

Appendix Four – Ethical Debt Policy



Brent

Ethical Debt Recovery
Policy

1.0 Proposed Policy Intent and Principles:

1.1 *Brent Council has a legal duty to ensure the prompt and cost effective billing, collection and recovery of all sums due to the Council. Timely and cost-efficient collection of debts is critical to ensuring that the Council is able to provide essential services, and the Council is committed to maximising income collection using ethical, fair, supportive, consistent and proportionate means. The Council provides a wide range of services to residents and businesses, each of which governed by specific regulations setting out how the service will be provided, liability to pay, and how any overdue amounts will be collected. This policy seeks to set out the key principles that the Council will apply in order to ensure that it is supportive, efficient and effective in its collection. It will make sure it strikes the right and necessary balance between dealing sensitively with those customers in genuine financial difficulty, whilst also using the full range of recovery methods with the small proportion of customers who have the means to pay but fail to do so.*

1.2 The scope of the policy will include all Council revenue streams, including but not limited to:

- Council Tax
- Non-Domestic Rates (Business Rates)
- Housing rents and temporary accommodation charges
- Parking and Road Traffic penalty charges
- Housing Benefit Overpayments
- Leasehold service charges and major works charges
- Sundry Debts
- Adult Social Care debts

1.3 The following principles will be consistently applied to all categories of Council debt, and in all interactions with the Council's customers. Some lines of debt may be subject to additional local policy (e.g. Council Tax, Business Rates, Housing Benefit overpayment); these are attached in appendices A and B. In the absence of further documentation, this policy applies the following principles:

Principle 1 – Clear charges and recovery processes

- *We will make customers aware of the value and nature of debt they owe to the Council, and the potential implications of non-payment that may include charges for late payment for certain debts.*
- *Where customers wish to dispute a charge or feel they are unable to pay, we expect that they contact us as soon as they receive notification of the debt. The Council will respond to any dispute raised within 21 days. Any pending recovery action will be suspended pending the outcome of the dispute. This is a blanket approach across all lines of debt where those debts are not subject to other statutory processes.*

Principle 2 – Easy and flexible payment

- *We will accept a range of payment methods and frequencies, and will endeavour to ensure that the payment processes are simple for customers. Where possible, the Council aims to prevent arrears occurring by encouraging payment in advance or payment via Direct Debit. Some services may require direct debit payment in order to receive the service.*

- *We expect customers to take advantage of the range of payment methods available in order to pay on time, and to contact us quickly if they need to request greater flexibility. Wherever possible the Council will make accounts available online*

Principle 3 – Early intervention

- *Where practical we will seek to prevent enforcement measures by notifying customers at an early stage that they have fallen into debt, to ensure they are aware of debts accrued as soon as possible.*
- *We expect customers to respond promptly to any contact we attempt to make with them.*

Principle 4 – Clear communication

- *We will use a range of communication methods to ensure that customers know how to make payments, and how to contact us if they are struggling to do so. Communication will primarily be through electronic means. ,*
- *We expect customers to inform us promptly of any changes to their contact details.*
- *Brent Council expects its staff to be courteous and respectful to customers and expects customers to be equally courteous when dealing with Council staff and those working on behalf of the Council.*

Principle 5 – Support for individuals who demonstrate that they can't pay

- *Where an individual is identified as being in financial difficulty, we will ensure they are referred both to relevant internal departments and appropriate sources of independent advice (such as Citizens Advice Brent) to access guidance on maximising benefit entitlement, skills and prospects.*
- *In specific circumstances, we may consider writing-off and not pursuing all or a portion of an individual's debt in order to prevent exacerbating severe indebtedness*
- *We expect customers to take ownership of their finances, to engage positively with any support provided, to provide any requested information within the specified timescale, and to comply with the terms of any agreement made.*

Principle 6 – We will take action where individuals “Won't Pay”

- *We will use a variety of debt recovery methods to collect debts from those that can, but won't pay. Wherever enforcement becomes necessary, any costs incurred by the Council will be passed on to the customer.*
- *We will ensure that all enforcement action taken is ethical, proportionate, and complies with relevant legislation; but to be fair to those who do pay, and to try to deter wilful non-payment, we will always seek the maximum penalty where an individual commits fraud.*

2.0 Vulnerable Customers

2.1 The Council's debt recovery staff, including those not directly employed by the Council, will provide customers with details of how they can access independent advice and support in relation to their finances. The Council's website and correspondences with debtors (letters, email) will also direct customers to independent sources to access support relating to their finances.

2.2 We recognise that some individuals may require additional support in order to be able to adequately manage their finances and repay moneys owed. The measures that the Council may seek to take are outlined in paragraph 3.2.

2.3 There is no set definition of vulnerability in relation to poverty, and the degree to which someone is considered vulnerable can vary widely. The causes of financial vulnerability are incredibly broad and include any condition or situation which may affect a person's ability to manage their finances for a period of time. Parking adopts its own processes in relation to vulnerability. Some likely causes or examples of vulnerability could be:

- People with disabilities, including those with learning difficulties - where their disability specifically affects their ability to manage their financial affairs
- People suffering from serious illness, including mental health conditions - where their illness specifically affects their ability to deal with their financial affairs
- People who have difficulty communicating in English may be considered vulnerable in some cases. While translation services are available for interaction with the Council, those who may not have the support of family members who can speak or read English may be more broadly financially excluded.
- People who have difficulty reading and writing. This may prevent them from being able to read notices or warnings in relation to their debt, and may have caused broader financial exclusion.
- People undergoing significant changes in circumstances – i.e. people who have been recently bereaved, have recently lost their job or their home.
- People affected by the economic or health impacts of war, pandemic or natural disaster

2.4 The above does not constitute a list of reasons for automatic assessment as vulnerable, nor is it intended to be exhaustive. Assessment of vulnerability, and the steps taken to support a vulnerable customer, will be assessed by the Council on a case by case basis, based on the specific details provided by the customer.

2.5 The identification of vulnerability does not excuse someone from paying a debt which they are legally obliged to pay. It does, however, mean that the Council will provide additional support in understanding the debt, and aim to minimise undue distress.

2.6 Where vulnerability is identified, the Council should, as a minimum, aspire to put in place additional management control. For example, accounts may be flagged on the relevant debt management system to alert any staff dealing with the case and automated escalation will be halted to ensure that the case is reviewed by a member of staff before any further action is taken. This will be aided through the implementation of a 'dashboard view' through which officers can access and easily see all debts owed

2.7 Depending on the nature of the identified vulnerability, there are a number of additional measures that the Council may feel it is appropriate to make:

- Allowing longer to pay
- Referral to independent advice and guidance
- Temporarily halting enforcement action
- Providing additional support to overcome the vulnerability (e.g. home visits or assistance completing forms)
- Reviewing eligibility for benefits to ensure that these have been correctly assessed
- Considering referral to alternative support: local welfare support, Resident's Support Fund, section 13A payments, DHP or referral to third party may be appropriate
- Where advocates or representatives have been appointed, ensuring that the appropriate evidence has been provided and accounts are updated.
- The line of action will depend on the nature of the debt

3.0 Support for those with Problem Debts

3.1 Whether or not an individual is vulnerable and needs additional support to manage their finances is often independent of whether the customer actually has the means to pay. In accordance with the principles set out, and in the first instance, the Council will aim to assess a customer's ability to pay their debt, and to tailor its approach where it is identified that someone is struggling to pay their debts, working with them, their representative or appointee to find a solution to resolve the issue..

3.2 In addition to provision of, and referral to, appropriate sources of advice and guidance through the Council's existing advice contracts and network, the Council will seek to support customers to overcome problematic debt and promote access to affordable credit by:

- Continuing to operate a policy of not pursuing and writing off all or a portion of the outstanding balance where it is identified that a customer does not have the means to pay the full amount.
- It is not practical to implement a prescriptive set of criteria for such cases. Decisions are delegated to officers, but as a minimum, it will only be considered where an individual has engaged with financial assessments, and has kept to the affordable payment plan that has been agreed for a period of time. In order to achieve consistency among decision makers and officers dealing with accounts, we will adopt the principles of the Standard Financial Statement (SFS), on which more information is available in Appendix B.

4.0 Multiple Debts

4.1 We know that individuals struggling with problematic debt are likely to owe multiple debts to the Council.

4.2 Historically, it has been difficult to take a holistic view of an individuals' balances due to each account requiring different recovery and enforcement methods and so being held and managed on different computer systems. This has meant it has not been possible for a single officer to easily make a customer aware of the various account balances they may have. The Council is committed to providing a "dashboard view" to officers they can make customers aware and sign post them to sources of debt advice, grants and employment skills training. .

4.3 The work to recover debt remains with those designated to deal with particular balances and debts. The Council groups its main lines of debt as follows:

- Rent / Temporary Accommodation Charges, former tenant arrears and Leasehold Service Charges & Major Works Costs

- Council Tax
- Parking and Traffic Penalty Charge Notices
- Sundry Debts including commercial rent
- Adult Social Care debt
- Housing Benefit Overpayments

5.0 Staying in contact and targeting

5.1 The Council will use external resources and agencies to assist in locating customers who may have absconded and to help identify customers' propensity to pay. This will enable the Council to better target recovery action.

6.0 Breathing Space

6.1 The new Breathing Space scheme, originally outlined by Government in February 2020 following campaigning from the debt advice and wider sector, will go live on 4 May 2021. The 60-day breathing space period will see enforcement action from creditors halted and interest frozen for people with problem debt. The Council will amend its processes to reflect this requirement.

7.0 Write-offs

7.1 As part of sound financial management, the Council will periodically write-off debts that it considers are not possible, or cost effective to recover. The council does not normally write-off debts at the request of the customer, however in appropriate circumstances it may consider setting aside a portion or all of the debt in line with the principles laid out above. The Council has in place a procedure for write-offs.

8.0 Approach to Enforcement

8.1 As part of the Council's approach to enforcing debts, the Council, once it has gained required authority from the appropriate court will use the enforcement route deemed most likely to prove successful. Depending on the debt this may include, attachment of benefit, attachment of earnings, charging orders, bankruptcy, committal hearings, obtaining possession and referral to enforcement agencies including the High Court

8.2 Where enforcement agents are used the Council will use a number of enforcement agents depending on the debt. The enforcement agents may be both commercial companies and local authority service providers. All enforcement agents used will be committed to working with empathy, ethically, identifying vulnerability and in accordance the regulations. This code of practice will at least be equivalent to that of the CIVEA (<https://www.civea.co.uk/our-code-of-practice>). There is no single arrangement universal contract for enforcement activity to collect the Council's debt. Primarily council tax enforcement is determined internally and delivered through contracted third party enforcement agents, for business rates via the Council's contract and the same applies to road traffic and parking offences.

[https://www.citizensadvice.org.uk/debt-and-money/help-with-debt/dealing-with-ythe Council's -debts/work-out-which-debts-to-deal-with-first/](https://www.citizensadvice.org.uk/debt-and-money/help-with-debt/dealing-with-ythe-Council's-debts/work-out-which-debts-to-deal-with-first/)

Priority debts include:

- mortgage or rent arrears. If you don't pay these, you could lose your home
- gas and electricity arrears. If you don't pay these, you can have your supply disconnected
- council tax arrears. If you don't pay these, the Council can use bailiffs to take your goods. If, after this, you still have arrears unpaid, you can be committed to prison
- court fines such as magistrates' fines for traffic offences. If you don't pay these, the Council can use bailiffs or High Court enforcement agents to take possession of your goods. If, after this, you still have arrears unpaid, you can be sent to prison. Parking penalties issued by local authorities are not priority debts
- arrears of maintenance payable to an ex-partner or children. This includes Child Support you owe to the Child Support Agency. If you don't pay these, a the Council can use bailiffs to take your goods. If, after this, you still have arrears unpaid, you can be sent to prison
- income tax or VAT arrears. You can be sent to prison for non-payment of income tax or VAT
- TV licence or TV licence arrears. It's a criminal offence to use a television without a licence. You could be fined.

You may have other debts which you think it is particularly important to pay. For example, if you're disabled and rely on your car to get around, you may need to make

paying for your car a priority debt.

You need to think very carefully about which debts you treat as the most important ones. You must have very good reasons, as you might have to convince a court or other creditors why it is reasonable for you to treat these debts as more important than others.

Non-priority debts include:

- Housing Benefits overpayments
- credit debts such as overdrafts, loans, hire purchase, credit card accounts and catalogues
- water and sewage charges – you can't be cut off for water debts
- student loans
- money borrowed from friends or family
- parking penalties issued by local authorities.

You can't be sent to prison for not paying non-priority debts. But if you don't make any offers to pay, without explaining why, your creditors may take you to court. If you still fail to pay when the court has ordered it, your creditors can take further action. For example, they can get another court order which allows them to send bailiffs round to take your property away. This will be sold to cover your debts.

If you don't keep up payments under a hire purchase agreement, the lender may be able to take back the goods. Depending on how much you have paid, the lender may not need to get a court order first.

Appendix B – The Standard Financial Statement

<https://sfs.moneyadviceservice.org.uk/en/what-is-the-standard-financial-statement>

- A single standard format for gathering income and expenditure
- A single set of Spending Guidelines
- Capacity to build a savings contribution into debt solutions
- Greater consistency to the debt advice process for consumer, advisers and creditors
- Potential for more streamlined sharing of data between organisations assisting an over-indebted individual