

## **DELEGATED DECISION**

**Resources Management Team**

**1 June 2021**



### **Review of the Council's Debt Management, Council Tax Discretionary Hardship Reduction and Debt Write Off Policies**

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**Report of Paul Darby, Corporate Director of Resources (Interim)**

**Councillor Richard Bell, Cabinet Portfolio Holder for Finance**

#### **Electoral division(s) affected:**

Countywide

#### **Purpose of the Report**

- 1 To obtain approval for the Council's revised Debt Management Policy; the Council Tax Discretionary Hardship Reduction Policy, Council Tax Discretionary Hardship Covid-19 Reduction Policy and the Corporate Debt Write Off Policy, in the light of:
  - Legislation relating to the Debt Respite Scheme (Breathing Space) 2020, effective from 4 May 2021;
  - Continued Covid-19 pandemic support measures, reflecting a holistic approach to collection and signposting customers to the appropriate advice and assistance;
  - The new in-house Enforcement Agent service, County Durham Outreach and Support (CDOS).
- 2 To outline proposals for a more detailed review of the policies, involving consultation with the advice sector, as well as internal and external stakeholders.

#### **Executive summary**

- 3 Effective debt management forms an essential part of the Council's corporate and financial governance framework and is critical in enabling the delivery of

the Council Plan, Sustainable Communities Strategy and the provision of quality, essential services

- 4 The Council has a duty to ensure that all collection processes comply with the relevant legislation and good practice. The Debt Management Policy provides the framework for direction and governance of the Council's approach to debt recovery and aims to promote, encourage and support proportionate, fair and equitable debt management processes for all major sources of income
- 5 The Policy covers the billing, collection and recovery of all sums due to the County Council, including Council Tax, Business Rates, Overpaid Housing Benefit and General Sundry / Invoiced Debt and commercial rent and is underpinned by the following:
  - Council Tax Discretionary Hardship Reduction Policy (Section 13A(1)(c) Local Government Finance Act 1992)
  - Council Tax Discretionary Hardship Covid-19 Reduction Policy (Section 13A(1)(c) Local Government Finance Act 1992)
  - Debt Write Off Policy
- 6 The Debt Management Policy was reviewed last year and approved by Corporate Management Team in July 2020, to reflect a more effective, supportive and welfare-based approach to collection, as well as incorporating the Council's response to the significant impact of Covid-19 and measures put in place to support more vulnerable households.
- 7 This policy review aims to incorporate:
  - recent changes in relation to the introduction of legislation with regard to the Debt Respite Scheme (Breathing Space);
  - the Council's continued support for those experiencing financial hardship (especially in response to the Covid-19 pandemic) and their ability to pay
  - the new in-house Enforcement Agent Service, established as County Durham Outreach and Support, within the policy.
- 8 It is proposed that a further, wider review to include engagement with internal services, external stakeholders and the debt advice sector is undertaken during the summer, with an update on the outcomes reported to CMT in November 2021. This review will also capture the impact of Breathing Space and the continued consequences of the Covid-19 pandemic.

## **Recommendation(s)**

- 9 That the Corporate Director of Resources, utilising the delegated powers afforded to him under Part 3, Table 7, Paragraph 1, of the Councils Constitution approve:
  - (a) Adoption of the updated Debt Management Policy, and the policies which underpin it, namely the Council Tax Discretionary Hardship Reduction Policy, Council Tax Discretionary Hardship Covid-19 Reduction Policy and the Debt Write Off Policy.

- (b) A wider review of the Debt Management Policy, to include engagement with the debt advice sector and internal / external stakeholders, with the outcome reported to CMT in November 2021.

## Background

- 10 Effective debt management forms an essential part of the Council's corporate and financial governance frameworks and is critical in enabling delivery of the Council Plan, Sustainable Communities Strategy and provision of a range of quality essential services.
- 11 The Council has a duty to ensure that all collection processes comply with the relevant legislation and good practice, the Debt Management Policy provides the framework for direction and governance and aims to promote, encourage and support proportionate, fair and equitable debt management processes for all major sources of income.
- 12 The Corporate Debt Management Policy, covers the billing, collection and recovery of all sums due to the County Council, including Council Tax, Business Rates, Overpaid Housing Benefit and General Sundry / Invoiced Debt and commercial rent.
- 13 Debt recovery is subject to specific legislation, which includes:
  - Council Tax (Administration & Enforcement) Regulations 1992;
  - Non-Domestic Rating (Collection & Enforcement) (Local Lists) 1989;
  - Local Government Finance Act 1992 as amended by Local Government Act 2003;
  - County Courts Act 1984, Practice Directions & Civil Procedures Rules 1998;
  - Charging Orders 1989;
  - Social Security Administration Act 1992;
  - Civil Enforcement of Parking Contraventions (England) General Regulations 2007; and more recently,
  - Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 make provision for those individuals in problem debt, the right to legal protections from creditors, effective from 4 May 2021.
- 14 There is a suite of policies that underpin the Debt Management Policy, namely:
  - Council Tax Discretionary Hardship Reduction Policy (Section 13A(1)(c) Local Government Finance Act 1992)
  - Council Tax Discretionary Hardship Covid-19 Reduction Policy (Section 13A(1)(c) Local Government Finance Act 1992)
  - Debt Write Off Policy

- 15 A review was last undertaken in June 2020, in consultation with the wider service, internal and external stakeholders including Citizens Advice County Durham and Internal Audit and presented to CMT in July 2020. The policy was substantially expanded to reflect a more effective, supportive and inclusive approach to collection and debt management.
- 16 The previous review addressed the significant impact of Covid-19, the Council's response and the supportive measures put in place with regard to debt management. It also reflected the Government's guidance on taking a fair, flexible and proportionate approach to debt collection and the requirement for increased and more joined-up working with Third-Party organisations and stakeholders.
- 17 It also addressed the establishment of the in-house Enforcement Agent Service, which provides a framework for a joined-up, streamlined and flexible approach with more control and autonomy in terms of collection and fees.

### **Revisions to the Debt Management Policy; Council Tax Discretionary Hardship Reduction Policy and Council Tax Discretionary Hardship Covid-19 Reduction Policy**

- 18 This review addressed the need for an update to the Debt Management Policy and the policies which underpin it, reflecting the following elements:
- Debt Respite Scheme – Breathing Space; enabling eligible individuals with problem debt legal protection from creditor action for up to 60 days (standard moratorium). A Mental Health Crisis Breathing Space affords stronger protections and is available to a person certified as receiving mental health crisis treatment by an approved Mental Health Professional (AMHP). The moratorium is for the length of the mental health crisis treatment, plus 30 days.
  - Covid-19: Supportive measures: due to the impact of the restrictions to control the pandemic on many households and businesses, the Council agreed to extend the Council Tax Hardship Fund payments of up to £300 per household, for those working-age LCTRS claimants left with a Council Tax liability after the award of LCTRS reductions; this support will continue in 2021/22 (updated at point 19.4 in the Debt Management Strategy).
  - The implementation of a budgeting tool based upon the Standard Financial Statement (SFS). The electronic budgeting tool enables the Collection Team to take a much more holistic approach to the customer's household and financial circumstances, determining the ability and sustainability of repayment plans and maximising the opportunity to signpost to the advice sector (updated at point 11.5 in the Debt Management Policy).
  - The establishment of the in-house enforcement agent, known as County Durham Outreach and Support (CDOS).
  - Key contact details for support and advice for our customers.

## **Debt Write Off Policy**

- 19 There are limited circumstances where it is appropriate to consider writing off an amount owed (or part thereof). The reasons may be legislative, a directive from Her Majesty's Court Service (HMCS) or by local management (where circumstances dictate).
- 20 Nationally, individual debt is an ever-increasing problem particularly with the effects of the Covid-19 pandemic, however, the vast majority of individuals and businesses pay the charges that are due to the Council
- 21 Writing off irrecoverable debts represents good financial management. It allows collection officers to concentrate on recoverable debts and ensures that the level of amounts owed within the Council's accounts is accurate and, represents a true and fair reflection of the Council's financial position.
- 22 The application and effectiveness of the Debt Write Off Policy is monitored for quality and accuracy on at least a monthly basis by officers within the Financial Support Service.
- 23 If an individual is on a low income (for example, in receipt of welfare benefits) and has no ability to repay any accumulated debt, and there is no future prospect of an improvement in their financial situation (which must be evidenced and recorded) and leads to a determination that the debt is irrecoverable, writing off the debt (either wholly or partially) should be considered and appropriately applied.
- 24 Approval for these cases will be sought from the Payments, Income and Support Manager or Assistant Manager prior to submission for write off.
- 25 The Debt Write Off Policy has been updated to reflect and reinforce the need to give due consideration to cases where there is no potential to collect (see point 14.4 and 14.5 of the Debt Management Policy and points 2.2, 3.1 and 8.1 of the Debt Write Off Policy).

## **Further Review**

- 26 A detailed and more encompassing review should be undertaken during this financial year, not only to engage with the wider service, internal / external stakeholders and the debt advice sector of Advice in County Durham, but to explore the potential impact of the introduction of Breathing Space and the continuing consequences of Covid-19 on our residents and businesses and the Council's finances.
- 27 It is proposed that engagement with stakeholders and interested parties commences during the summer and the findings are reported to CMT in November 2021, accompanied by the suggested updates for the relevant policies.

## **Conclusion**

- 28 It is important that the debt management and associated policies are kept up to date and reflect the Council's approach to managing debt recovery. The

updated policies will be supported with a communication and staff training plan.

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty to ensure that all collection processes comply with the relevant legislation, which includes:

- Council Tax (Administration and Enforcement) Regulations 1992
- Non-Domestic Rating (Collection and Enforcement)(Local Lists) 1989
- Local Government Finance Act 1992 as amended by Local Government Act 2003
- County Courts Act 1984, Practice Directions and Civil Procedure Rules 1998
- Charging Orders Act 1979
- Social Security Administration Act 1992
- Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- Insolvency Act 1986
- Tribunal Courts and Enforcement Act 2007
- Taking Control of Goods Regulations 2014
- Taking Control of Goods (National Standards) 2014
- Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020

### **Finance**

Billing and collection of the amounts owed to the Council contributes to the budgets used to fund local and essential services. Effective collection and recovery are essential and will directly impact the funding and delivery of local services.

### **Consultation**

None

### **Equality and Diversity / Public Sector Equality Duty**

The amendments made to the Debt Management Policy and the policies which underpin it continue to enhance the supportive measures implemented by the Council over the last year and further demonstrate an inclusive, fair and equitable approach to debt collection for those residents, businesses and customers who are struggling to pay their liabilities. There are no adverse impacts on any of the people with protected characteristics in terms of this policy.

### **Climate Change**

None

### **Human Rights**

None

### **Crime and Disorder**

None

### **Staffing**

None

### **Accommodation**

None

### **Risk**

There is always a risk of legal challenge when pursuing debt. However, all actions taken comply with legislative requirements, government guidelines and best practice.

There are robust processes and procedures to ensure that cases subject to more serious recovery actions are fully vetted and meet a defined selection of criteria to minimise the risk of negative publicity for the Council.

Performance management and quality assurance measures are in place to ensure compliance.

### **Procurement**

None that are specific to this report.