

Report to CABINET

Debt Recovery Policies

Portfolio Holder:

Councillor Abdul Jabbar MBE, Cabinet Member for Value for Money & Sustainability

Officer Contact: Sarah Johnston, Director of Finance

Report Author: Adam Parsey, Exchequer Client Manager (Revenues)

19 August 2024

Reason for Decision

This report seeks approval to adopt the proposed Corporate Debt Policy and Debt Recovery policy for Adult Social Care Debt.

Executive Summary

The collection of Council Tax and Non-Domestic Rates (also known business rates) is a statutory responsibility of Oldham Council. The collection of sundry debts and commercial rent arrears, whilst not a statutory responsibility, are however imperative to maintaining and maximising the Council's revenue stream.

In undertaking income and debt recovery it is inevitable that the Council will be required to pursue the recovery of arrears from residents and businesses that may have trouble in paying. This policy aims to set out how the Council manages and collects debts to ensure consistency and best practice in such situations.

The purpose of the proposed Debt Recovery policies is to establish:

- The best practice principles for charging our residents and businesses and the methods of payment we will use.
- How the Council will deal with debt, should problems arise in collection.

The proposed policies apply to all debt and income due to the Council excluding Parking fines.

Recommendations

It is recommended that Cabinet approve the proposed Debt Recovery Policies.

Debt Recovery Policies

1 Background

- 1.1 The Council is committed to achieving the prompt collection of all sums of money it is due, while ensuring that a fair, proportionate, and consistent approach using the most effective recovery methods available is taken to the recovery of sums that are not paid when due.
- 1.2 Where a debt arises, and where all other reasonable avenues for recovery have first been exhausted, the Council will follow the appropriate legislative process to recover the debt owed.
- 1.3 The proposed policies provide guidance to Officers and transparency to residents and businesses regarding the recovery of monies owed to the Council.
- 1.4 The recovery of debts from those who are receiving care and support is a sensitive issue. As such it is proposed that a separate policy relating to debts accrued for those receiving care and support should be implemented given the potentially vulnerable nature of the client group.

2 Current Position

- 2.1 The current Corporate Fair Debt Policy was agreed by Cabinet in November 2010, and is no longer suitable to provide guidance to Officers for the following reasons:
 - Residents and businesses have disposable income due to significant economic events have occurred since the introduction of the policy such as the abolishment of Council Tax benefit, Welfare Reform, Covid-19 Pandemic and the increased cost of living.
 - Changes in legislation that effect the process in which debts can be collected.
 - New methods of contact and payment.
 - Availability of new technology.
- 2.2 There is currently no separate policy to cover the administration and collection of debts accrued for those receiving care.
- 2.3 The Council is increasingly receiving requests from the public to provide its debt recovery policies. As set out in section 2.1, the current Corporate Fair Debt Policy is not fit for purpose. This means Officers have had to dedicate time to explaining legislative recovery processes to provide a meaningful response to these requests.

3 Options/Alternatives

3.1 **Option 1 Approve the Corporate Debt Policy and Debt Recovery policy for Adult Social Care Debt.**

This would ensure transparent up to date guidance for Officers, residents and local businesses, and a separate transparent guidance relating to adult social care debt.

3.2 **Option 2 Do Nothing**

The Council would continue to use legislative processes to pursue arrears owed to the Council. However, as the current Corporate Fair Debt Policy is not fit for purpose, Officers would still be required to provide substantial additional context to residents and businesses.

4 **Preferred Option**

4.1 The preferred option is **Option 1**. This is recommended on the following basis:

- Approve the Corporate Debt Policy and Debt Recovery policy for Adult Social Care Debt.

5 **Consultation**

5.1 Feedback has been obtained from Officers within the Council responsible for the recovery of debt, and administration of Adult Social care.

6 **Financial Implications**

6.1 The preferred option as detailed in paragraph 4.1 is to approve the Council's Corporate Debt Policy and Debt Recovery policy for Adult Social Care Debt.

6.2 There are no direct financial implications associated with approving either policy, however, it will enable the Council to have more control of its debt collection processes.

Both policies have been written to provide clear guidelines to residents and officers on how the Council will carry out its debt collections duties.

6.3 Corporate Debt Policy

The Corporate Debt policy provides guidelines for the Collection of Non-Domestic Rates, Council Tax, Overpaid Housing Benefit, and Sundry Debts.

6.4 Adult Social Care Debt Recovery Policy.

This policy sets out the Council's approach to carrying out its function of the collection of Adult Social Care debt.

The new policy sets out clear guidelines and timeframes for residents to respond to any arrears accrued. These guidelines can be found between paragraphs 5.5 and 5.12 of the attached policy.

(Matthew Kearns – Finance Manager)

7 **Legal Implications**

7.1 It is vital that the Council have an up to date, proportionate and reasonable debt recovery policy. Failure to have a fit for purpose policy could leave the Council open to legal challenge as it will not be operating within its own policy framework.

7.2 The further benefit of having an accurate policy is that it not only assists officers in the debt collection process, which is a vital function, but also shows a considered and transparent approach to members of the public that the Council operates in a fair and equitable manner. (Alex Bougatef – Interim Assistant Director of Legal Services)

8 **Equality Impact, including implications for Children and Young People.**

8.1 The Equality Impact Assessment is set out at Appendix 3.

9 **Key Decision**

9.1 Yes

10 **Key Decision Reference**

10.1 FCR-08-24

11 **Background Papers**

11.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref: Background papers are included at Appendix 1, and 2

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12 **Appendices**

12.1 Appendix 1 – Corporate Debt Policy
Appendix 2 – Debt Recovery Policy for Adult Social Care debt
Appendix 3 - Equality Impact Assessment

Corporate Debt Policy

Guidelines for the Collection of Non-Domestic Rates, Council Tax, Overpaid Housing Benefit, and Sundry Debts

August 2024

1 Introduction and Scope

- 1.1 This policy sets out the Council's approach to carrying out its function of the collection of debt and income due as detailed in 1.5.
- 1.2 Effective financial management is fundamental to being able to fund the services the Council provides. The most effective method of debt collection is the prevention of debt arrears, and this policy covers both prevention and recovery.
- 1.3 The Council is committed to achieving the prompt collection of all sums of money it is due, while ensuring that a fair, proportionate, and consistent approach using the most effective recovery methods available is taken to the recovery of sums that are not paid when due.
- 1.4 The Key Principles of the Policy are:
- **Collection of all money due** quickly, efficiently, and economically taking into account the financial circumstances and mental capacity of the individual.
 - **Prevention of debt arrears** by prompt and accurate billing and collection of money due, affordable repayment plans and early intervention when a customer is in arrears.
 - **Provision of a legal framework** to enable legal enforcement where necessary to recover debts.
 - **Compliance** with the Council's Constitution and Financial Procedure Rules.
- 1.5 This policy applies to all debt and income due to the Council excluding Adult Social Care debt. The Adult Social Care Debt Recovery Policy covers the collection and recovery of adult social care debt.
- 1.6 The Council's framework for achieving a fair, proportionate, and consistent approach is based on the following:

Fairness

The Council will treat all debtors fairly and, where appropriate, it will agree a repayment timetable to assist debtors in adverse financial circumstances. The Council will promote the use of qualified free debt advisory services such as the Citizen's Advice Bureau (CAB), National Debtline, Money Advice Service, and AdviceUK to assist debtors in managing their financial affairs. The Council will advise individual debtors as to whether they are maximising their benefit entitlement/income or make a referral to the Welfare Rights Service who may be able to provide additional support.

Openness

The Council will seek to prevent debt accruing by making prompt contact with debtors whenever an amount owed falls into arrears and advising them of options for repayment (considering their individual circumstances), and fully explain the consequences of non-engagement or failing to follow any advice given.

Responsibility

Every debtor has an obligation to repay the debt owed so that it does not impact on the Council's ability to provide future services. Those who pay promptly should not subsidise those who are not prepared to pay what they owe. There will be a clear distinction in the action to be taken between those debtors suffering genuine financial hardship and those who appear to be reluctant to pay. This distinction is reflected in the actions which will be taken to recover the debts owed, and the discretionary policies agreed by Council to assist those experiencing financial difficulties.

Working Together

Where follow up procedures identify that a debtor is experiencing genuine hardship, the Council will encourage the individual to work in partnership with qualified free to use debt advisors such as the Citizen's Advice Bureau (CAB), National Debtline, Money Advice Service, and AdviceUK so that the debts can be repaid in an appropriate way.

Accountability

The Council aims for the prompt collection of all debt due from customers, organisations, and individuals to protect the provision of its services. It is key, therefore, to maximise income collection and minimise the number and size of bad debts owed to the Council, whilst also ensuring that residents are maximising their own entitlement to any benefits, discounts or exemptions.

Respect

Council staff, representatives of the Council including Enforcement Agents, and staff of the Council's key partners, will always treat debtors with courtesy and respect. Enforcement Agents will conduct business in accordance with the recognised National Standards published by the Ministry of Justice. Enforcement Agents contracted to work for the Council must be voluntarily affiliated to the Enforcement Conduct Board (ECB), as the nationally recognised voluntary oversight body.

Democracy

The Council will publicise this agreed policy on its website. It will respond promptly to any concerns raised by residents, Elected Members, and partner organisations.

2 Legal Framework

2.1 This Corporate Debt Policy promotes and supports proper and equitable debt management processes for all major sources of income owed to the Council and to ensure the Council minimises debt and maximises rates of collection.

2.2 Council has a duty to ensure that all collection processes comply with relevant legislation, which includes but is not limited, to the following:

- Administration of Estates Act 1925
- Charging Orders Act 1979
- Civil Procedure Act 1997
- County Courts Act 1984
- Insolvency Act 1986
- Landlord and Tenant Act 1954
- Landlord and Tenant Act 1985
- Late Payment of Commercial Debts (Interest) Act 1998

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- Local Government Act 2003
 - Local Government Finance Act 1988 (as amended)
 - Local Government Finance Act 1992 (as amended)
 - Magistrates' Court Act 1980
 - Social Security Administration Act 1992
 - The Taking Control of Goods (Fees) Regulations 2014
 - The Tribunals, Court and Enforcement Act 2007
 - Taking Control of Goods (National Standards) 2014
 - Taking Control of Goods Regulations 2013
 - The Civil Procedure Rules 1998
 - The Council Tax (Administration and Enforcement) Regulations 1992
 - The Equality Act 2010
 - The Late Payment of Commercial Debts Regulations 2013
 - The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989

3 Principles for Debt Recovery

- 3.1 The Council has both a statutory duty and a responsibility to the people of Oldham to ensure effective income management and that the income due to the Council is paid promptly to support the delivery of essential services.
- 3.2 Where a debt arises, and where all other reasonable avenues for recovery have first been exhausted, the Council will follow the appropriate legislative process to recover the debt owed.
- 3.3 The Council is aware that there could be a variety of reasons why a debt has not been paid and the Council will always consider whether it is appropriate to take steps to recover the debt, considering both individual circumstances and any potential additional cost to local taxpayers.
- 3.4 The Council will also bear in mind that it is bound by the public law principle of always acting reasonably and must act in accordance with human rights legislation.
- 3.5 Debt recovery is the responsibility of all officers involved in the process, and the following principles must be borne in mind when approaching the recovery of debts:
 - Prompt and accurate billing
 - Clear and accurate communication
 - Consideration of individual circumstances, particularly in relation to vulnerability, financial resilience, and mental capacity.
 - Early Intervention and repayment plans based on ability to pay.
 - Disputes and queries dealt with promptly to avoid the accumulation of outstanding balances.
 - Signposting to qualified free to use debt advisors such as the Citizen's Advice Bureau (CAB), National Debtline, Money Advice Service, and AdviceUK.

4 Debt Recovery Process

- 4.1 Bills and invoices must be sent to the correct liable party with the correct address, including a postcode, with charges applied in accordance with the specific legislative requirements and, where feasible, the identification of any available entitlement to reliefs, exemptions, and discounts before the issue of the bill/invoice.

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- 4.2 The Council will produce bills/invoices in plain English, clearly showing the debt and the period of liability where applicable, detailing the amount due and, where appropriate, the instalment amounts and payment due dates. Bills and Invoices will make clear where and how to make a payment.
- 4.3 It is important that clear and prompt information is provided, and a range of communication services are available to customers upon request, including:
- Translation and interpretation services if English is not the first language.
 - Documents in alternative formats, for example Easy Read, Braille, large print, and audio.
 - Other options tailored to meet specific individual needs.
- 4.4 Bills and Invoices should be raised in line with statutory requirements, within 10 working days of delivering the goods or service, or of the commencement of the period where the service being delivered is covered. The bill/invoice will be sent via email wherever possible and to this end the relevant service is responsible for obtaining an email address at the point of agreeing to provide goods or services.

5 Method of Payment

- 5.1 The Council is committed to offering a range of flexible, convenient, and modern payment methods.
- 5.2 Where possible, Services should obtain payment in advance for the provision of goods and services, negating the need for a bill/invoice to be raised. Acknowledgements of the payment received will of course be provided.
- 5.3 The Council will use the most effective billing methodology such as periodic invoicing where appropriate.
- 5.4 Direct Debit is the Council's preferred payment method and will be actively promoted.

6 Collection and Recovery

- 6.1 Customers are proactively encouraged to make contact to discuss their situation and the options available to them to assist them to make payment before any necessary recovery or enforcement action is taken.
- 6.2 Customers will receive appropriate assistance, guidance and support through debt management and benefit advice. We will ensure that mutually agreed repayment arrangements are affordable and sustainable, and, that the customer understands the options available that will minimise costs and avoid unnecessary debt in the future.
- 6.3 The statutory recovery process for each type of debt covered by this policy is shown in Appendix 1. However, the Council reserves the right to add additional steps to any process to assist the customer on a case-by-case basis.
- 6.4 In some instances, customers will owe more than one debt to the Council. All debts will be taken into consideration when deciding on the most appropriate recovery action, and when making payment arrangements.

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- 6.5 The Council will always seek to make a suitable and mutually agreeable payment arrangement with customers. However, if this is not achievable will consider each statutory recovery method available regarding the enforcement of unpaid debt and document its decision-making process in each case.
- 6.6 The Council will use Enforcement Agents to collect debts only where there has been no engagement from the customer and where alternative recovery options have either not been successful or are not appropriate, and there is no indication of any vulnerability that would impact upon their ability to pay the debt.
- 6.8 The Council will monitor the use of Enforcements Agents closely to ensure compliance with our standards. Enforcement Agents should be able to quickly identify vulnerability, notifying the Council who will then consider whether the case should be recalled, along with relevant information that can be used to tailor subsequent recovery.
- 6.9 Not all cases identified as vulnerable will necessarily be recalled from Enforcement Agents. However, they must be dealt with by the Enforcement Agents trained Welfare staff once identified and accepted as vulnerable.
- 6.10 The Revenues Service will be the Council's point of contact for Breathing Space notifications under the Debt Respite scheme. Services will be required to undertake a search for any additional debts not listed and provide details to the Revenues Service. The full legislation and guidance can be found using the following links:
- Debt Respite Scheme (Breathing Space) guidance for creditors - GOV.UK (www.gov.uk)
 - Debt respite scheme (breathing space): Guidance on mental health crisis breathing space - GOV.UK (www.gov.uk).
- 6.11 Any member of staff, Elected Member or contractor who has an interest in any debt must not participate in the decision-making process regarding collection and recovery of that debt and must declare their interest.

For the purposes of this policy an interest includes those in the following list, however, the list is not intended to be exhaustive and where there is uncertainty as to whether there is an applicable interest, advice should be sought from a line manager or Internal Audit.

Examples of where an interest might occur is where the debt is owed by:

- a relative, including relatives by marriage;
- a relative of a current or former partner;
- a friend or neighbour.
- an organisation of which they are a member;
- an organisation in which a relative has membership; and
- a company or individual with which there is a business relationship.

This does not apply in the case of Elected Members, who, in the normal course of discharging their duty to represent their constituents on a wide range of matters, are required to discuss specific cases subject to the relevant constituent consent.

7 Refunds

- 7.1 The Council will not automatically refund any overpaid monies where the customer owes other monies to the Council but will seek to offset that amount against amounts owed. When a customer is also a supplier to the Council, the Council retains the right to offset any overdue debts against any monies owed to the supplier. All supplier contracts should include a clause clarifying this right to offset.

8 Writing Off Outstanding Debt

- 8.1 In certain circumstances a debt may need to be written off as irrecoverable. The circumstances leading to a recommendation for write off may include (but is not an exhaustive list) where the:
- Customer has died and there are no funds available in the estate.
 - Debt is too old to recover i.e., Statute barred
 - Balance is small, and the recovery costs would make the debt uneconomical to pursue.
 - Customer is experiencing severe financial hardship.
 - Individual (or the company) has become insolvent.
- 8.2 The Revenues Manager and the Invoice and Debt Recovery Manager are responsible for identifying suitable debts for write off. Recommendations for write-offs will be submitted at the end of each quarter of the financial year.
- 8.3 The Council's Exchequer Client team are responsible for reviewing recommendations for write-off and requesting authorisation from the delegated responsible Officers as set out in the Councils Constitution.
- 8.4 Before a write-off is considered, a detailed rationale should be prepared explaining the recommendation for the write-off. The decision to request a write off of a debt should be taken by an officer that has not previously been involved in a review of the case. However, in the case of individual debts less than £100, write-off can be approved by the Revenues Manager or the Invoice and Debt Recovery Manager.
- 8.5 The write-off of individual debts of over £100 and up to £5,000 can be approved by the Assistant Director, Revenues and Benefits.
- 8.6 The write-off of individual debts of over £5,000 and up to £10,000, can be approved by the Director of Finance.
- 8.7 Where an individual debt is over £10,000 and up to £30,000, write-off can be approved by the Cabinet Member with responsibility for Finance in consultation with the Director of Finance.
- 8.8 In the case of all individual debts over £30,000, the write-off must be approved by Cabinet.
- 8.9 A report will be provided on a quarterly basis to the Director of Finance detailing all debts approved or recommended for write-off by authorised Officers. The report will include the amount, debtor details and the rationale for the write-off.

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- 8.10 The reasons for write-offs will be reviewed on a quarterly basis to inform improvements in practice, policy and procedures which may prevent further instances of write-off if the same set of circumstances should arise in the future.

9 Policy Review

- 9.1 The Council reserves the right to review and revise the policy at any time due to information gained through operating the policy, or a change in legislation. The policy will, however, be reviewed at least on an annual basis.
- 9.2 The Cabinet Member responsible for Finance in conjunction with the Director of Finance are authorised to agree any revisions to the policy.

Appendix A – Statutory Debt Recovery Overview by Debt Type

Debt Type	Notification	Reminders	Final Notice/Demand	Summons	Recovery Options (following granting of a court order)
Sundry Debt	Invoice	The first reminder issued within 21 calendar days of the date of the invoice	The second reminder issued within 14 calendar days following the first reminder	County Court	<ul style="list-style-type: none"> • Information Order / Arrangement • Charging Order / Order for Sale • Enforcement Agent • High Court Enforcement Officer • Insolvency action • Attachment to Earnings • Third Party Debt Order • Withdrawal of service • Late payment fees • Interest due to late payment
Council Tax	Bill	Reminder Issued if payment not received by instalment date. A Maximum of two reminders will be issued.	Only if sums due following a first or second reminder have been paid but a subsequent instalment is missed. Otherwise not issued	Magistrates Court	<ul style="list-style-type: none"> • Attachment to Earnings or Attachment to Benefit • Attachment to Members Allowances • Enforcement Agent • Commitment to Prison • Insolvency action
Business Rates	Bill	Reminder Issued if payment not received by instalment date. A Maximum of two reminders will be issued.	Only if sums due following a first or second reminder have been paid but a subsequent instalment is missed. Otherwise not issued.	Magistrates Court	<ul style="list-style-type: none"> • Security for Unpaid Rates • Enforcement Agent • Commitment to Prison • Insolvency action • Information Order /Arrangement • Enforcement Agent • High Court Enforcement Officer • Attachment to Earnings • Third Party Debt Order
Housing Benefit Overpayment	Invoice (if unable to deduct from ongoing Housing Benefit Entitlement)	Reminder Issued if invoice not paid within 35 days or if the debtor has not contacted to agree an arrangement or lodged an appeal.	Second reminder issued 14 days after first reminder, and a final notice 7 days after the seconds	County Court	<ul style="list-style-type: none"> • Information Order / Arrangement • Charging Order / Order for Sale • Collection / Enforcement Agent • High Court Enforcement Officer • Insolvency • Attachment to Earnings • Third Party Debt Order • Deductions from Welfare Benefits

Adult Social Care Debt Recovery Policy

August 2024

1 Introduction and Scope

- 1.1 This policy sets out the Council's approach to carrying out its function of the collection of Adult Social Care debt.
- 1.2 Effective financial management is fundamental to being able to fund the services the Council provides. The most effective method of debt collection is the prevention of debt arrears, and this policy covers both prevention and recovery.
- 1.3 The Council is committed to achieving the prompt collection of all sums of money it is due, while ensuring that a fair, proportionate, and consistent approach using the most effective recovery methods available is taken to the recovery of sums that are not paid when due.
- 1.4 The Key Principles of the Policy are
 - **Collection of all money due** to the Council quickly, efficiently, and economically taking into account the financial circumstances and mental capacity of the individual.
 - **Prevention of debt arrears** by prompt and accurate billing and collection of money due, affordable repayment plans and early intervention when a client is in arrears.
 - **Provision of a legal framework** to enable legal enforcement where necessary to recover debts.
 - **Compliance** with the Council's Constitution and Financial Procedure Rules

This Policy is also supported by the Council's Community Health and Social Care Service, Social Care Policy (Adults) which is available at [**ASC Policy**](#); alongside operational procedures for staff within the Council.

2 Legal Framework

- 2.1 There are multiple pieces of legislation, regulations and guidance that impact on the way we approach social care. These are briefly outlined below.

The Care Act 2014

The Care Act 2014 places duties and responsibilities on Local Authorities regarding the care and support of adults.

Under the Care Act, as a Local Authority, we have a duty to those who live in our area to ensure that:

- People receive services that prevent a deterioration in their needs;
- People have access to information and advice to ensure they make informed decisions regarding their care and support; and
- We have high quality services in the area that can provide people with services to meet their needs.

The Care and Support (Eligibility Criteria) Regulations 2014

The national eligibility criteria set a minimum threshold for adult care and support and carer support. All Local Authorities must, at a minimum, meet needs at this level.

The Care and Support (Charging and Assessment of Resources) Regulations 2014

This outlines what the Local Authority needs to consider when assessing the financial resources of an individual to establish how much they can pay towards the cost of meeting their care needs.

The Mental Capacity Act (MCA) 2005

Under section 1(2) of the Mental Capacity Act 2005, all clients will be assumed to have capacity, and able to make relevant decisions for themselves unless it has been established, by assessment, that they lack capacity. In addition, under section 1(3) all practical steps ought to be taken to ensure that a client is supported to make their own decisions.

If a client is assessed as lacking capacity in relation to decisions regarding their property and financial affairs it is important that their representative is involved in those decisions.

3 Financial Assessments

3.1 Information on Financial Assessments can be accessed via the links below:

[Non-Residential Charging Policy](#)

[Residential Charging Policy](#)

[Deferred payment policy](#)

[Third Party 'Top Up' Policy](#)

4 Principles for Debt Recovery

4.1 Where a debt arises, and where all other reasonable avenues for recovery have first been exhausted, the Council may wish to proceed to the County Court to recover the debt owed. The individual should be given an opportunity to engage with the Council in mediation or other suitable alternative dispute resolution processes to discuss payment of the debt prior to the commencement of proceedings.

4.2 The recovery of debt from those who are receiving care and support is a sensitive issue given the potential vulnerability of the client group and the Council's ultimate responsibility to meet needs under the Care Act 2014.

4.3 The Council is aware that there could be a variety of reasons why the client has not paid their assessed charge and the Council should always consider whether it is appropriate to take steps to recover the debt, even though it has the power to do so. It may be that in some cases a debt may have accrued because of a service user's diminishing or lack

of mental capacity. In such cases, the Council may need to involve the social work team.

- 4.4 The Council will also bear in mind that it is bound by the public law principle of always acting reasonably and must act in accordance with human rights legislation, as well as the wellbeing principle set out in section 1 of the Care Act 2014.
- 4.5 It is important that court proceedings are only considered after all other reasonable avenues to obtain payment of the debt have been exhausted. If a claim does end up in court, it is likely that the court will consider the efforts made to resolve the debt without the need for proceedings.
- 4.6 Debt recovery is the responsibility of all officers involved in the process, and the following principles must be borne in mind when approaching the recovery of debts, especially when dealing with vulnerable clients and their representatives:
- Effective initial communication with service users around chargeable services;
 - Income maximisation in regard to the service users income has been explored.
 - Effective and efficient collection of all money due, whilst ensuring that the client's financial circumstances and mental capacity are considered.
 - Prevention of arrears by prompt billing and collection of money due, affordable repayment plans and early intervention.
 - Disputes and queries must be dealt with promptly to avoid the accumulation of outstanding balances.
 - Debts must be discussed with the client or their representative as soon as possible.
 - The Council must act reasonably at all times throughout the process.
 - Repayment plans should be agreed between the relevant parties and must be affordable; and
 - The Council will consider how different approaches could impact on a client's wellbeing.
- 4.7 Should the death of a recipient of care occur with a balance of funds still owed to the Council, legal advice may be sought should issues arise in respect of payment from the deceased's estate.

5 Debt Recovery Process

- 5.1 The Council's Financial Assessments team is responsible for calculating charges and issuing invoices. Clients will be contacted by the Accounts Receivable team to discuss any reasons for non-payment of debt and their individual circumstances in order that a repayment plan can be agreed, or payment obtained.
- 5.2 The Council will provide a range of flexible, convenient, and modern payment methods. Direct Debit is the Council's preferred payment method and will always be promoted.

First Reminder

- 5.3 The first reminder is issued within 21 calendar days of the date of the invoice, when clients have not paid the amount due or agreed to a repayment plan. At this point, the client will be given every opportunity to pay or agree a payment arrangement.

Second Reminder

- 5.4 The second reminder is issued within 14 calendar days following the first reminder date when clients have not paid the amount due, made a payment arrangement or

contacted the Accounts Receivable team to discuss the reasons for non-payment.

Further Action

- 5.5 Failure to pay or make contact by the deadline stated in the second reminder, will result in the Accounts Receivable team accessing the Adult Social Care system to check if there is any relevant information affecting the client's ability to repay the amount due. If there are no reasons to suspend recovery action, then the client or their representative will be contacted by an Accounts Receivable team member by telephone or email.
- 5.6 If the checks detailed at 5.5 indicate there is a dispute or a query outstanding in relation to the sum owed to the Council, or the Accounts Receivable team is notified of any dispute or query earlier in the process; recovery will be suspended until either the dispute or query is resolved, or for a period of one month, whichever is the shorter.
- 5.7 Officers within Adult Social Care must take steps to ensure that disputes or queries are resolved within one month of receipt. In any event, if not resolved within three months of receipt, the matter will be escalated to the Invoice and Debt Recovery Manager.
- 5.8 Any disputes or queries not resolved within the three months will be dealt with on a case-by-case basis. Recovery will be suspended pending resolution of the dispute. Any invoices for ongoing charges will still be issued.
- 5.9 The Council has a Debt Panel that meets to consider outstanding debts that are proving challenging to collect or to discuss cases with unresolved disputes. The Debt Panel consists of the Invoice and Debt Recovery Manager, and Adult Social Care representatives. Disputed cases will be referred to the next available Debt Panel following the expiry of the three-month period.
- 5.10 If the Debt Panel cannot achieve a resolution, the matter will be escalated to the Assistant Director Revenues and Benefits for consideration.
- 5.11 If there is no dispute or query, the debt may be referred to the Council's appointed external debt collection agents, where appropriate. There will be no fees applied to the debt at this stage.
- 5.12 For cases that have been held due to disputes/queries, a final letter will be issued to prompt contact or payment following the resolution of the query, before any further action is taken.
- 5.13 Cases returned from the debt collection agents, or not suitable for referral, will be passed to Legal Representatives for consideration of recovery in the County Court. If a case does proceed to the County Court, fees may be applied at this stage. The Council will seek to recover from the client any fees incurred.
- 5.14 Any member of staff, Elected Member or contractor who has a personal interest in any debt must not participate in the decision-making process regarding collection and recovery of that debt and must declare their interest.

For the purposes of this policy a personal interest includes those in the following list, however, the list is not intended to be exhaustive and where there is uncertainty as to whether there is an applicable interest, advice should be sought from a line manager or Internal Audit.

Examples of where a personal interest might occur is where the debt is owed by:

- a relative, including relatives by marriage;
- a relative of a current or former partner;
- a friend or neighbour;
- an organisation in which there is membership;
- an organisation in which a relative has membership; and
- a company or individual with which there is a business relationship.

This does not apply in the case of Elected Members, who, in the normal course of discharging their duty to represent their constituents on a wide range of matters, are required to discuss specific cases subject to the relevant constituent consent.

6 Writing Off Outstanding Debt

- 6.1 In certain circumstances an Adult Social Care debt may need to be written off as irrecoverable. For the purposes of this policy, Adult Social Care debt is deemed to be classed as sundry debt and the write off processes included in the Council's Financial Procedure Rules in relation to sundry debt apply.
- 6.2 The circumstances leading to a recommendation for write off may include (but is not an exhaustive list) where the:
- Customer has died and there are no funds available in the estate.
 - Debt is too old to recover i.e., Statute barred
 - Balance is small, and the recovery costs would make the debt uneconomical to pursue.
 - Customer is experiencing severe financial hardship.
 - Individual (or the company) has become insolvent.
- 6.3 The Invoice and Debt Recovery Manager is responsible for identifying suitable debts for write off. Recommendations for write-offs will be submitted at the end of each quarter of the financial year.
- 6.4 The Council's Exchequer Client team is responsible for reviewing recommendations for write-off and requesting authorisation from the delegated responsible Officers as set out in the Council's Constitution.
- 6.5 Before a write-off is considered, there should be detailed rationale prepared explaining the recommendation for the write-off. The decision to write off a debt should be taken by an officer that has not previously been involved in a review of the case. However, in the case of individual debts less than £100, write-off can be approved by the Invoice and Debt Recovery Manager
- 6.6 The write-off of individual debts of over £100 and up to £5,000 can be approved by the Assistant Director, Revenues and Benefits.
- 6.7 The write-off of individual debts of over £5,000 and up to £10,000, can be approved by the Director of Finance.

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- 6.8 Where an individual debt is over £10,000 and up to £30,000, write-off can be approved by the Cabinet Member with responsibility for Finance in consultation with the Director of Finance.
 - 6.9 In the case of all individual debts over £30,000, the write-off must be approved by Cabinet.
 - 6.10 A report will be provided on a quarterly basis to the Director of Finance detailing all debts approved or recommended for write-off by authorised Officers. off.
 - 6.11 The reasons for the write-off will be reviewed on a quarterly basis to inform improvements in practice, policy and procedures which may prevent further instances of write-off if the same set of circumstances should arise.

7 Policy Review

- 7.1 The Council reserves the right to review and revise the policy at any time because of information gained through operating the policy, or due to a change in legislation. The policy will, however, be reviewed at least on an annual basis.
- 7.2 The Cabinet Member with responsibility for Finance in conjunction with the Director of Finance, and the Director of Adult Social Services are authorised to agree to any revisions to the policy.