

Income and Debt Management Policy

March 2022

Version 2.0





INCOME AND DEBT MANAGEMENT POLICY

Date of policy	March 2022
Date for review	March 2025
Policy author	Business Rates and Corporate Debt Senior Specialist
Policy owner	Folkestone & Hythe District Council
Approved by	FHDC Cabinet (date...)

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Revision history			
Version	Date	Revision description	Policy author
1.0	December 2017	Document created	Business Rates and Corporate Debt Manager
2.0	March 2022	Updated to include Housing rent arrears and to reflect changes in legislation and FHDC structure	Business Rates and Corporate Debt Senior Specialist

NEW POLICY / POLICY REVIEW	
New policy	No
Early review – change in legislation	
Early review – significant changes in practice	
Review due – significant changes	Yes
Review due – cosmetic changes or unchanged	
Other reason	

Reason for new policy / summary of changes
The policy was due for review and needed to reflect the inclusion of housing income and debt, since management of the Housing Service returned to FHDC in October 2020
A paragraph was added to section 6, to show the legislation governing housing rent arrears (6.7)
An appendix was added to set out the process for housing rent arrears collection (Appendix 2)

CONSULTATION	
List of people/roles who have been consulted	Date
Sharon Davy, Income Senior Specialist	April 2021
Jonathan Hicks, Performance Specialist	July 2021
Jo Robinson, Business Rates and Corporate Debt Senior Specialist	July 2021

EQUALITY IMPACT ASSESSMENT	Completed	Date
DRAFT completed		

DISSEMINATION		
Role	Awareness	Essential
Corporate Debt team		YES
Housing Income team		YES

TRAINING		
Role	Trainer	Date completed
Corporate Services Case	BR&CD Specialist and Income Management Senior Specialist	TBC

MONITORING AND COMPLIANCE		
Method	Responsibility	Frequency
Internal review	Business Rates and Corporate Debt Senior Specialist	TBC

1. Introduction

- 1.1 Folkestone and Hythe District Council (hereafter referred to as 'the Council') has a duty to ensure that all revenue due to it is collected efficiently and effectively for the benefit of its residents and taxpayers. It is essential that a consistent debt management system is in place for both financial stewardship and audit purposes.
- 1.2 We recognise that some people do not pay their debts for a variety of reasons. This may include financial hardship which we will endeavour to balance against our duty to collect. We aim to be fair to everyone and consider an individual's personal circumstances where they have difficulty in paying their debt. However, we will take a robust and firm approach to those who can pay, but choose not to.
- 1.3 When a debtor makes contact, their circumstances will be considered on an individual basis with the aim of agreeing a reasonable payment arrangement in line with the framework outlined in this policy. Consideration will be given to minimising the impact of potential hardship from recovery action if appropriate. Where people fail to make contact or to maintain an agreed arrangement robust recovery action will continue.

2. Aims of the Policy

- 2.1 This Policy aims to support delivery of the Council's objectives by using cost effective and fair collection and recovery practices in the pursuit of all debts owed to the Council
- 2.2 We will adopt a professional, consistent and timely approach to recovery action across all of the Council's functions, ensuring that debts are managed in accordance with relevant legislation and best practice.
- 2.3 We will consider each customer's individual circumstances and ability to pay and so distinguish between those who genuinely are unable to pay, and those who choose not to.
- 2.4 We will manage all debts fairly and consistently under a single framework with the aim of maximising the amount of income collected and minimising the level of debt owed to the Council.

3. Links to the Council's Corporate Priorities

3.1 The council has a number of strategic objectives which are detailed in its Corporate Plan 2021 – 2030. This policy supports the Council's objective to be financially sustainable, through clear and straightforward processes for generating income and managing debt, to help deliver our wider service ambitions.

3.2 This Policy aims to support these objectives by:

- Ensuring that those customers in financial hardship are provided with advice on relevant benefits, discounts, relief and exemptions to help manage their situation.
- To consider appropriate payment arrangements dependant on the circumstances of the customer with the priority aim to prevent further arrears.
- To ensure that, when considering any entitlement to discounts, relief or exemptions, the total debt of the customer to the council is considered.

4. Fair Debt Collection

4.1 This Policy supports fair debt collection and recovery practices including:

- Ensuring that bills are accurate, timely and clear.
- Providing appropriate and easy payment methods.
- Encouraging people who fall into arrears to contact us and agree payment arrangements appropriate to their circumstances.
- Helping to reduce the effect of debt on people on low incomes by informing people about relevant benefits to ensure maximum take-up.
- Signposting customers to where they can get independent advice e.g. Citizens Advice Bureau (CAB).
- Identifying, through monitoring and customer contact, deliberate non-payers and those who delay payment, and taking timely and effective enforcement action.

4.2 The processes for Local Taxation are defined in the Council Tax Administration and Enforcement Regulations 1992 and the The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.

4.3 For Council Tax and Housing Rent, statutory reductions and or benefits are provided on application which is designed to offset the effects of low income on ability to pay. Every effort will also be made to identify benefits that may be

payable to customers and the council will work with the CAB, Pension Service and other agencies to identify such opportunities.

- 4.4 Formal charging policies, statutory or discretionary, can never completely remove the difficulties faced by some people and families on low incomes. The approach to recovery will therefore be sensitive to individual circumstances and take into account multiple debts owed within statutory limitations.
- 4.5 The approach to recovery will consider the impact of failure to collect the debts due to the council, on other residents and taxpayers within the district. Customers will be made aware of priority debts and encouraged to change their personal financial approach accordingly.
- 4.6 All income collection and recovery services will adhere to the Council's customer charter with regard to service standards.

5. Income/Debts Covered by this Policy

- 5.1 This Policy applies to all council services. It focuses on how charges are collected rather than how they are raised. Further information on recovery methods can be found in Appendix 1.

5.2

Income/Debt Collected:	Recovered by:
Council Tax	Corporate Services
Business Rates	Corporate Services
Overpaid Housing Benefit	Corporate Services
Parking charges	Place – Case Management
Housing Rent Arrears	Housing Income Team
Sundry Debts	Corporate Services

- 5.3 The category of Sundry Amount overdue includes (but is not limited to)

- Cemeteries and Burials
- Grants
- Public Hall Hire (Sports etc.)
- Council Site Hire
- Allotments
- Sponsorship
- Licensing
- Pest Control
- Refuse Collection
- Fixed Penalties
- Dog Control
- Building Control
- Rent Deposits
- Rechargeable Works
- Leaseholds

- Lifeline
- Sewerage
- Housing Options, B&B charges and rent deposits

6. The Legal and Policy Framework for Recovery

6.1 The Council has a duty to ensure cost effective billing, collection and recovery of all sums due to it. In pursuing legal action, Corporate Debt Specialists will liaise closely with the Council's Legal Team and take advice accordingly. The purpose of this policy is to explain our debt recovery approach within the framework of relevant legislation and codes of conduct including:

6.2. Council Tax and Business Rates

6.2.1 Council Tax recovery procedures are laid down by statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

6.2.2 Business Rates recovery procedures are laid down by statute in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments

6.3 Housing Benefit Overpayments

6.3.1 Housing Benefit overpayments are reclaimed in accordance with Regulations 99 – 107 of The Housing Benefit Regulations 2006 (as amended).

6.3.2 In addition, there are 'Housing Benefit Debt Recovery Procedures' in place where Housing Benefit has been overpaid but is no longer in payment. These debts are collected as a sundry debt. Discretionary Housing Payments cannot be recovered from ongoing benefit; overpayments are collected as a sundry debt.

6.4 Parking Charges

6.4.1 Parking recovery procedures are laid down by statute in the Traffic Management Act 2004 and any subsequent amendments

6.5 Rent Arrears (from current and former council housing tenants)

6.5.1 The collection of rent arrears from current and former council housing tenants is set out in our 'Housing income and rent collection procedure' (Appendix 2)

6.5.2 This procedure ensures we pay due regard the correct legislative requirements and processes. This includes the 'pre-court protocol' which ensures any court action has been fully adhered to before further recovery steps are taken.

6.5.3 The procedure supports the following legislation:

- Data Protection Act 2018
- Equality Act 2010
- Protection from Eviction Act 1997
- Housing Act 1985 (as amended by the Housing Act 1996)
- Homelessness Act 2002
- Deregulation Act 2015

6.6 Miscellaneous Income (Sundry Debt)

6.6.1 Sundry Debt arrears are collected in accordance with local procedures (as there is no specific statutory process) and reflect best practice wherever practicable.

6.6.2 Interest may be charged on overdue debts and costs incurred are recovered in the County Court. The debtor will be made aware of any additional costs in advance so that they have the opportunity to avoid them wherever possible.

6.6.3 All Sundry Debt types must be raised through the debtor system for tracking and forecasting purposes.

6.6.4 Legal action through the county court includes obtaining a county court judgment (CCJ) or charging order.

6.7 Legal action

6.7.1 Legal action will always follow the correct protocols set out under the Civil Procedure Rules for the recovery and enforcement of debt. For example, prior to issuing court action for debt, there is a protocol for issuing a 'letter before claim', which sets out the full background of the debt and that this is a final letter before court action.

6.8 Breathing Space

6.8.1 The Council has processes in place to effectively manage 'Breathing space' and Mental Health Crisis Moratoriums across all debt types.

6.8.2 The Debt Respite Scheme can relieve some of the pressure on debtors from creditors for 60 days or longer (for Mental Health Crisis). It isn't a payment holiday but does stop action on you for this period.

6.9 Insolvency

The Council has processes in place to effectively manage ...insolvency including debt relief orders, bankruptcy, IVAs and CVAs.

7. Enforcement Agents

- 7.1 All enforcement agents appointed will operate in line with the contract agreement and the 'Taking control of goods' Regulations 2014 with the fees charged covered by the Taking Control of Goods (Fees) Regulations 2013.
- 7.2 Enforcement agents will be instructed where a customer has failed to reply to a post-court letter advising the case is due to be passed to enforcement agents, has failed to pay as arranged or has failed to make any contact.

8. Disputed Debts

- 8.1 Where a customer disputes a debt the case will be fully investigated by Corporate Services in conjunction with the billing department. Further recovery action may be suspended pending the outcome although any agreed arrangement must be paid in the interim. When the dispute continues after investigation a complaint can be made through the Council's formal complaints process.

9. Vulnerable Debtors

- 9.1 Where there are other issues that impact on a customer being able to pay their debt, for example, physical and mental health issues, substance misuse, or other social issues, the Council will look at early intervention and case-specific solutions that make all reasonable adjustments that reflect a customer's individual needs.
- 9.2 It is our aim to prevent debts escalating and further recovery action becoming necessary. This preventative approach will be taken where the existence of arrears, and the pursuance of recovery action, is likely to have a significant impact on any children or vulnerable adults within the household.

10. Procedures and Staff Training

- 10.1 While there are variations in the recovery procedures relating to different types of debts, the Council's objective is to adopt a corporate approach to recovering debt as set out in this policy.
- 10.2 All staff dealing with income collection and recovery will receive training and will be made aware of this policy and its contents.

11. Write Offs

- 11.1 All debts will be written off in accordance with the Council's Financial Procedure Rules and the FHDC Write off Policy 2020.

12. Monitoring

- 12.1 Regular checks will be undertaken by the Business Rates and Corporate Debt Senior Specialist to ensure invoices are being raised within set timescales and that they comply with prescribed criteria, in accordance with relevant legislation. Where standards are not being met the responsible Head of Service will be notified.
- 12.2 In addition, this policy and associated procedures may be subject to periodic reviews carried out by East Kent Audit Partnership as part of the Council's planned audit programme.

13. Equality and Diversity

- 13.1 The Council believes in treating individuals consistently and fairly regardless of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy. It is also our aim to ensure that an individual's rights under Data Protection and Human Rights legislation are protected.
- 13.2 An Equality Impact Assessment has been carried out to ensure that there is no bias or discrimination towards any group, and that opportunities to improve equality and access are maximised. Where appropriate, reasonable adjustments will be made to ensure a fair and balanced approach is applied to all customers.

13. Review

- 13.1 This policy will be reviewed at least every 3 years, or in line with any changes in legislation. Minor alterations to the policy may be approved by the Council's Director of Corporate Services in consultation with the Cabinet Portfolio holder responsible for Finance. Any substantive alterations to the content of this policy must be approved by Cabinet.

APPENDIX 1**Corporate debt billing and recovery procedure**

The following sets out the procedure for corporate debt billing and recovery, with exception of housing income and arrears (set out in Appendix 2)

1. Establishing contact details

- 1.1 Full names, contact address, email address and a phone number will be established wherever possible prior to service provision or invoicing/billing. The contact details should be added to the Northgate Record file for Business Rates, Council Tax and Benefits Overpayments. For all other service types the details should be added to eFinancials.

2. Invoices

- 2.1 All invoices (excluding Council Tax and Business Rates bills) will be raised within 10 working days of all the information being available and will include clear, relevant and full information as to:

- What the bill is for, including date or period of service covered and amount
- When payment is due
- How to pay
- How to contact us if there is a query in relation to the bill or in relation to making payment
- Statement of intent regarding the application of interest to late payments
- Where appropriate the service/goods purchased will not be provided until the council is in receipt of the full balance due

3. Council Tax and Business Rates bills

- 3.1 Council Tax and Business Rates bills are issued in accordance with the relevant legislation as soon as reasonably practicable. The content of the bill and accompanying information is prescribed in the legislation.

- 3.2 All letters and reminders will:

- Be written to comply with the relevant legislation
- Be written in plain English
- Explain fully what has been agreed and the consequences of non-payment

- Include appropriate contact details

4. Correspondence and contact

4.1 Customers will be encouraged to make prompt contact if they disagree with a bill or have difficulty in making payment by the date requested. Contact can be made by:

- Telephone
- Letter
- Email
- In person

4.2 Correspondence regarding payment will be responded to within the standards of the Customer Charter to prevent unnecessary delays in payment and incorrect debits.

4.3 Correspondence in relation to discrepancies and disputes will be responded to within the standards of the Customer Charter. All disputes must be thoroughly investigated by the service area concerned and a response sent within 20 working days. Where appropriate the service area will instruct the Corporate Services Team to cease recovery action pending the result of the investigation.

5. Financial difficulties and hardship

5.1 Customers seeking help due to financial difficulties will, where appropriate:

- Be given the opportunity to have their ability to pay assessed by a face to face interview.
- Be encouraged to provide details of their means by listing their income and outgoings. This will assist the council to assess the debtor's ability to pay and entitlement to any unclaimed discounts, reliefs, exemption or benefits.
- Be encouraged to use the money advice services available from the Citizens Advice Bureau, the Financial Services Authority website, the gov.uk website or any other similar service.
- Be given access to the council's interpretation service, if required.
- Be 'signposted' to welfare/benefit advice, where appropriate.

5.1 If legal proceedings have already commenced, consideration will be given to the various recovery options available and the appropriate method used. Where appropriate the same method of recovery will be applied to the total debt.

5.2 If it is found that the customer has the ability to pay, but refuses to pay, then recovery action will continue promptly within the existing methods for the type of debt.

5.3 If it is found that the customer is suffering severe hardship or has difficulty managing their own affairs, the following will be considered:

- Can the debt be reduced? Have all relevant benefits, discounts, exemptions and reductions been applied to minimise the debt?
- Would an appointment to discuss the debt and understand the circumstances of the customer be appropriate? This would include the offer of a home visit if applicable.

6. Payment arrangements

6.1 Where there is no continuous liability an extended payment arrangement may be offered to complete payment beyond the end of the financial year. This is in recognition that the debt is not increasing and the customer is likely to have similar debts to pay at their new address. The arrangement should be monitored on a regular basis and reviewed if necessary.

6.2 Where there is continuous liability any arrangement will be considered that clears the current financial year within the financial year and continues to reduce the arrears even if payment of the arrears continues beyond the end of the financial year. The arrangement should be monitored on a regular basis and reviewed at the commencement of any new financial year.

6.3 If only the current year's bill is owed, arrangements should require payment within the financial year (at the latest) whenever possible. The council will reserve the right to continue with legal action, and in the case of Local Taxation, obtain a liability order from the Magistrates' Court. This is to protect the council's interests and prevent the debt from becoming statute barred and irrecoverable. Nevertheless regular contact with the customer is encouraged and part payments will be accepted to reduce the overall debt.

7. Attachable benefits

7.1 If a customer is receiving an attachable benefit and the correct legal steps have been taken to make an attachment to the benefit this method of recovery will be taken. The amount deducted is determined by the Department for Work and Pensions (DWP).

8. Time to pay

8.1 Customers given time to pay will be advised to contact the council immediately should they experience a change of circumstances affecting their ability to pay. This is to discuss the options available to prevent further recovery action and additional costs. Confirmation of such arrangements shall be made in writing to customers.

9. Further recovery action

9.1 Further recovery action will be taken if a customer fails to co-operate by:

- refusing to provide details of their means so a sensible arrangement may be agreed; or
- failing to pay an arrangement on time without contact

9.2 Steps taken to recover debt, where further action is necessary, are set out as follows:

9.3 Sundry Debts

9.3.1 Failure to make payments as agreed could result in the following:

- Debts can be passed to the Councils collection agent.
- A request being made to the DWP for direct deductions to be taken from their benefit. The amount deducted is determined by the Department for Work and Pensions for certain debt types e.g. B&B charges, rent in advance and sewerage, if the customer is still living in the property the debt related to
- Obtain a County Court Judgement
- The Council may have additional powers of enforcement for specific debt types e.g. leaseholders, community infrastructure levy, planning. Some of these are enforced by the Corporate Services team some are passed back to the department for enforcement

9.4 Housing Benefit Overpayments

9.4.1 If a customer is still entitled to Housing Benefit we will reduce the amount of benefit we pay them by taking money from their ongoing benefit.

9.4.2 If the customer no longer receives benefit we will send them an invoice for the outstanding overpayment. Failure to pay this may result in:

- The amount being passed to Collection Agents
- A request being made to the DWP for direct deductions to be taken from their benefit. The amount deducted is determined by the Department for Work and Pensions
- A request being sent to an employer for direct deductions to be taken from wages (a Direct Earnings Attachment). The amount of earnings deducted is dependent on the amount of net earnings; a maximum of 20 per cent may be taken

9.5 Council Tax Attachment of Benefits

- 9.5.1 Where a Liability Order is granted and a person is in receipt of Jobseekers Allowance (Income Based), Employment and Support Allowance (Income Related), Income Support or Pension Credit Guarantee Credit an application can be made to the Department of Work And Pensions to take weekly deductions from their benefit.
- 9.5.2 Deductions can also be requested from Universal Credit payments although the amount of these vary from individual to individual based upon the constitution of their Universal Credit award.

9.6 Council Tax Attachment of Earnings

- 9.6.1 Where a debt is secured by liability order we can request that an employer make direct deductions from the debtor's earnings.
- 9.6.2 Two attachment of earnings orders can be put into place to run concurrently
- 9.6.3 The rates at which deductions are made are determined by central government and can be found in the guide at:
<https://www.folkestone-hythe.gov.uk/council-tax/what-happens-if-you-dont-or-cant-pay>

9.7 Council & Business Rates Enforcement Agents

- 9.7.1 Folkestone & Hythe District Council has appointed enforcement agents to recover local taxation arrears in accordance with a code of conduct. Only certificated enforcement agents may levy 'distress' for local taxation.
- 9.7.2 Fees charged to the customer are governed by Taking Control of Goods Regulations 2014 with the fees charged covered by the Taking Control of Goods (Fees) Regulations 2013. Levying distress allows an enforcement company to identify and remove goods for sale at a public auction to pay the outstanding debts.

9.8 Council & Business Rates Insolvency (Bankruptcy and Winding-up proceedings)

- 9.8.1 These proceedings can be taken against any debtor who owes in excess of £5,000 to the council. Bankruptcy relates to an individual and winding up proceedings are used against limited companies.
- 9.8.2 The Council refers all such cases to their appointed solicitors and the amount of costs/charges is dependent on the complexity of the work involved

9.9 Council Tax & Business Rates Charging Orders

- 9.9.1 These proceedings can be taken against a debtor who has accrued arrears of £1000.00 or more at a property which they own (either solely or jointly). An application is made to the County Court for a charge to be registered against the property and our application is for an Order to be made with costs added (currently £264.00).
- 9.9.2 If an order is granted by the court a notice is placed with Land Registry which is then registered against the debtor's interest in the property. For Business Rates the Council would have to follow regulation 20(1) of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and make an application to the County Court for a CCJ instead of obtaining a liability order.

9.10 Council & Business Rates Committal

- 9.10.1 These proceedings can be taken against a debt owing £1000.00 or more and if culpable neglect or wilful refusal in relation to the non-payment of Council Tax can be established.
- 9.10.2 If found guilty by the Magistrates' Court a sentence of up to 90 days imprisonment can be imposed. The debt is not automatically discharged upon release. However, efforts will be made to find alternatives to taking committal action wherever possible

APPENDIX 2**Housing income and rent collection procedure**

The following sets out the procedure for the collection of rent and arrears from current and former FHDC tenants

1. Our approach to income collection

- 1.1 We will be clear about what needs to be paid and when. We will seek a balance between effective recovery of rent and charges and supporting customers to enable them to meet their payment obligations.

2. Current Tenant Arrears

- 2.1 We expect rent to be paid when due, as stipulated, under the terms of the tenancy agreement. This applies if tenants pay their rent themselves or are in receipt of benefits.
- 2.2 We will be mindful of our tenant's ability to make payments before setting-up any agreements, ensuring that the agreement is tailored to their individual circumstances. In the case of former debt, we expect re-payment agreements to be adhered to.
- 2.3 Where the tenant fails to come to an agreement to repay the arrears, agreed a repayment plan and has not kept to an agreed repayment plan or fails to engage with the Council regarding the rent arrears, we will consider taking legal action to recover monies owed, by serving a Notice of Seeking Possession or Notice of Proceedings for Possession.

3. Evictions

- 3.1 The Council will take legal action to evict a tenant, but only as the last resort and where all other means of recovery of rent arrears have been exhausted. The Income Team will inform the Housing Options Team and the Neighbourhood Team about the intention to evict.

4. Supporting tenants to pay their rent

- 4.1 We recognise that many of our tenants may be among the most vulnerable in the community. We will ensure a balance between effective rent recovery and supporting tenants to enable them to meet their payment obligations.
- 4.2 We will work with the tenant to assist in resolving any Housing Benefit or Universal Credit problems. We will tailor our approach, making a referral to our Welfare team to assist in providing Benefit and Money Advice where appropriate.

5. Universal credit

- 5.1 We recognise that the transition from Housing Benefit to Universal Credit is a significant change for our tenants. We will offer support to Customers who may be affected; ensuring that information recorded is relevant and up to date.
- 5.2 If a tenant in receipt of Universal Credit in rent arrears of more than two months, or the tenant is a vulnerable tenant who cannot manage their single monthly payment, the Council will, where necessary, apply for an Alternative Payment Arrangement, which is a managed payment direct to the Council.

6. Former Tenant Arrears

- 6.1 FHDC aims to recover all monies from former tenants with outstanding account balances. FHDC will seek to do this in the most efficient and cost effective manner and will recommend debts for write off only where they are irrecoverable and within agreed parameters.

7. Garage Arrears

- 7.1 Any garages with rent arrears will be re-possessed, and one week's notice will be given. The garage may still be re-possessed even if arrears cleared after notice of re-possession has been issued.
- 7.2 The garage may be re-possessed if rent arrears are also on the Housing Tenancy, even if there are no arrears on the garage Licence. Any credit on the garage rent account may be used to off-set any rent arrears on the Housing Tenancy

8. Key controls and reporting

- 8.1 We will monitor our income performance on an ongoing basis. Current performance will be reported to the Housing Leadership team on a monthly basis and to Corporate Leadership team and Cabinet on a quarterly basis (or as required).