

BRISTOL CITY COUNCIL

CORPORATE DEBT

POLICY



Summary of policy:

This policy details the principles to be adopted by the Council when undertaking the collection of debt from both citizens and businesses.

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FAIR DEBT COLLECTION CHARTER

Bristol City Council will collect debt fairly and impartially and with regard to the social welfare of our customers.

Communication

The Council will:

- Send documents in a format that is clear and easy to understand.
- Ensure that all written communications use appropriate language and that plain English is the standard.
- Ensure consistency of approach and high standards of service across all departments when dealing with customers.
- Make it easy for customers to contact us when having difficulty paying Council debts.
- Be “preventative” by offering a wide range of payment options.
- Strive to improve contact with customers by coordinating publicity and marketing campaigns and promoting advice and support services.

Fairness

The Council will:

- Apply common repayment and debt management principles to all the debts that it has to collect; giving regard to the relevant legislation that governs the recovery of each type of debt.
- Apply common considerations and principles across all Council departments when assessing the customers circumstances and ability to pay
- Recover debts by agreed arrangements that are realistic and sustainable or, where possible, by attachment to earnings or benefits in preference to the use of external agents.
- Recognise that households dependent on means tested income replacement benefits and / or with multiple debt problems may face particular problems and need extended repayment periods.
- Endeavour, where multiple debts are owed to the Council, to agree payment arrangements on the principles of preventing further debt whilst allowing all debts to be repaid. In practice this may mean ensuring that current liabilities are maintained whilst a sustainable amount is paid towards clearing other debts.

- Work in partnership with local advice agencies and signpost customers to advice and support agencies available to them.
- Ensure that both internal recovery officers and external agents contracted to the Council, work to the agreed Code of Conduct. This is available on the Council's website at www.bristol.gov.uk/xxxxxxxxxx.

The Council expects customers to:

- Notify the Council of any changes in circumstances as soon as possible.
- Take responsibility for their debts and to seek advice from the Council or an independent advice agency when experiencing financial difficulties.
- Contact the Council early on when experiencing difficulties in making payments.
- Make realistic and affordable payment arrangements in respect of their debts and avoid additional costs by making early contact and maintaining payment arrangements.
- Claim any discounts, exemptions or benefits to which they are entitled at the appropriate time.

Your views and making a complaint

Bristol City Council is committed to providing high-quality services to all our customers. We welcome and value your feedback so that we can improve the services we provide to you. We take all forms of feedback seriously and will use the information to monitor our performance and adapt our services to meet your needs. Further details on how to do this is available on the Council's website (www.bristol.gov.uk/xxxxxxxxxx).

POLICY SUMMARY

INTRODUCTION

The Policy has been developed to help meet the Council's Corporate Plan priorities and is also part of a response to Central Government's agenda to provide solutions that have prevention and intervention as key drivers for public service delivery to local people. The documents that have contributed to the formulation of this strategy are included in the references.

The Corporate Debt Policy covers all Council Departments including Rents, Revenues & Benefits and Shared Transactional Services (Debtors). Partner agencies include WRaMAS (Welfare Rights and Money Advice Service), the Equalities Department of the Council as well as Bristol Credit Union and the BCC commissioned advice agencies, and includes the following organisations:

- Bristol Citizens Advice Bureau
- Bristol Debt Advice Centre
- North Bristol Advice Centre
- St. Paul's Advice Centre
- South Bristol Advice Services
- Avon & Bristol Law Centre

The policy is in two parts covering:

- Part 1: Objectives
- Part 2: Scope and operation

PART 1: OBJECTIVES OF THE POLICY

1.1 Purpose – Why have a “Corporate Debt” policy?

Bristol City Council is required to collect monies from both its citizens and businesses for a variety of reasons. It is inevitable that the Council will be required to pursue the recovery of arrears from both individuals and businesses that may experience difficulty in paying. An agreed policy of how the Council manages and collects debts is key in ensuring consistency and best practice for customers and the organisation.

The Corporate Debt Policy identifies where responsibility for collection of different debts lie, and sets out the principles and standards in relation to contact, recovery process, repayments and benefit / money advice. Included in the policy is the provision of support mechanisms and practices to all customers. It details the approach to collecting debt in Bristol and also provides practical help, advice and support in the management of multiple debts owed to the Council.

The policy sets the framework for a consistent and sensitive approach to collecting debt whilst at the same time ensuring that the Council continues to maximise income collection and arrears recovery performance.

This policy will cover all debts owed to the Council including:

- Council Tax
- Rents, both housing and others, e.g. garages, commercial, sub account and former tenancy debts.
- Benefit overpayments
- Business Rates
- General debtors, e.g. unpaid fees and charges
- Legal costs

Appendix A summarises the types and priority of debt covered by this policy.

1.2 How is it to be used?

We will take practical steps to:

- Raise awareness of debt with customers and clearly identify how much / how it has occurred and raise awareness of the implications of non-payment
- Use the full range of collection and recovery methods as appropriate if debts are not paid. The policy does not prejudice any legal action that the Council may wish to take.
- Promote ways to pay and the help and support that is available to customers.
- Apply this policy to all departments and provide the same level of service at the initial enquiry stage. However, each department will apply its' own procedures and processes in recovery of the debt.

1.3 Policy Objectives – What are we trying to do?

We are trying to:

- Maximise income for the Council, including rent income due to the Housing Revenue Account for Council houses, to ensure that all Council Tax and rent payers' interests are protected.
- Achieve an equitable share of income available to pay across all Council debts.
- Achieve efficiency savings by identifying solutions for customers on debt issues at the first point of contact.
- Be fair but firm.
- Be “preventative” by, for example, offering a wide range of convenient payment options and advice, such as budgeting, managing money and dealing with debt.
- Help, where possible, to maximise customer's income and increase their ability to pay.
- Advise customers of advice and support agencies available to them and encourage self help
- Ensure consistency of approach and high standards of service when dealing with customers.
- Share knowledge, information and expertise across the Council and other agencies whilst striving to comply with legislation such as the Data Protection Act etc.
- Apply best practice in relation to debt collection

1.4 Contact with customers

We will:

- Encourage customers to make early contact in respect of debt related matters.
- Use plain English in written letters and documents.
- Coordinate publicity and marketing campaigns across the Council.
- Promote advice and support services.
- Provide communication assistance where appropriate e.g. translation/interpreting services

1.5 What does it cover?

The policy covers the following:

- 2.1 - How ability to pay is assessed
- 2.2 - What service customer's will receive
- 2.3 - Communicating relevant information
- 2.4 - How information is shared
- 2.5 - How people can access advice and support
- 2.6 - Excluded debts
- 2.7 - How we will deal with irrecoverable debts
- 2.8 - Corporate approach for dealing with customer credits and refunds
- 2.9 - The Council's "Fair Comment" complaints procedure
- 2.10 - How the Council uses Collection and other Agencies
- 2.11 - How the Council will conduct Personal Visits
- 2.12 - Serious arrears.
- 2.13 - Arrangements for policy review and impact monitoring

PART 2: SCOPE OF THE POLICY

2.1 Assessment of ability to pay

Guidelines for repayment and arrangements

These guidelines have been produced to encourage consideration of all aspects of a customer's situation when making arrangements to pay debts, to ensure that the best advice is given to customers at the appropriate time. This will include making referrals to other agencies for money and / or debt advice. Where the assessment of benefits is taking place appropriate delays in the recovery process should be allowed.

An arrangement to pay a debt, should take into account circumstances that may make someone vulnerable. Vulnerable customers are defined as those who need, or may need, additional care or floating support services to live independently. The Council takes a broad view of vulnerability and recognises that vulnerability is not necessarily permanent. We aim to identify people who are, or who may later become, vulnerable. We recognise that this classification does not necessarily mean that a customer will always or ever need support and that many vulnerable people will have multiple needs and fall under a number of groups. Staff will have a flexible approach to vulnerability that is able to respond to the issues presented by a customer, and attempt to identify vulnerability in debtors even when the debtor does not express their situation in those terms.

Examples of vulnerable groups could include:

Disabled people, those with drug and alcohol problems, offenders, ex-offenders and people at risk of offending, those with a recent history of homelessness and / or sleeping rough, people fleeing domestic violence and/ or harassment, teenage parents, refugees, gypsy / travellers, young people leaving care or have previously been in care, older people with support needs, young people with support needs.

When discussing payment arrangements, debts owed to other Council departments, e.g. Rent, Local Tax, Benefit, and Debtors must be taken into account. In particular:

- Direct recovery from benefits should be prioritised (where possible), rather than passing cases to collection agencies or enforcement agents.

- Repayment arrangements must be affordable, based on reasonable and realistic amounts, acknowledging other priority payments and / or debts and supported by a financial statement from a debt advice agency where applicable. Financial statements are not mandatory where the customer has been confirmed as in receipt of a means-tested benefit.
- Additional costs for the debtor should be kept to a minimum, by holding court action as long as possible wherever possible, especially where the customer is actively engaging with a debt advice agency in respect of their financial position. Consideration should be given to removing any additional costs incurred if the customer is in receipt of a means tested benefit and has engaged with the process throughout.
- Whilst an offer of payment is being considered, customers with multiple debts to the Council are expected to make and maintain regular payments that are at least equivalent to the current minimum deduction levels from means tested benefit. For those on means tested income replacement benefits (income support, income based JSA, income based ESA and pension credit (guarantee) the maximum weekly repayments for all Council debts should not normally exceed twice the recovery rate from means tested income replacement benefits set by the Department for Work and Pensions. For those on other means tested benefits (working tax credits housing benefit or council tax benefit) weekly repayments should not normally exceed four times the maximum DWP recovery rate.
- The maximum levels for formal arrangements should not prevent customers from making higher payments where circumstances allow. When assessing ability to pay any available savings will be taken into account.

After considering the options above, you should also refer to your own Departmental Codes of Practice for debt resolution.

2.2 What services will customers receive?

Once a customer has made contact it is imperative that he / she is referred on to the most appropriate source of debt management support.

On initial contact with Bristol City Council customers will be informed of the options available to manage their debt(s) and of the relevant service provider. Where appropriate, customers will be informed of debt advice and support services available to them outside the Council.

Customers presenting with a single debt will be able to make a payment or where the debt cannot be cleared, a realistic agreement to pay via the first point of contact or relevant Council Department.

Those who have multiple arrears will be advised to seek, or be signposted to, independent debt advice. We will also advise customers to visit the Advice West website for further information.

Customers presenting with multiple debts need to know that there is a solution to their debt problems and should be actively encouraged to share with staff information on all monies owed and issues affecting their ability to pay in order for the most appropriate referral to be made.

The Policy does not promote a “one size fits all” approach, but rather looks to work with the customer to take agreed steps to help address multiple debts. The response to debt management will vary, as different solutions are needed to address the far ranging complexity of some multiple debt cases.

Alongside the debt owed to the Council, the policy will enable customers to receive help, advice and support in reaching realistic payments to other creditors including Her Majesty’s Court Service (in respect of fines), utilities, credit companies and mobile phone suppliers through the use of targeted debt advice.

Where practicable, we will also require our partners to ensure the same level of service is provided and encourage other agencies to mirror our approach to diversity and inclusion issues.

2.3 Information

In addition to detailing the amount payable and a description of the charge, the Council will include the following information on all requests for payment.

- (a) The payment options available.
- (b) A contact telephone number for queries in relation to the accuracy of the account.

(c) A contact telephone number for discussing payment arrangements where the customer has difficulty in paying the amount requested on the account.

Wherever possible the contact telephone number in (b) and (c) will be the same.

Where it is necessary to issue recovery documentation (e.g. a reminder or summons) following non payment of an initial account, or failure of an instalment arrangement, then the Council will also include the information detailed above.

The structures, points of contact, linkages, communication and information sharing protocols will be developed and shared with service providers and customers. The Council will wherever possible provide information to meet specific communication needs and take account of diversity and exclusion issues. In meeting individual needs the Council will, where practical, ensure that individual preferences are documented so that ongoing and future correspondence can be delivered in the preferred format. This includes using accredited language translators / interpreters (such as Big Word) to assist persons whose first language is not English and BSL interpreters for those who are deaf.

Where appropriate, documentation will advise customers where to get help and advice about benefits and debt problems. This will normally include information about the local money & debt advice agencies, Bristol Credit Union and any other relevant key partners.

We will ensure that all written communications uses language appropriate to the intended recipient and that plain English is the standard wherever possible. We will explain complex terminology when it is required to be used by law. All documents will be issued in a timely manner, in accordance with statutory deadlines where appropriate and will explain the legal options open to the Council to collect debts in a factual manner, taking into account the current recovery stage of the case.

Staff in personal contact with customers (e.g. in the Customer Service Points or Customer Service Centre (CSP/CSC) will signpost them towards advice on benefits and debt matters appropriate to their needs usually provided by the Corporate debt policy partners.

2.4 Sharing Information

All computer systems used by the Council to bill and recover monies will satisfy statutory requirements and support the full range of recovery options. All staff involved in the collection and recovery of accounts will be given training appropriate to their function.

To ensure success of this policy and ensure consistency of approach, it is necessary to establish effective working practices and liaison arrangements across Council Departments, statutory and voluntary agencies, and all service providers when dealing with multiple debts. Subject to the Data Protection Act, access to debtors' information contained on different systems will be shared internally so that an individual's full indebtedness can be established and properly dealt with.

2.5 How people can access advice and support

The Council will promote the Advice West and Money Advice Service websites as well as directing customers to appropriate independent debt advice agencies. If considered appropriate the Council may directly refer customers to an independent debt advice agency.

2.6 What is excluded?

Penalty Charge Notices (parking contraventions)

Penalty Charge Notices, pre county court charge registration, are excluded from the policy's arrangement to pay process. Only post charge registration cases may be considered in any arrangement process, providing severe financial hardship is identified as a result of the parking debt adding to other Council debts. Such consideration would normally be through partner advice agencies or the multiple debt referral process.

Penalty Charge Notices that have accrued due to non-payment or multiple tickets, where there are no other council debts, are not included in the Corporate Debt Policy. However, in cases of financial hardship it may be possible to offer arrangements to discharge the debt over a period of six months or less.

2.7 Irrecoverable Debts

The Council recognises that not all debts are collectable and therefore it will be appropriate in certain circumstances to classify debts as irrecoverable, where pre determined criteria are met.

The Council has guidelines / policies in place which detail the criteria and action taken prior to an account being written-off. This will include a common approach to dealing with debt relief orders, bankruptcy and administration orders. It is also recognised that accounts below a certain value will be uneconomic to collect.

2.8 Credits

Bristol City Council has a corporate approach to refunding credits, and where possible, checks are made for other outstanding debts in respect of the customer, prior to a refund being made.

There is no specific case law or authority relating to the transferring of credits between departments. Where no “relationship” exists between a credit and a debt, other than it is held by the same local authority, the general practice should be to give notice to the customer that it is the intention to offset a credit owing to one department of the Council to another, unless it is confirmed that arrangements have been made to repay the debt with the relevant department. There should be no intention to cause undue financial hardship by withholding any credit nor should credits be used to offset any future liabilities. If the customer disputes the Council has a right to offset a credit against a debt, the matter should be referred to the appropriate manager / department who hold the credit for advice

Other credit refunds, for example compulsory purchase compensation and home loss payments will be included in this policy approach.

2.9 Complaints

The Council will endeavour to resolve problems in relation to debt collection at an early stage, in an informal manner.

Where this is not possible, customers are advised of the Corporate “Fair Comment” complaints procedure, should they wish to take the matter further.

2.10 How the Council uses Collection and other Agencies

The Council will ensure that collection and other agencies adhere to the code of conduct specified by the Council.

For collection agents (enforcement agents) this includes mandatory corporate membership of both the Enforcement Services Association of England and Wales and the Association of Civil Enforcement Agencies. The company must also be regulated by the Financial Services Authority or related statutory or regulatory body.

2.11 How the Council will conduct Personal Visits

The Council will only make visits to customer's homes between the hours of 07:30 and 20:00, unless otherwise arranged with the customer. All Council staff will carry identification that will be produced on demand.

Staff will not enter a property where a minor is the only occupant or where they feel that the person with whom they are speaking could be considered vulnerable as defined in section 2.1 above.

2.12 Serious Arrears

There are procedures that are to be used by staff when dealing with customers with serious arrears. Serious arrears can be defined in a number of ways but in general terms relate to those citizens who have significant high value multiple arrears. Citizens who fall into this category will be offered the opportunity to receive independent debt advice.

The Council will endeavour to minimise the use of eviction or bankruptcy proceedings wherever possible and encourage customers to take independent debt advice.

2.13 Policy review and monitoring

The Corporate Debt Policy and its effectiveness will be monitored. This will be carried out by **xxxxxxxxxxxxxx**, which will meet quarterly to discuss any problems and issues that have resulted from the policy.

The Corporate Debt Policy will be reviewed annually. This will enable it to be updated where necessary and take account of changes in legislation, best practice and innovation.

New approaches and ways of working will inevitably be introduced and the Corporate Debt Policy will need to be adapted to take these into account.

It is hoped that you find this document useful however if you have any observations or comments please feedback via email to corporate.debt@bristol.gov.uk.

APPENDIX A: DEBT TYPES

Priority Debt

There are many types of debt, but those considered as “priority” debts are those debts owed to creditors who can take the strongest legal action against an individual who does not pay.

It isn't the size of a debt that makes it priority but what creditors can do to recover their money.

Individuals are not always aware of the consequences of failure to pay or creditor' or their own rights.

The procedures supporting this policy would ensure customer awareness of what priority debts are.

The Policy identified the following as equal priority debts:

- Rent arrears – as it can result in eviction
- Mortgage arrears – as they can result in repossession
- Council Tax and Business Rates – as they can result in enforcement agent action, deductions from earnings / benefits, bankruptcy or imprisonment
- Other secured loans – as they can result in the loss of a home

Other priority debts:

- Fuel debts – as they can result in disconnection
- Income Tax and VAT – as they can result in bankruptcy or imprisonment
- County Court Judgements - as they can result in enforcement agent action, Attachment of Earnings, charging order or bankruptcy
- Fines or Compensation / Costs Orders – as they can result in imprisonment
- Hire purchase – will be considered essential if, for example it is for the purchase of a car needed to get the owner to work.
- Business Rates – as it can result in enforcement agent action, bankruptcy or imprisonment
- Benefit overpayments – as it can result in deductions from on-going housing benefit, or direct deductions from benefits or earnings
- Maintenance or child support – as it can result in enforcement agent action or imprisonment
- Penalty Charge Notices (parking contraventions)- can result in enforcement agent action

- Water / Sewerage charges – as they are an on-going annual charge for an essential service

The following are considered non-priority debts:

- Credit / store cards
- Unsecured personal loans or bank overdrafts
- Credit / interest free / hire purchase agreements
- Catalogue debts
- Doorstep loans
- Money borrowed from family and friends.

APPENDIX B: REFERENCES

This policy document draws on best practice and Audit Commission guidance contained in the national report “Local Authority Housing Rent Income”. Other sources of information used include:

- Lord Chancellors’ paper Can’t Pay, Won’t Pay, 2003
www.bristol.ac.uk/geography/research/pfrc/themes/credit-debt/pfrc0307.pdf
- Effective Enforcement white paper by the Lord Chancellor’s Department in 2003
webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/Enforcement/wp/index.htm
- Citizen’s Advice Bureau’s key tips for dealing with debt
www.adviceguide.org.uk
- National Debt Line Advice to public
www.nationaldebtline.co.uk
- Improving the effectiveness of Rent Arrears Management – ODPM2005
www.communities.gov.uk/publications/housing/improving
- Key Lines of Enquiry, Rent Income Excellence network briefings.
www.rien.org.uk
- Citizens Advice and the Local Government Association (LGA) - Council Tax arrears - good practice and protocol 2010
www.citizensadvice.org.uk
- Local Government Ombudsmen report Can’t pay, Won’t pay October 2011
www.lgo.org.uk/news/2011/oct/focus-report-bankruptcy/