jurisdiction	Rateable Value VOA Liability Magistrates Court Internal MDDC Review Valuation Tribunal	Special Arrangement Enforcement Agents ( Bailiff) Insolvency Charging Order Committal CCJ
Sundry Debt	Invoice	County Court	Internal MDDC Review District Judge	CCJ Garnishee Order High Court Enforcement Winding Up Order Charging Order Attachment of Earnings
Parking Penalties	Penalty Notice	County Court	Internal MDDC Review District Judge	CCJ Garnishee Order High Court Enforcement Winding Up Order Charging Order Attachment of Earnings
Housing Rents	Annual Notification of weekly charge	County Court	Internal MDDC Review District Judge	Possession and Eviction
Housing Benefit Overpayments	Invoice	County Court	Internal MDDC Review District Judge	CCJ Garnishee Order High Court Enforcement Winding Up Order Charging Order Attachment of Earnings
Commercial Rents	Periodical Invoice	County or High Court	By application to Court/Judge	Possession and Eviction CRAR Statutory Procedures
Environmental Crime fixed penalties	Penalty Notice	Magistrates Court	Direct to Magistrates	Fine and/or Committal
Housing Rechargeable Rent Repairs	Invoice	County Court	Internal MDDC Review District Judge	CCJ Garnishee Order High Court Enforcement Winding Up Order Charging Order Attachment of Earnings

### **13. Complaints**

The Council will endeavour to resolve problems in relation to income and arrears collection at an early stage, in an informal manner.

If it is not possible to resolve problems this way then customers who are still dissatisfied will be advised of the formal Corporate Complaint Procedure

### **14. Review and Version Control**

The Policy will be reviewed at least every **2 years** by an Appropriate Officer. The review will take account of changes in legislation, service improvements, regulations and wider policy initiatives. Any proposed changes will be discussed with appropriate stakeholders and updated in line with related policies.

Delegated authority has been given to the S151 Officer, in consultation with the relevant Portfolio Holder, to make minor revisions including changes as a result of organisational management arrangements such as changes to named posts within the Policy.

The approved policy will be held centrally on the Council's Website and Share point site and be subject to version control to record its approval, monitor revisions under delegation and schedule a full review date.

### **Supporting Procedural Documentation**

These will supplement this policy – **revised processes will be developed overtime** to make sure they are effective and follow best practice.

Descriptions may change

- Vulnerability Policy/Protocol
- EIA?
- Council Tax & Business Rates Recovery Strategy
- Housing Benefit Overpayments
- Sundry Income
- Housing (HRA) Recovery
- EA Framework Agreement ?
- Commercial Rent Arrears
- COVID19 Support Grants