Corporate Fair Debt Policy

AGREED POLICY FOR USE BY OLDHAM COUNCIL

March 2014
1 Introduction and Aims

1.1 The Council’s focus is on service delivery and outcomes. This means we have to make sure that we effectively recover public money that is owed to us by third parties.

1.2 The purpose of this Corporate Fair Debt Policy is to establish guidelines on how the Council and its key partners involved in income collection will recover debts owed. It sets out the framework for a consistent and sensitive approach to the recovery of debts, recognising that on occasions some individuals do experience genuine personal or financial difficulties and cannot pay their debts when they are due.

1.3 This Corporate Fair Debt Policy sets out the Council’s aim to adopt a firm, flexible and fair approach to debt recovery. It aims to offer all debtors, where appropriate a practical repayment basis which takes into account debtors personal circumstances. It is supported by detailed Codes of Practice which explains how the Council and its key partners collect income and use external recovery agencies.

1.4 The Council aims to collect all debts due from customers, organisations and individuals promptly 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.

1.5 The Council will use all available options to collect from those who seek to avoid paying. Equally, in cases where debtors face genuine hardship and arrears to the Council accrue, the approach will be to keep these to a minimum and reduce the debt over time using a fair, responsive, co-ordinated and, where necessary, firm approach.

1.6 The fair debt policy approach should ensure that each debtor is treated fairly, as an individual and with compassion in cases where genuine financial difficulty is experienced.

2 Fair Debt Policy

2.1 The Council’s framework in relation to its fair debt policy is based on the following fundamental ethical principles:

a) Fairness in that every debtor has an obligation to repay their debt owed so that future services do not suffer. Those who pay promptly should not subsidise those who are not prepared to pay what they owe. In the Codes of Practice produced by the Council and its key partners to explain the debt recovery processes, there will be a clear distinction in the action to be taken between those debtors suffering genuine financial hardship and those who have no intention of paying. This distinction is reflected in the actions which will be taken to recover the debts owed.

b) The Council will seek to prevent debt accumulating to levels which are unacceptable for debtors by making prompt contact with debtors whenever an amount owed falls into arrears. Where follow up procedures identify that a debtor is experiencing genuine
hardship, the Council will encourage the individual to work in partnership with qualified debt advisors such as the Citizen’s Advice Bureau (CAB) so that the debts can be repaid in a fair manner.

c) The Council will treat all debtors fairly and, where appropriate, it will agree a repayment timetable to assist debtors in adverse financial circumstances. The decision to agree a repayment timetable will be influenced by the willingness of the debtor to take advantage of the debt advice available. The Council will promote the use of debt advisory services to assist debtors in discharging their financial affairs as efficiently as possible. Repayment timetables will also consider the types of debt owed to the Council, the assets the debtor has to defray the charges alongside the financial commitments which could result in extra costs to the public purse.

d) The Council will promote financial inclusion by linking its fair debt policy to the Anti-Poverty Strategy, and by recognising that debtors may have underlying problems with money management, or may not be receiving all the financial help to which they are entitled.

e) Council staff, representatives of the Council including Enforcement Agents, and staff of the Council’s key partners will treat debtors with courtesy at all times. All staff and representatives, including Enforcement Agents, will behave in accordance with the standards required by the Council. The use of inappropriate language and/or oppressive behaviour will not be tolerated.

f) Where the Council has contributed to the debt owed due to an error in its processes or by failing to raise the debt in a timely manner, the Council will adopt a flexible approach to debtors’ repayment of the amounts owed.

g) Where the debtor incurs extra cost incurred by the Council on the initial debt but has not made any effort to pay their debt or access the debt advisory services supported by the Council, and then the Council will seek to recover full costs including the extra administration costs it has incurred.

2.2 The Council will apply the following principles to recovery action:

a) Written demands are produced and dispatched in accordance with legal requirements and comply with its agreed timetable to recover debts.

b) Every effort is made to assist debtors where they demonstrate a willingness to co-operate with the Council and take appropriate independent debt advice. The Council will advise individual debtors as to whether they are maximising their benefit entitlement.

c) There are agreed Codes of Practice setting out the agreed debt recovery procedures for all staff involved in debt collection. Concise information is produced by the Council for debtors and advice Agencies.
d) Advice and information being made available to debtors at every stage of the process. The Council will make clear what action is being taken and why. This will include an explanation of any additional charges which are incurred by the Council in debt recovery and are subsequently passed onto the debtor.

e) Escalation procedures must give a clear indication to the debtor of the next stage in the Council’s recovery process including any additional costs to be incurred on the debt.

f) The Council or its recommended debt advisory service will explain the appeals process to debtors at each stage of the debt recovery process. Debtors may appeal against the Council’s actions, if they believe it contravenes this fair debt policy.

3 Scope of Policy – Definition of a Debtor and Roles and Responsibilities

3.1 A Debtor is anybody, any organisation or individual that has received goods or services from the Council, or is liable for a statutory debt, and has not yet paid the full amount owed.

3.2 The Council raises and collects debts in the following areas:

a) National Non Domestic Rates from businesses where the responsibility of collection is allocated to its Strategic Service Delivery Partner, The Unity Partnership.

b) Council Tax from householders where the responsibility for collection is allocated to its Strategic Service Delivery Partner, The Unity Partnership.

c) Parking Penalty Charge Notices (PCN) where the responsibility of collection is allocated to its partnership contractor NSL and its bailiff company. The charges in this area including the fines for non-payment of tickets are set out under the decriminalised parking legislation.

d) Sundry Debtors such as those relating to charges for Adult Social Care and miscellaneous penalties where the responsibility for collection is allocated to its Strategic Service Delivery Partner, The Unity Partnership.

e) Housing Benefit Overpayments collection where responsibility for collection is allocated to its Strategic Service Delivery Partner, The Unity Partnership.

Where these partners and directly employed staff use external collection agencies to collect unpaid debts they will make sure they are aware of the Fair Debt Policy and comply with its requirements by monitoring of performance.

3.3 The Council will operate a Charging Policy for its services which reflects the need to account for customers’ ability to pay for services. This Charging Policy, however, cannot completely remove the problems of people getting into debt. The approach to recovery
must therefore be sensitive to debtors’ circumstances and the Council’s Fair Debt Recovery Policy seeks to reflect this.

3.4 The methods used by the Council and its partners who are responsible for the billing and recovery of both statutory debt such as Council Tax and non-statutory debt such as charges for services to the elderly, vulnerable or have dependents will be fair. Oldham Council and its partners will ensure equality and diversity are integral to all its debt recovery processes. In implementing this policy the Council will ensure that all customers who have mobility problems, or who need information in other formats and languages, or who have difficulty with reading are provided with the assistance they require.

4 Payment of Outstanding debt

4.1 Where possible the Council will attempt to seek payment of goods or services in advance of supply. However the Council recognises that there are individuals in receipt of its services for whom advance payment is not practical. To assist these individuals the Council will ensure that there are a wide range of payment mechanisms in place. We will encourage our customers to make use of these payment options to clear any debts promptly. The Council will accept all reasonable offers to spread payment over a period of time if requests for this method of payment are supported by an appropriate debt advisor such as the CAB or where evidence of special reasons for the non-payment can be demonstrated.

4.2 Payment of invoices raised by the Council including National Non Domestic Rates, Council Tax, Fixed Penalty Notices (Car Parking Fines) and other penalties (e.g. dog fouling) can be made by the following means:

a) By debit card using a 24 hour telephone line 0161 770 6611. Note that a payment of £1.99 or less cannot be paid over the telephone.

b) At Post Offices No fee will be charged for using this method of payment (all cheques should be made payable to ‘Post Office Ltd’)

c) At Pay Zone Payment will be accepted by cash but not cheque and some outlets will accept debit cards. No fee will be charged for using this method of payment. Please note that cheques cannot be accepted

d) By credit card payment in full by Visa or MasterCard can be made by ringing the telephone number 0161 770 6611. Monthly instalments cannot be paid by credit card.

e) Internet Payments can be made using the Oldham Council website www.oldham.gov.uk and the council’s mobile phone app.

f) Customers will be able to make Cash, and card payments at specified sites within the borough using self-service payment Kiosks.
g) Through recovery from future earnings, or benefits
h) The amount owed can be offset against assets in certain cases. Special arrangements can be agreed between the debtor and the Council to offset current debts by a voluntary arrangement to offset the amount owed against assets. Such arrangements are appropriate for Council Tax on inherited properties and care fees. The Council interest will be safeguarded by an agreed charge on the property. The Council will be pro-active in publicising the availability of this repayment option with its citizens.

i) For unpaid Council Tax where the debtor owns the property and fails to pay the appropriate amount in year a charging order will be obtained on the property without the agreement of the debtor. This charging order will ensure the Council is paid the amount it is owed when the property is sold.

4.3 The Council has a zero tolerance approach to those debtors who have no intention of paying agreed debts. In these instances the Council will ensure the recovery sanction is prompt and include all measures, including enforcement action and bankruptcy, if deemed reasonable.

5 **Action for Non-Payment**

5.1 Throughout the debt recovery process, the Council will focus on the need for personal contact with the debtor.

5.2 At all stages of the recovery process, the Council will attempt to agree a suitable repayment arrangement with the debtor, taking into account their personal circumstances, including their ability to pay relative to the outstanding balance and the cost of recovery.

5.3 On certain debts, interest may be charged. In such cases the debtor will be made aware of any additional costs in advance to give them the opportunity to avoid incurring additional costs wherever possible. The application of interest on an unpaid account will be agreed in advance with the Borough Treasurer on a case-by-case basis.

5.4 In all cases, the Council will pursue a policy that takes into account the debtor's ability to pay. The procedures are supported by the standard invoices with correspondence to recover the debts. The Council's Code of Practice for individual debt recovery sections and/or partners sets out how this is to be done.

5.5 There are instances where debts are incurred in connection with accommodation charges with a deferred collection arrangement in place (such as a charging order on property to secure the debt). In these circumstances, the debt will only be realised on the sale of the property, which may be on the death of the client. However, in the event of death, compound interest becomes payable on the outstanding debt from the day the after the date of death and the outstanding amount is calculated to take the interest into account.

5.6 The use of enforcement agents to recover debt is used when all other reasonable attempts to recover the debts have been exhausted. In such cases the Council will use
only reputable and appropriately appointed organisations. These enforcement agents will comply with the Council’s fair debt policy and will be required to follow an agreed Code of Practice as set by the Council. This includes:

a) Adherence to a professional standard of conduct
b) Membership of a recognised enforcement agent professional association
c) A policy of contacting debtors at reasonable hours commensurate with combating evasion
d) A scale of fees not exceeding industry norms
e) A policy of communicating fees to debtors at each visit, and
f) Clear termination clauses within the Council’s contract with the Enforcement agent which sets out when the Council will terminate the contract for serious or persistent failure to follow the processes set out in the Code of Practice.

This Code of Practice will be subject to regular review by all political parties of the Council to ensure it is fair.

5.7 An Enforcement agent will only be instructed to visit a debtor after the council has given notice of 7 days compliance for the debtor to contact.

5.8 Third parties and Enforcement agents acting on behalf of the council will consider the vulnerability of a debtor at all times, if a debtor is deemed vulnerable the council will consider other recovery options.

5.9 In an extreme case the Council will instigate formal recovery action which could result in bankruptcy where it is agreed in advance by the Borough Treasurer. Such action can only be taken following the submission of a report setting out the justification for such action.

6 Action for Non-Payment

6.1 The Council is mindful that in some circumstances, people may not have the ability to pay back what they owe. The Council works with services and partners to assist people by offering them debt advice.

6.2 Those owing the Council money will be encouraged to make contact as soon as repayment difficulties are encountered. They will also be encouraged to seek urgent advice about management of their finances. Information will be made widely available and advice will be provided free of charge. Money Advice Services are available locally from the Citizens Advice Bureau and Oldham Credit Union, which will be specifically promoted. Nationally there is the National Debt Helpline which debtors can access for guidance. The advantages of getting agreed repayment arrangements and the consequences of not addressing outstanding debt issues will be made clear. The Council will publicise the contact details of these organisations on its website alongside this policy.

6.3 The Council and its partners will ensure that all our communications are clear, customer friendly and encourage debtors to make contact with a named team or an individual.

6.4 All letters/correspondence sent to debtors and/or taxpayers and bills will:
6.5 Telephone calls and face-to-face conversations will be used as opportunities to promote the money advice services. Such services will also be highlighted in routine correspondence and publicised on the Council website.

6.6 Reception areas, Access Oldham, libraries and other Council outlets will display leaflets and posters advertising money advice services.

6.7 An independent interpreter service is also available to protect debtor’s rights if required to assist debtors in resolving their debt issues. This will be publicised via leaflets in key areas indicating how the service can be accessed and the Council’s internet site. Staff in key outlets will receive training to make them aware of the service.

6.8 In summary, the Council will:

a) Give clear adequate notification in advance of the charges to be raised by the Council

b) Raise debts due in a prompt and efficient manner

c) Clearly communicate in advance of a revised account being issued with the debtor where the original charge changes

d) Ensure that where there are multiple debts, that the customer has a single point of contact with a clear debt recovery plan that meets the needs of the debtor and the Council

e) Publicise the Council Contact numbers relating to debt collection and recovery to encourage debtors at an early stage to contact the Council to arrange a practical repayment plan.

f) As part of its work on Anti-Poverty, work closely with key third partner organisations that can assist debtors facing challenging financial circumstances.

7 Debtors who won’t pay

7.1 Where the Council makes payments for on-going services to individuals or organisations that have an outstanding debt with the Council, this will be incorporated into the appropriate debt recovery action. In extreme cases where the Council believes that the debtor is deliberately not paying their debts to the Council it will instigate procedures to recover the assets and secure payment.

7.2 The majority of debt recovery is well regulated and assisted by statutory guidance in terms of the requirement to recover public money.
7.3 With Council Tax and National Non Domestic Rates, recovery procedures are laid down by statute and The Council Tax (Administration and Enforcement) Regulations 1992 sets them out in more detail. The Council’s partner Unity will adhere to these regulations in recovering unpaid debts. Its detailed processes for the recovery of Council Tax and National Non Domestic Rates will be set out in a Code of Practice which will be agreed annually by the Council.

7.4 The Council’s parking contractor with responsibility for collecting Car Parking Fines is also developing a Code of Practice to be reviewed on an annual basis detailing the processes to be undertaken to recover unpaid debts. Failure to comply with the Code of Conduct will result in the Council seeking alternative arrangements.

7.5 Should an individual debtor get into arrears and not inform the Council of this matter, consideration will be given to using both its internal and external recovery agents, such as enforcement agents.

7.6 Where it is necessary to use enforcement agents they will adhere to the Code of Conduct such as that developed by the Association of Civil Enforcement Agencies, or its equivalent. They will be subject to regular performance management and review.

7.7 Where the Council becomes aware that the debtor has assets such as property previously not declared to the Council action will be taken to impose charging orders on the property to secure the Council’s debt.

8 Bad Debt Provisions and Write Offs

8.1 Where all recovery options have been explored and further action makes no financial sense, Council debts will be written off in accordance with the Council’s Financial Procedure Rules as set out in paragraph’s 12.16 for general debtors and 12.17 for Housing Benefit/ Council Tax. The financial limits set out in the Financial Procedure Rules will be subject to regular review.

8.2 Bad debt provisions will be calculated by the Borough Treasurer on an annual basis as part of the closure of the final accounts having due regard to debtors’ ability to pay, payment history, and the age and size of any debt outstanding.

9 Implementation and Training

9.1 Both directly employed employees and partners will follow Codes of Practice in recovering debt. These Codes of Practice will be reinforced by training and management supervision. These will form part of the Council’s instructions to enforcement agents acting on its behalf.
9.2 The Council and its partners including enforcement agents will at all times meet the legislative, regulatory and Council requirements in its debt recovery procedures. Where appropriate this will be discussed via the regular contract monitoring arrangements.

9.3 In order to implement this fair debt policy the Council will produce a Corporate Fair Debt Policy Implementation Plan and report on its Implementation to the Cabinet on an annual basis.

10 Monitoring and Responsibilities

10.1 It is the responsibility of the Cabinet to ensure that the implementation of the Corporate Fair Debt Policy is monitored. This will be done by the submission of an annual report to the Cabinet.

10.2 The Executive Director of Commercial Services is responsible for delivering the policy and will be accountable for its implementation and that appropriate training is provided for directly employed and partner staff including enforcement agents involved in debt collection. This officer will delegate the day-to-day implementation of this policy to a Head of Service.

10.3 All staff including those employed by partners involved in Council related debt collection has a responsibility to read, understand and implement this Corporate Fair Debt Policy. The Council’s contractual arrangements will be amended to reflect this requirement.

10.4 The Council recognises the need to be co-ordinated within its debt recovery processes between a variety of Sections involved in Credit Control. There will be formal monthly meetings between all the Sections to co-ordinate the action to be taken to ensure appropriate enforcement action is only undertaken once and includes the full amount of the debtor.

11 Summary

11.1 The Council is committed to recovering money owed to it, and ensuring that this is done effectively and appropriately. The method of recovery depends on the type and amount of debt, and will involve and include the use of private sector providers.

11.2 The Council’s focus is on service delivery and outcomes, including making sure that we effectively recover public money that is owed. All providers are obliged to operate within their contractual obligations. Codes of Conduct and service level agreements and are carefully monitored to ensure that those obligations to the Council are met.

11.3 We are mindful that in some circumstances, people may not have the ability to pay back what is owed, and so as part of this Fair Debt Policy, the Council works with services and partners to assist people with debt advice. For example, anyone can make an appointment with the Citizens’ Advice Bureau and Money Advice through our Access
Oldham service. Further details of these services are at http://www.oldham.gov.uk/access-oldham.htm