

Leicester
City Council

WARDS AFFECTED
All

Audit & Risk Committee

16 November 2016

Pursuing Debt

Report of the Director of Finance

1. Purpose of Report

The purpose of this report is to provide the Audit and Risk Committee with assurance that the Council pursues debt owed to the Authority appropriately and timely.

2. Recommendations

Members of the Audit and Risk Committee are asked to note the content of the report and the Council's policy and practice on the pursuance of various type of debt and how this works in practice and within legislation.

Members are also asked to note that that at every stage of the recovery process we encourage customers who are having difficulty paying their debt to engage with us as early as possible in order to discuss their individual circumstance. Suitable repayment arrangements can then be established to avoid further recovery action which may include referral to an enforcement agency (bailiff).

3. Report

3.1 Background Information

Leicester City Council has legal duties to collect debt owed and safeguard public money. To enable this, a Debt Policy in place which sets out the responsibilities of both the customer who owes us money, the duties of the Council, as well as mutual responsibilities in order for debt to be paid in a timely manner. A copy of the debt policy is attached as **Appendix A**. Full details on the process of pursuing the various types of debt eg; Council Tax, Business Rates, Housing Benefit overpayment, parking fines, council rent arrears and sundry debt can be found on the web site at:

[http://www.cabinet.leicester.gov.uk/\(S\(4qabzrbatpcasl33xdvy4v2a\)\)/ieDecisionDetails.aspx?id=733](http://www.cabinet.leicester.gov.uk/(S(4qabzrbatpcasl33xdvy4v2a))/ieDecisionDetails.aspx?id=733)

- 3.1.1 The council raises approximately £412 million of debt each year and collects approximately 97% of that debt in the year that it is raised.
- 3.1.2 Attached at **Appendix B** and based on 2015/2016 data is an illustration of the variety of debt raised, collected or in extreme cases written off by the council.
- 3.1.3 If a debt is deemed uncollectable it shall not be written off until any investigative or other action has been agreed as set out in the authority's Financial Procedure Rules (FPR).

4. **Adhering to the Principles of Good Practice when pursuing debt**

When pursuing debt it is essential that the authority follows good practice. For example:

- Data Accuracy; the authority takes reasonable steps to ensure the information we supply to the customer regarding the debt is accurate and adequate in order to substantiate the goods or services were supplied by the council.
- Dealing with Debtors; the authority ensures their dealings with debtors are not deceitful and/or unfair. For example ensuring we only demand payment from the actual debtor. Not refusing to engage with a third party representative if required.
- By encouraging debtors to contact us as soon as possible if they are struggling to make payments.

5. **How is Debt pursued?**

- 5.1 The Council deals with many different types of debt and depending on the service provided have different legal requirements to aid recovery. However each service has a strict timetable for recovery action and the general principles are as follows:
- An invoice for a service is generated and sent to the customer, by post or via email.
 - If payment is not forthcoming two further reminder letters are sent.
 - Wherever possible we try and contact the customer by phone in order to encourage payment.
 - If payment has still not been made or a payment plan agreed then a final notice, or a letter before court action is sent out.
 - The next step involves court action in order to obtain a judgement to enforce the debt. For Council Tax and NNDR (Business Rates) a liability order is applied for through the magistrates' court which is in accordance with relevant legislation
- 5.2 Once judgement or the liability order has been obtained we can pursue the recovery of the debt by various methods; for example

- Attachment to Earnings; we can instruct the customer's employer to make deductions directly from their salary and this is paid over to the Council by the employer.
- Enforcement Action (Bailiffs): We use external enforcement agents, who are on formal contracts to collect debts. There are National Standards for enforcement agencies to work to which have an established a set of common principles to cover the collection of unpaid debt and supports the underpinning legislation. This covers such areas as:
 - The conduct of the enforcement agent
 - The statutory or financial requirements for enforcement agencies
 - Training requirements for agents
 - Data protection and confidentiality
 - Removing goods from property
 - Vulnerable situations; ensuring vulnerable persons are protected

6. **Summary**

Leicester City Council's Debt Policy reflects the need to collect monies owed by individuals and companies whilst acknowledging there are circumstances where collecting full payment immediately would cause financial difficulty for some. The policy ensures we have a framework which makes sure debt is perused in a fair, appropriate and respectful manner.

7. **Finance Implications**

It is important that debt collection procedures are efficient and effective, to minimise the debt that has to be written off and which is therefore lost income to the Council

Colin Sharpe, Head of Finance, ext. 37 4081

8. **Legal Implications**

The Council, in pursuing recovery of debts, is obliged to comply both with its own policies and procedures and the appropriate court rules.

Jeremy Rainbow - Principal Lawyer (Litigation) - 371435

9. **Report Author/Officer to contact:**

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Leicester City Council Debt Policy

Leicester City Council is legally required to safeguard public money. This policy reflects the need to collect monies owed by individuals and companies whilst acknowledging there are circumstances where collecting full payment immediately would cause financial difficulty for some customers. Using this policy ensures we collect debt in a fair, proportionate and respectful manner.

Our duties to customers who owe us money:

Leicester City Council will endeavour to perform the following duties:

- 1 Meet our obligation to citizens of Leicester to maximise debt collection to protect services for Leicester's residents
- 2 Remind debtors of their obligation to pay debts on time and advise and support debtors through the collection process
- 3 Provide methods of payment that are easy to follow and suitable for all debtors
- 4 Assess debtors' ability to pay and, where appropriate, consider a payment plan where full payment cannot be made immediately
- 5 Regularly monitor payment plans to ensure compliance, where appropriate
- 6 Where a debtor fails to make payment, either full or in part, to take appropriate recovery action to obtain payment

Your duties as a customer who owes us money:

Leicester City Council expects its debtors to perform the following duties:

- 1 Pay your debts in full when they become due
- 2 If you are unable to pay your debts in full when they become due you must contact us at the earliest opportunity
- 3 Where further information is required (i.e. an income/expenditure assessment) you must provide accurate, up-to-date and honest details
- 4 If you are unable to pay your debts immediately and in full you must arrange a payment plan with us at the earliest opportunity
- 5 If you default on a payment, in full or in part, you must explain why this is the case and make arrangements with us immediately
- 6 If recovery action is taken against you, you must attempt to resolve the matter as soon as possible to avoid delay and additional costs

Mutual Duties:

- 1 To inform you/us/a third party if a mistake is made and apologise for the error
- 2 To act honestly, respectfully and courteously at all times
- 3 To effectively communicate in the most efficient way possible throughout the collection process to avoid delay, expense and inappropriate recovery actions
- 4 To find a solution that avoids legal action

Don't know who to contact about your debt?

Please visit our website for further details, at Leicester.gov.uk or call us on 0116 454 1000.

Benefits of having a debt policy:

This policy formally identifies the need for Leicester City Council to act consistently and fairly towards customers. However, the policy recognises the need for discretion at times and allows for a degree of flexibility to meet customers' needs. It also protects the interests of all parties in the debt collection process and aims to encourage early communication and realistic repayment arrangements wherever possible. This policy will enable us to save time and expense for all parties and allow us to operate fairly, openly and honestly.

Customer care

We are committed to providing excellent customer care. As part of this commitment, we will:

- 1 Aim to get things right first time**
- 2 Make it easy to access our services**
- 3 Listen to you so we can better understand your needs**
- 4 Be polite, professional and helpful**
- 5 Treat you fairly and with respect**
- 6 Keep you informed**
- 7 Protect your confidential information and privacy**
- 8 Welcome your feedback and tell you how it has made a difference**
- 9 Aim to deal with customer enquiries fully, and if this is not possible, agree on a course of action.**

If we cannot help a customer for any reason, we will always tell them why.

Customer care for vulnerable customers

A customer is vulnerable if for reasons of age, health, disability or severe financial hardship, they are unable to safeguard their personal welfare or the personal welfare of other members of their family. Each case will be looked at on an individual basis.

In regard to the use of enforcement agents, the council has clear protocols governing the approach that should be taken when a debtor has been identified as vulnerable. We, and our service level agreements with enforcement agents, adhere to the following standards:

- Enforcement agents must withdraw from domestic premises if the only person present is, or appears to be, under the age of 16 or is deemed to be vulnerable by the enforcement agent; they can ask when the debtor will be home - if appropriate.
- Enforcement agents must withdraw without making enquiries if the only persons present are children who appear to be under the age of 12.

Should a debtor be identified as vulnerable, the council is prepared to take control of the case, at any time, if necessary. Which types of debt does this policy cover?

This policy covers all debt types across Leicester City Council.

Benefits, discounts and exemptions

We will endeavour to notify debtors of any benefits, discounts or exemptions available. Only, if the benefits, discounts or exemptions cover the full amount of the money you owe us, will we stop any further debt collection action. It is therefore in your interest to find out if you are entitled to any benefits, discounts or exemptions at the earliest opportunity.

If you are awaiting the outcome of a review or appeal of your entitlement to benefits, discounts or exemptions, we will recover the money you owe us based on your ability to pay *at that time*.

Debt advice agencies

We are committed to supporting debtors through the debt collection process and, where relevant, we will refer you to debt advice agencies that can help you with impartial advice and support.

Priority Debts

This policy recognises that some debts take priority over other debts. Priority debts include:

- Mortgage repayments and loans secured on your home
- Rent
- Council tax
- Payments ordered by the courts
- Gas and electricity debts

These debts should be prioritised. There are serious consequences if you do not pay a priority debt, i.e. you could lose your home or be imprisoned.

Individual debt services

Please note that different services may have different legal requirements to recover debt. The recovery process and/or enforcement actions may vary depending on which service your debt is due to. For further information about how the different services manage debt, please see the appendices below.

Complaints

You can complete our online complaints form on the Leicester City Council [website](#).

Once a complaint has been made, we'll send an acknowledgement within 24 hours, with the name of the person to be contacted with any further questions.

Data Protection considerations

The Council collects and stores personal data for the purposes of effective billing, collection and recovery of debt. Data retained for this purpose will be processed in accordance with the Data Protection Act 1998 and will be stored securely at all times.

Data may also be shared within the Council, agents, contractors appointed by the Council or with other organisations where the law allows and in particular where it is in the interests of the debtor or where it will prevent fraud or the unlawful evasion of payment of sums due.

Equality considerations

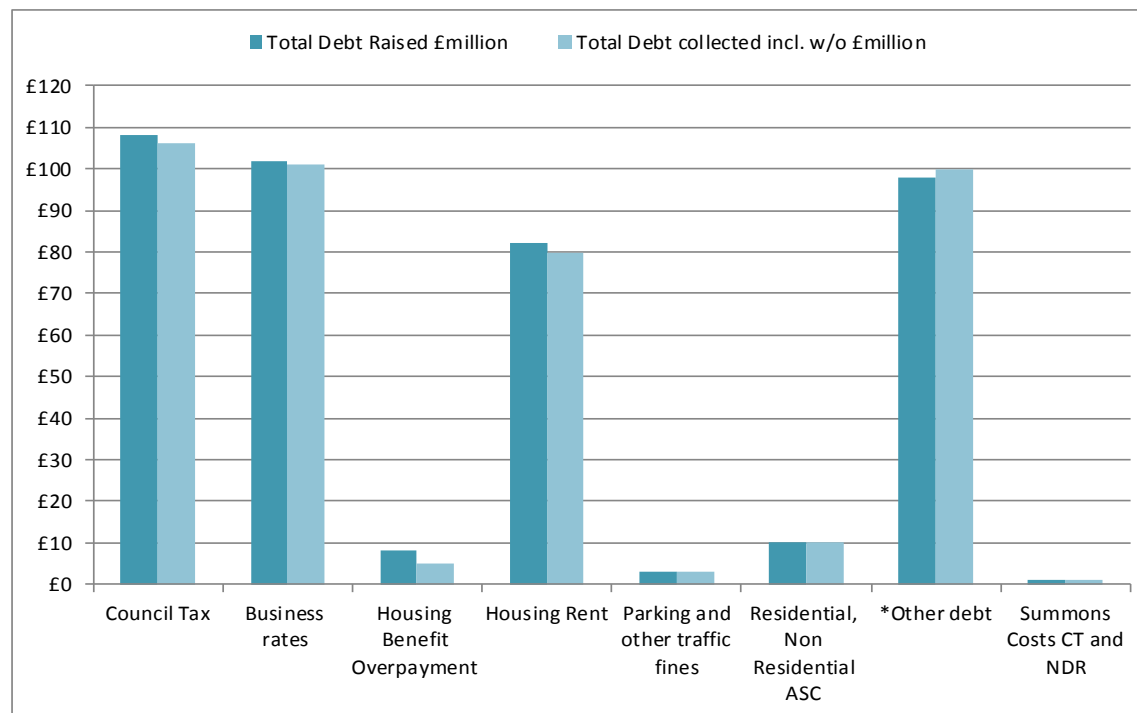
The Council has a statutory duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

Acting in accordance with this Policy will help to ensure that the collection of sums due is conducted in a consistent and objective manner that will reduce the risk of inadvertent discrimination against persons with protected characteristics. It will also ensure that debt collection and recovery is delivered in an equally accessible manner to all members of the community.

Policy Review

To make sure that this policy remains fair and relevant to our debtors we will review this policy annually.

The Value of Debt raised versus the value of Debt collected, Incl. written off during 2015/2016



Debt Category	Total Debt Raised £million	Total Debt collected incl. w/o £million
Council Tax	£108	£106
Business rates	£102	£101
Housing Benefit Overpayment	£8	£5
Housing Rent	£82	£80
Parking and other traffic fines	£3	£3
Residential, Non Residential ASC	£10	£10
*Other debt	£98	£100
Summons Costs CT and NDR	£1	£1
Total	£412	£406

*Other Debt relates to such debt as: Commercial rent; service charges; former tenant arrears; rechargeable works; leaseholder charges; monies due from charitable organisation, community groups, schools; other local authorities'; other government bodies; Education Welfare notices; Non- limited companies;