

Appendix 1

Revenues & Benefits Debt Collection Policy (March 2010)

Introduction

Effective debt management is crucial to the success of any organisation & from time to time it is important that the Revenues & Benefits Sections review policy to support the maximisation of debt collection in an efficient manner while recognising that there are vulnerable individuals against whom some recovery actions may be inappropriate. This new policy updates & replaces the previous policy

As well as delivering efficient & effective collection any policy should :

- deliver service improvements and adherence to recognised good practice.
- recognise that people in poverty and on low income can have serious financial difficulties in paying debts to the Council and sometimes genuinely cannot pay.
- recognise that some debtors are vulnerable for a variety of reasons and need to be treated fairly and sensitively.

Debts Collected by Revenues and Benefits

The debts involved are:

- Council Tax
- National Non-Domestic Rates
- Overpaid Housing Benefit
- Sundry Debts

Any policy can only relate to collection not how the charges are arrived at. The level of the Council Tax is a political decision of the Council. Similarly the level of Non Domestic Rates is set by central government and the rules governing the collection of overpaid Housing and Council Tax Benefit are set out in regulations.

Council Tax

Council Tax is a statutory debt and a vital part of the Councils finances. As such Council Tax payers are expected to give it priority over all non essential expenditure. Payment must ordinarily be made in strict accordance with the instalment plan set out on every bill. If people fail to pay as specified recovery procedures are laid down in The Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

For Council Tax payers there is a Housing and Council Tax Benefit scheme to help those on low income and where there appears to be financial difficulties, advice on Housing and Council Tax benefits should be given to help prevent the situation worsening. In the case of Council Tax and rates, staff also need to be aware of other discounts reliefs and exemptions that might apply. They also need some awareness that other state benefits

might be applicable and what other agencies such as the CAB might be able to help the debtor.

The Local Government Act 2003 introduced a new power for Councils to award discretionary Council Tax discounts. This may be useful when dealing with vulnerable individuals where other reliefs cannot be awarded although the Council has always had discretionary powers to waive any debt or charge in exceptional cases.

In the case of Council Tax & Rates the numbers involved require that much recovery action is automated,

National Non Domestic Rates

This is a national tax that Councils collect on behalf of the government which in turn makes grants to Councils. As such it is a vital part of both the Governments and the Council's income and ratepayers are expected to treat it as a priority debt taking precedence over all non essential expenditure. Payment must ordinarily be made in strict accordance with the instalment plan set out on every bill. If ratepayers fail to pay as specified National Non-Domestic Rates recovery procedures are laid down in The Local Government Finance Act 1988 and the Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations and subsequent amendments.

There are a small number of reliefs and exemptions that might apply and staff need to be aware of these when dealing with ratepayers

Housing Benefits

Housing Benefit is awarded in accordance with the regulations. The Council has no discretion. Overpayments are reclaimed in accordance with Regulations 98-105 of The Housing Benefit (General) Regulations 1987 (as amended). Overpayments resulting from official error are not reclaimable.

Sundry Debts

Sundry Debt arrears, including some overpaid Housing Benefit, are collected within an established framework. On all debts where County Court proceedings are issued, interest is charged and costs incurred. All debts are treated on an individual basis.

Policy Aims and Objective

To provide a good quality, cost effective service.

- To ensure a professional, consistent and timely approach to recovery action across Revenues & Benefits.
- To cost effectively pursue all debts owed to the Council, ensuring that those with the means to pay do pay.
- To consider fully the debtors circumstances and ability to pay and so distinguish between the debtor who won't pay and the debtor who genuinely cannot pay.
- To recognise that when customers in difficulty come to us the approach to recovery must be firm particularly with statutory debts like Council Tax & Rates but sensitive

to individual circumstances to identify vulnerable individuals against whom recovery action might be inappropriate

- To improve the levels of income collected by the Council.
- To ensure that debts are collected and managed in accordance with legislative provisions and best practice.
- To meet required targets to comply with all key performance indicators.
- To treat individuals consistently and fairly regardless of age, sex, race, gender, disability and sexual orientation and to ensure that individual's rights under Data Protection and Human Rights legislation are protected.

Key Principles

Thurrock Council has a legal duty to ensure cost effective billing, collection, and recovery of all sums due to the Council. The following statements should apply to all areas that collect the Council's monies.

- Accurate and clear bills are produced promptly.
- Bills will give information about any reliefs that might be applicable and how to apply for them.
- Changes of circumstances, correspondence and applications for exemptions, discounts, reliefs and amendments are dealt with promptly.
- Benefit entitlements are delivered quickly and accurately.
- Timescales for enforcement action are adhered to, with consideration to the impact on other departments and sections.
- We will be firm with deliberate non-payers or people who delay payment.
- We will be sensitive to cases of genuine difficulty and vulnerability and in such cases a reasonable agreement to recover the debt will be made with the customer. This might include writing off all or part of the debt in the most severe cases. See section below "Dealing with vulnerable people"
- Payments will be regularly monitored to ensure that the customer complies with the regulations or agreement.
- Where appropriate, legal enforcement will continue to protect the Council's interests.
- We will provide a variety of methods of payments that are convenient and easily accessible to the customer.
- Ensure that all literature and communication to the customer is clear, concise and easy to understand.

- Maximise the customers income by providing or sign-posting advice and assistance on welfare benefits and referring to agencies that provide money management advice.

Revenues & Benefits Collection Processes

Wherever possible full names, contact address and a phone number will be established prior to service provision or invoicing/billing, to ensure the viability and legality of future recovery action. Statutory debts such as Council Tax and Rates do, however, permit bills to be sent to The Occupier and "last known address(es) to be used for recovery.

All Council bills and invoices will be raised as soon as practicable on a daily basis and will include clear, relevant and full information as to:

- What the bill is for.
- When payment is due.
- How to pay.
- How to contact the Council if there is a query in relation to the bill or in relation to making payment.
- All letters and reminders will:
 - Be written in plain English.
 - Explain fully what has been agreed and the consequence of non-payment.
 - Include appropriate contact details.

Debtors will be encouraged to make prompt contact if they disagree with a bill or have difficulty in making payment on time. Contact can be made by:

- Telephone.
- Letter.
- E-mail.
- Fax.
- In person at the Customer Service Centre or Local Offices

Problems and bill discrepancies raised will be resolved as quickly as possible to prevent unnecessary delays in payment and incorrect debits.

All debtors seeking help due to financial difficulties will:

- Be given the opportunity to discuss their ability to pay with the relevant collection unit and be advised about the money advice services available within the Borough.
- Be advised about applying for possible reliefs.
- In the majority of cases callers with short term difficulties will be advised that they must pay as specified particularly in the case of statutory debts such as CTAX/Rates. Staff will have discretion to agree short term arrangements. These will however normally be for no more than a few months at most.
- Where it appears that individuals are in severe financial difficulty or are vulnerable, long term arrangements will be considered. Staff encountering such cases will

complete an appraisal form which will be passed to the relevant team to decide if it is an exceptional case. The appraisal will be carried out promptly which will include checks with Social Services to see if the person is known to them as vulnerable. If it is agreed that it is such a case Indicators will be placed on systems to prevent inappropriate further action. Teams will be responsible for regularly monitoring such cases.

- If it is found that the debtor is suffering severe hardship or is vulnerable and has difficulty managing their own affairs, every effort will be made to maximise their take up any relevant benefits, discounts, exemptions and reductions to minimise the potential debt accrual.

- Customers with communication difficulties will be given access to the Council's interpreter service if required.

If it appears the debtor has the ability to pay, but is refusing to pay or to make an acceptable offer, then recovery action will continue promptly within the existing arrangements for the type of debt with a view to protecting the interests of the Authority.

Once legal proceedings have commenced and an order from the Court is obtained, consideration will be given to deductions from income, whether this be earnings or benefits.

Where individuals are known to be vulnerable or it appears they may be vulnerable no proceedings to remove goods (distrain), commit them to prison, make them bankrupt/insolvent, or place a charging order on the property will take place without a formal appraisal of their circumstances and the approval of the Collections Manager/Client Manager.

Where liability is continuous, e.g. Council Tax and Rates, any arrangement made that runs into another financial year will normally require payments over and above the ongoing monthly liability. Future instalments must be paid when due as a condition of the arrangement.

If only the current year's bill is owed, arrangements should require payment within the financial year. For older arrears or longer-term arrangements, these will be strictly monitored and reviewed regularly. If there is no improvement by the review date and if the amount payable cannot be reduced by awarding benefits, exemptions or discounts, the Council will reserve the right to continue with recovery action. Not only will this protect the Council's interests, but it will also prevent the debt from becoming statute barred and irrecoverable. It is not in the debtor's interest to have a long-term arrangement when liability is continuous, since the level of debt will increase as time goes by and the debtor's situation will deteriorate rather than improve.

Debtors given extended time to pay will be advised to contact the Council immediately should they have a change in their circumstances which will affect their ability to pay. This will enable discussions to take place about any further options that are available and to prevent more recovery action with additional costs.

If a debtor fails to pay a special arrangement on time without contact, then recovery action will be taken promptly in the normal way but see vulnerable individual provisions below

No proceedings to remove goods (distrain), commit the debtor to prison, or initiate bankruptcy/insolvency proceedings will be commenced without first checking all available records to determine whether the individual is vulnerable or potentially vulnerable and if they found to be so a formal appraisal of their circumstances will be made and the approval of the Collections Manager/Client Manager obtained before proceeding.

Dealing with vulnerable people

While recovery action is essential, in the case of potentially vulnerable individuals an appraisal must be made of their circumstances and whether or not a particular method of recovery is appropriate. This is particularly so in the case of bailiffs wishing to remove goods (distrain), proceedings to commit people to prison, bankruptcy and insolvency and Charging Order proceedings.

In such cases of vulnerability if the circumstances of the debtor are such that it is felt it would be inappropriate to proceed with a particular action of consideration must be given to alternative methods of recovery such as a Debt Relief Order, whether a long term arrangement might be most appropriate, whether the individual might be entitled to Benefits or other reliefs, whether the individual needs to be referred to an outside help agency such as the Citizens Advice Bureau, whether the individual might need referral to Social Services and in some cases whether writing off all or part of the debt is appropriate.

Social Services define a vulnerable adult as:

“Anyone aged 18 years or over who may be unable to take care of, or protect themselves because they have physical, sensory or learning disabilities, mental health needs or are frail and/or experiencing a temporary illness. They may be living in their own home, or a residential or nursing home, in hospital, attending day care, or without a permanent home.”

For the purposes of this policy potentially vulnerable individuals might include:

- The elderly (75 +) with an inability to pay.
- Debtors who suffers from a mental health problem or learning difficulty.
- Debtors who have communication difficulties.
- Debtors who have a serious sensory impairment or other physical disability.
- Debtors where the debtor, their partner or a close family member has a long term serious illness. This includes problems with alcohol, drug & substance misuse.
- There has been a recent bereavement in the debtor's close family.
- The debtor is homeless.
- The debtor or his/her partner is on Income Support/other state benefits or has severe financial problems
- The debtor is under 21.

This is not a check list. It is not intended to be prescriptive or comprehensive. Individual circumstances vary greatly and Council staff and agents acting for the Council must at all times be aware of the potential for vulnerability. The majority of people manage their affairs adequately even if they have difficulties and it must not be assumed because someone is older, disabled or younger or has some other difficulty they are unable to manage their affairs.

Staff encountering such cases will complete an appraisal form (attached) which will be passed to the relevant team to decide if it is an exceptional case. If it is agreed that it is

such a a case Indicators will be placed on systems to prevent inappropriate further action. Teams will be responsible for regularly monitoring such cases.

To decide whether it is an exceptional case requiring action to prevent inappropriate recovery action, the relevant team will firstly fully consider all the information readily available to it. This will be system notes, benefit claims, correspondence etc. In some cases this will undoubtedly be time consuming but it must be done. If this does not support a finding of vulnerability then enquiries will be made of other parties who might appear in the records to see if they can contribute anything. Most usually formal enquiries will be made of Social Services to see if the individual is known to them for any reason.

Although there has always been ad hoc contact with Social Services when vulnerable individuals are encountered this will be strengthened by establishing a formal Protocol governing the relationship between Social Services and Revenues and Benefits that will be incorporated into this policy document as soon as possible.