



Leicester
City Council

**WARDS AFFECTED
ALL WARDS**

**Overview & Scrutiny Management Board
Cabinet**

**23 September 2010
4th October 2010**

**Review of Fair Debt Collection Policy
and Discretionary Housing Policy funding review.**

Report of the Chief Finance Officer

1. Purpose of Report

To update and simplify the provisions of the Fair Debt Collection Policy and approve a policy in respect of discretionary housing payment.

2. Recommendations

- 2.1 Cabinet is recommended to approve the updated Fair Debt Collection Policy as detailed in the appendix attached to this report.
- 2.2 The cabinet is asked to confirm the current policy for discretionary Housing Payments, including treating the 'lower limit' as the discretionary housing payment budget (or suggest a higher figure within the limits of the scheme.).

3. Report

3.1 Background

The Council first approved the Fair Debt Collection Policy in 1995. The policy was established, as a means of protecting the interests of the Council in collecting the debts owed to it whilst recognising that, in certain circumstances, immediate full payment of the sum due to the Council could cause the customer difficulty.

The policy explained that there was an expectation that current on going debts would be paid in full when due and that outstanding arrears would be paid by reference to a payment table based on surplus income. Surplus income was calculated from gross income less certain allowances. Other than the up rating of the allowances, the Fair Debt policy has not been reviewed since 1998.

3.2 Reason for Review

Since it was first adopted, the Fair Debt Policy has been affected by changing events. This includes legislative changes regarding tax collection; and organisational changes within the operation of the City Council itself and changes in the recovery strategies adopted by the City Council. As a consequence of this a Task Group was convened to

review the policy. The Task Group included officers from the City Council that collect Local Taxes and Rents, officers from the Welfare Rights Service as well as officers from the Money Advice Service.

3.3 When the Council first adopted its Fair Debt Policy in 1995 it was ground breaking. Few, if any, councils had such a policy and as a consequence of this it was fairly detailed and prescriptive. In the intervening years, many councils now developed something similar to a Fair Debt Policy and best practice is now moving away from detailed actions to general principles. As a consequence of this the Task Group has simplified the Policy but retained the principles originally agreed.

3.4 Changes

The main change in the policy is the removal of a table specifying repayments. This has been replaced by a minimum and maximum level of repayment. The minimum payment acceptable would be the sum that would be paid if court action was taken against someone on benefit, (currently £3.30 per week) and the maximum is the amount that could be paid if someone was working and court action taken (currently 17% of net income over £1,040 per month). This allows officers scope for discretion because 'one size does not fit all', while retaining a structured policy that applies a consistent approach to debt recovery.

3.5 The previous policy directed the authority to issue reminders when arrangements were not maintained. The revised policy removes this provision so that if payments are not made as agreed, the arrangement is cancelled and the recovery action in place at the time the arrangement was agreed would recommence. This is a more robust stance, but is also fairer to those who pay on time.

3.6 Clarity has been added so that customers can see what will happen if payments are not made or arrangements maintained.

3.7 The remainder of the principles of the policy are unchanged but some of the wording has been made more user friendly.

3.8 A copy of the proposed Fair Debt Collection Policy, as agreed with officers of Leicester City Council, the Welfare Rights Service and the independent Money Advice Agency is attached at Appendix A.

3.9 An explanatory leaflet will be prepared explaining the policy, its aims, benefits and the procedure followed and how the policy works in practice.

4 **Discretionary Housing Payments**

4.1 Discretionary housing payments are not payments of benefit. They are freestanding payments to be made at the discretion of the local authority, subject to an annual cash limit, in cases where the local authority considers that additional help with housing costs is needed.

4.2 The authority is able to make provision for any claimant whose housing/council tax benefit is restricted and is in the view of the local authority, in need of additional help with housing costs.

- 4.3 There are no prescribed tests of either exceptional hardship or circumstance – authorities simply have to be satisfied that the person concerned is in need of further financial assistance for housing costs.
- 4.4 The policy is to consider all applications for DHP, and to support applications, which make the most cost effective use of the funds to enable claimants to remain in their accommodation. Funding is prioritised towards sustaining vulnerable people in their home, employment and education where this can be achieved with time limited support from the budget. In this context, a vulnerable occupant may be an expectant mother securing a two bed roomed accommodation prior to confinement. A key consideration is whether a tenancy is sustainable in the long run. Where it is identified that the accommodation is not sustainable, the council offers additional financial support through this fund (for a limited period) to enable individuals to find suitable alternative accommodation; with additional help, advice and support from the Housing Options Service.
- 4.5 Each year the Discretionary Housing Payments contribution is set by the Department of Works and Pension. Each Local Authority has two limits.
- 4.6 The lower limit for 2010/11 is £71,212, which is funded directly from the government.
- 4.7 The council could consider making an additional budget provision up to a maximum of £106,818 in 2010/11 making £178,030 in total (the upper limit).
- 4.8 The Council currently makes Discretionary Housing Payments up to the lower limit, which is directly funded and reimbursed by the Government.
- 4.9 Last year the council considered 615 applications. 328 were refused. 287 applications were supported.
- 4.10 The Government's funding allocation matrix enables authorities that contribute to the fund to increase their authority's future allocation. For example should the council contribute £10,000 in 2010/11 and spend £8,000 of this fund the Government would consider increasing their Discretionary Housing Payment contribution by £9,000 in 2012/13. In the past the mid point allocation matrix has exceeded the total funds available for distribution and those authorises who have contributed have seen an increase in their government allocation but not in full. However, this is currently under review and we do not know how this will operate in the future.
- 4.11 The Council is not permitted to incur expenditure above the upper limit of £178,030.
- 4.12 The current policy is to treat the lower limit as a budget and the Cabinet is asked to confirm this or suggest a higher figure.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

a. Financial Implications

The City Council needs to be able to maximise the collection of income from all of the sources available to it but it has to balance this against a debtor's ability to pay. The Fair Debt Collection Policy is the means to achieve this delicate balance.

Alison Greenhill. Principal Accountant (Revenues)

b. Legal Implications

There are no legal implications
 Peter Nicholls. Service Director - Legal Services

c. Climate Change Implications

This report does not contain significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.
 Helen Lansdown, Senior Environmental Consultant - Sustainable Procurement

6.

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Equal Opportunities	YES	EIA has been completed and is available upon request
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	YES	EIA has been completed and is available upon request
Corporate Parenting	NO	
Health Inequalities Impact	NO	

6.

Background Papers – Local Government Act 1972

Report to Cabinet - 29th November 2004

Discretionary Housing Payments - Department of Works and Pension Good Practice guide 2008

Discretionary Housing Payment

The legislation: The Child Support, Pensions and Social Security Act 2000, which received Royal Assent on 28th July 2000, provides arrangements to allow Local Authorities to make additional Discretionary Housing Payments to claimants in receipt of Housing Benefit or Council Tax Benefit. The regulations covering Discretionary Housing Payments are the financial arrangements in the *Discretionary Housing Payments (Grants) Order 2001*, which came into effect on 2 July 2001 [SI 2001/2340]

7. Consultations

Welfare Rights Service
Money Advice Service
Income Management Team
Income Collection Team

8. Report Authors

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)

Appendix A

Proposed framework for Fair Debt Policy

1. Background

- 1.1 The council first approved a Fair Debt Collection Policy in 1995. The policy was established as a means of not only protecting the interests of the council in collecting the debts owed to it but also recognising that, in certain circumstances, immediate full payment of the sum due to the council could cause the customer difficulty.

2. Principles of the policy

- 2.1 To ensure the city council can provide public services to the people of Leicester, everyone is expected to pay their debts on time. However, the council recognises that some people face payment difficulties and has approved a policy to assist people to pay on terms that are fair. The structured policy ensures consistency, whilst leaving scope for officers to use their discretion. We seek at all times to maximise the income available to the council but remain mindful that a “one size fits all” approach is inappropriate when dealing with debt recovery.
- 2.2 Poor debt collection performance has an impact on cash flow and on the reputation of the council, and exacerbates a culture of late and non-payment. There is a further risk that the debt ultimately cannot be collected, or becomes uneconomical to collect, and the income is lost to the council. This is unfair to the vast majority of people who do pay their bills. Early contact and a consistent approach is the best way to minimise the risk of poor collection performance.

3. The benefits of a Fair Debt Policy

- 3.1 The council believes that the Fair Debt Collection policy will
- Help identify when there are likely to be difficulties for people in making payments
 - Enable people to come to realistic repayment agreements
 - Make sure that any enforcement action taken is effective
 - Encourage people to make contact at an early stage when they first face financial difficulties
 - Enable us to predict our rate of collection more reliably
 - Enable us to save money on court costs and staff time.

4. Policy aims

The policy:

- a) Considers that people have a responsibility to pay, and that debts must be met.
- b) Acknowledges that, equally as important as collecting revenue, is the need to provide a service that is both efficient and sensitive to the needs of the debtor. The policy commits the council to operating in a fair and equitable way when recovering debts.
- c) Is concerned about the ability to pay rather than the type of debt owed to the council and requires officers to work with debtors and their representatives to set realistic repayment amounts for payment over a reasonable period of time.
- d) Acknowledges and respects the debtor's obligations to his/her dependants. Reference to a minimum and maximum payment range requires officers to ensure that undue pressure is not brought to bear on debtors to make arrangements that they cannot sustain.
- e) Recognises that the majority of debts owed to the council, such as council tax, business rates and rent, are considered to be priority debts, and consequently have to be given precedence over most other debts people owe.
- f) Aims to achieve a fair balance between the claims of competing creditors in recognition of the need for debtors to maintain an acceptable standard of living.
- g) Aims to be both proactive and reactive in its attempts to minimise and prevent debts. The council will provide information on organisations that will give impartial benefit and debt advice in order to assist debtors.
- h) Acknowledges that there may be exceptional circumstances where it is not possible or it is inappropriate to collect a debt owed to the council, such as bankruptcy or liquidation.

5. Types of debt covered by the policy

- 5.1 The council's aim is to provide a co-ordinated approach to the administration of billing, benefits and multiple debts throughout all relevant areas of the council. The Fair Debt Collection Policy covers council tax, business rates, council rent, housing benefit overpayments and debts administered by the income collection team. The policy does not cover debts to be repaid because sums were originally claimed fraudulently or where the courts have imposed a payment or committal order.
- 5.2 The policy applies to personal, non-commercial debt. In the case of business debts, Officers will have regard to the principles of this policy which will be applied in its entirety where suitable (e.g. small business debts owed by individuals)

6. Communication and contact with the Council

- 6.1 Leicester City Council will notify debtors in writing about what they owe by inviting them to make contact with the council in person or by phone at an early stage of the recovery process. All such correspondence will be written in plain English and will contain, where appropriate, information about where to get independent advice.
- 6.2 Clear information will be available in a variety of formats about all aspects of collection and debt recovery, concentrating particularly on providing information as to where independent advice and help is available.
- 6.3 If customers need help or assistance with language or have sensory communication difficulties we can provide an interpretation service or supply information in different formats, such as audiotape or large print.
- 6.4 These are available by emailing housingbenefit/liaison@leicester.gov.uk or by calling our hotline number on (0116) 2527006 and select the Liaison team option or by writing to the Revenues and Benefits Services, Leicester City Council, Wellington House, 20 Wellington Street, Leicester LE1 6HL.

For those users who have access to a minicom our number is 0116 252 7548.

- 6.5 If customers are housebound, for example because of a disability, we can arrange for an officer to visit to explain the Fair Debt Policy and make an arrangement to pay.

7. Benefits, discounts and exemptions

- 7.1 Leicester City Council will notify debtors in writing of the general availability of means tested benefits. The council will ensure that publicity about benefits, discounts and exemptions is available in all council offices dealing with debt.
- 7.2 If awards of council tax benefit, discounts, exemptions or housing benefit clear any arrears, recovery action will be stopped and in some circumstances costs incurred will be met by the council.
- 7.3 If a debtor is awaiting the outcome of a review or appeal of a relevant council tax benefit or housing benefit assessment, payment arrangements will be based on the claimant's ability to pay. Further action will, in most cases, be suspended pending the final outcome of such a review or appeal. Similarly, if there is an outstanding appeal against the award of a discount or exemption, payment arrangements will be based on the person's ability to pay.

8. How the policy works in practice.

- 8.1 If a debtor is unable to pay their debt they should in the first instance contact the council to discuss their position. If no contact is made by the debtor and no payment

arrangement made, court action will be taken. This will mean if the debt is for council tax or business rates the debtor will have to pay additional costs (£55 from 1st April 2010).

- 8.2 If contact is made and the customer expresses difficulty in making a payment the officer will discuss payment of the debt by instalments taking into consideration the fair debt policy.

8.3 Step One)

8.3.1 Arrangements – The Council will try to resolve all queries and made an arrangement at first contact. Arrangements will be based on personal circumstances.

8.3.2 Benefit claimants – If the debtor is receiving income support, income based jobseekers' allowance, income based employment support allowance or pension credit we will, where possible, deduct payments from benefit. The minimum repayment figure will be the current statutory deduction figure (£3.30 per week as at April 2010).

8.3.3 Earners and other income – Where a debtor is not in receipt of a passported benefit the officer will begin negotiations to recover the debt taking into account the customer's ability to pay and agreeing a repayment between a minimum and maximum level of payment detailed in this policy. The minimum payment acceptable would be the sum that would be paid if court action were taken and someone on benefit, (currently £3.30 per week) and the maximum payment is the amount that could be paid if someone was working and court action taken (currently 17% of net income over £1,040 per month).

8.4 Step two

- 8.4.1 Where the sum calculated above cannot be made, the completion of an income and expenditure form will be required. Both current expenditure and debts will be taken into account when calculating repayments. The income and expenditure form has been devised by the Fair Debt Task Group and has taken into consideration the following good practice examples:

National Debt Line, British Bankers Association, Consumer Credit Council service and Money Advice Trust.

- 8.4.2 Completion of the form will allow the officer to work with debtors and their representatives to set realistic repayment amounts over a reasonable period of time based on their financial position.
- 8.4.3 Occasionally it may be necessary to request documentary evidence to confirm particular details. If this is necessary, the debtor will be informed of the particular items to be confirmed, normally within a period of seven days. The debtor should be advised to hand deliver or fax the documents wherever possible or they can be verified via an independent advice agency (if one is being used). Where a debtor is housebound we will arrange for an officer to visit the debtor.
- 8.4.4 If the evidence is not provided within the timescales stated, the offer of payment may be rejected and further action could be taken without further notice to recover the debt.

8.4.5 The debtor should start paying immediately the arrangement has been made, they should NOT wait until they receive a written confirmation of the payment arrangements.

9. Additional considerations for council tax, business rates and domestic rent

- 9.1 Any payment arrangement applying to previous year debts will require that current year instalments are maintained, i.e. the arrangement will be in addition to, and conditional on, the current year's council tax and current weekly rent being paid.
- 9.2 In the case of council tax or business rates this normally means payment either over forty weeks or ten calendar months (providing there are this number of weeks/months left in the financial year). Having decided the total level of payment to be made, it will be at the council's discretion, unless the debtor instructs otherwise, how the payments are applied.
- 9.3 Any arrangement should always cover all outstanding arrears, including those being collected through either attachment of earnings, where we deduct the monies directly from their pay, or bailiffs. It may not be appropriate to suspend or temporarily stop this recovery action, but any payments already being made will be deducted from the weekly repayment rate when calculating the fair debt collection arrangement.

10 Bailiffs' action

10.1 All bailiffs appointed by the council will operate within the guidelines of the current code of conduct for bailiffs issued by Leicester City Council. For further details see:

www.leicester.gov.uk/your-council-services/housing/council-tax/what-happens-if-i-dont-pay

10.2 Where a payment is not made, the case will be referred to bailiffs for collection and the debtor will have to pay additional costs. Once a bailiff is involved in collecting a debt the cost of recovering the debt mount up and the debtor is responsible for paying these costs. For example:

Bailiff's first visit £24.50

Bailiff's second visit £18.00

Removal van £110 or more

Waiting time – the first hour is free but after that it's £60 an hour or part there of.

These costs can be avoided if payment arrangements are maintained

11. Collection and recovery process

11.1 The council will provide a variety of payment methods and maximise access to payment facilities. Our preferred method is Direct Debit.

12. Late or missed payments

- 12.1 The debtor must remember that the date on which instalments are to be paid is the final date on which money should reach the council, so payments posted via the Royal Mail should be sent 2 or 3 days BEFORE the due date.
- 12.2 If, for whatever reason, the debtor is unable to make a payment they should be encouraged to contact the council to discuss the matter further PRIOR to the payment failing to be made. All payment arrangements are closely monitored, if a payment is not made or it is late or missed, further recovery action will be taken and the payment arrangement cancelled.
- 12.3 Should a payment fail to reach us, and the debtor has not been in contact, all arrangements are immediately cancelled and recovery action will be resumed. No reminders will be issued to prompt a further payment.

13. Changes in financial circumstances

- 13.1 Any change in a debtors financial circumstances needs to be notified to the council straight away, as it may alter the amount that needs repaying. This could mean reducing or increasing the amount that is paid back.

14. Customer care

- 14.1 The Council will collect debts in a sympathetic and efficient way. In its approach to enforcement, the council will take account of the whole financial situation of the debtor.
- 14.2 The council will ensure that people are encouraged to make comments, complaints and suggest improvements on debt collection matters.

Phone us on 0116 252 7000 or 0116 252 7006.

Visit us at one of the customer service centres or at any council office.

Write to us and send your letter to our address at Wellington House, 20 Wellington Street, Leicester LE1 6HL.

Email: housingbenefit/liaison@leicester.gov.uk

15. Monitoring quality

- 15.1 The collection team responsible for collecting the debt will monitor payment arrangements made under this policy and this information will be used to review the effectiveness of the policy on an annual basis.
- 15.2 All sections of the council responsible for the collection of debt will be required to implement the Fair Debt Collection Policy and the council will undertake an annual monitoring of its application. In addition, periodic monitoring will be undertaken by independent advice projects and the council's advice services.
- 15.3 The council will actively seek the views of stakeholders/service users of the policy and the task group will use these views to review the Fair Debt Collection Policy. If a debtor wishes to become a member of this task group or comment independently of the survey

please contact our hotline number on (0116) 2527006 and select the 'Liaison Team' option or write to the council's Revenues and Benefits Services at Wellington House, 20 Wellington Street, Leicester LE1 6HL.