



**South Hams District Council & West Devon Borough Council**

## **Corporate Debt Policy**

This policy sets out our approach to collecting and recovering debt owed to us by businesses and residents.

## **Introduction**

South Hams District Council and West Devon Borough Council ('the Councils') are required to collect monies from both residents and businesses for a variety of reasons.

Money we collect enables us to provide important public services. Income that is not collected or takes additional effort to collect means fewer resources are available to provide our services. We will try to recover all debts owed to us. This is a fair approach to people who use services and to the majority who pay council tax and business rates on time. We will follow enforcement protocols and procedures to recover monies owed to us and signpost those people genuinely experiencing financial hardship to appropriate advice and support teams in the voluntary and community sector.

In undertaking income and debt recovery it is inevitable that we will be required to pursue the recovery of arrears from residents and businesses that may experience difficulty in paying. It is therefore important that we set out how the councils manage and collect debts to ensure consistency and best practice in such situations.

This policy identifies where responsibility for collection of different debts lie and sets out the principles and standards in relation to customer contact, recovery processes, repayments and benefit, money and debt advice. It also explains how the councils and their partners can offer help, advice and support in the management of debt for our customers.

This policy sets the framework for a consistent and sensitive approach to collecting debt whilst at the same time ensuring that the councils continue to maximise income collection.

Our approach in South Hams District Council and West Devon Borough Council will be fair, consistent and sensitive to individual situations. We will:

1. develop triggers and measures to provide an opportunity for early intervention and reduce the likelihood of the arrears increasing
2. implement best practice for collecting and recovering debt to the Councils
3. ensure that the debt has been raised correctly and in a timely manner

4. make sure that residents and businesses are given invoices or bills setting out the charge, the basis of the charge, methods of payment and council contact details
5. where appropriate, agree payment arrangements with customers

### **Our approach for avoiding debt**

The Councils aims are to prevent excessive debt by promoting financial inclusion and budgeting to reduce the impact of poverty. The common approach by the councils and its partners is supporting people to budget and pay their priority debts.

A number of payment methods, including online payments, are available to make it easy for customers to pay for services.

Services will be invoiced or billed in line with statutory requirements. Where a debt remains unpaid:

1. We will signpost customers to appropriate debt advice and support agencies.
2. We recognise that certain individuals will require more sympathetic and sensitive treatment, for example in the case of recent bereavement, major illness or where the customer requires special assistance in handling their financial affairs.

### **Policy objectives**

This policy has been developed to provide support to customers over legal or enforcement action. It strives to be firm and will use the full range of collection and recovery methods as appropriate if debts are not paid. The policy operates within the framework of relevant legislation, such as data protection, human rights and statutory regulations and other council policies and internal procedures.

### **Policy aims**

The aims of this policy are to:

1. maximise income for South Hams District Council and West Devon Borough Council
2. ensure that all council tax and business rates payers' interests are protected by effective debt collection
3. encourage self-help
4. be "preventative" for example offering payment options and to signpost customers with debt issues to debt advice providers
5. be fair but firm, and ensure consistency in dealing with customers
6. protect and support vulnerable customers
7. maximise the use of discretionary funds where appropriate to assist with pressures of welfare reform and localism

## **Our commitment**

When dealing with customers who owe money to us we will:

1. treat all customers fairly and objectively
2. ensure that there is no discrimination against customers because of their race, nationality, colour, ethnic origin, religious belief, gender, marital status, sexual orientations, age or disability
3. encourage customers to make early contact with us about any debt-related matters
4. use Plain English in all correspondence
5. assist with communication needs where appropriate, including translation and interpreting services
6. co-ordinate all our correspondence to avoid duplication and reduce costs; ensuring that correspondence with customers refers to and deals with all or similar accounts outstanding, so as to consolidate the debts and clarify the total amount owed, and offering options for payments (not including Sundry Debts)
7. promote advice and support services available
8. set out our charges clearly

## **Accessing advice and support**

The councils will advise individuals and/or businesses as to the range of discounts, reliefs and reductions available at both the time an account is issued and in subsequent communications. This information is also available on both Councils websites.

Staff in direct contact with customers will signpost them as to where they can obtain advice on benefits and debt matters appropriate to their needs.

We will ensure that all written communications use Plain English as 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 any statutory timescales. The legal options open to the councils in collecting debts and the customer in paying debts will be explained, taking into account the stage of recovery achieved.

We will assist people with language and communication needs by offering translation, interpreting and other services when required.

## **Assessing ability to pay**

In pursuing debt recovery, the council will act in accordance with statutory regulations and guidance. It is imperative that the council's approach to debt recovery is responsible and responds to the financial and social vulnerability of residents and business owners.

The councils will take into account individual circumstances and the financial and economic climate that we are operating in.

We take a common approach in assessing a customer's whole financial position (by taking into account all of their expenditure and income) to assess their ability to pay. Where instalment arrangements can be entered into, the repayment rate will be based on a proportion of the customer's disposable income and realistic arrangements will be entered into for the repayment of debts in preference to legal action.

Customer who have single or multiple debts owed to the councils will be offered the opportunity of independent debt advice.

### **Our recovery**

We will look to charge for services by invoice or bills in line with statutory requirements which may be through instalment plans or arrangements.

At each stage of the recovery process, customers are signposted to debt advice providers in the voluntary sector.

Where the debt remains unpaid or if instalment plans or arrangements are broken we will follow the appropriate statutory recovery process dependent upon the type of debt.

If the debt has not been recovered through internal recovery methods then, dependent on the type of debt, we may instruct bailiffs or debt recovery companies to recover the debt on our behalf. County Court bailiffs may also be instructed, when appropriate, by HM Courts and Tribunal Service.

Consideration will be given to the vulnerability of a customer before we instruct a bailiff or debt recovery company and if we become aware of a vulnerable person once the debt has been passed to a bailiff or debt recovery company we will withdraw and bring the debt back to the council.

Once a debt has been passed to a bailiff or a debt recovery company the customer may incur further costs.

### **Complaints**

We have a Complaints Procedure and any customer that feels dissatisfied with how they have been treated may register their complaint in accordance with that procedure. Copies of this document (and other documents referred to in this Policy) are available upon request by writing to either:

- South Hams District Council, Follaton House, Plymouth Road, Totnes TQ9 5NE or telephoning 01803 861234 or via the Council's website at [www.southhams.gov.uk](http://www.southhams.gov.uk) or,

- West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock PL19 0BZ or, telephoning 01822 813600 or via the Council's website at [www.westdevon.gov.uk](http://www.westdevon.gov.uk).

All our publications are available in alternative formats, such as large print or a language other than English. Please contact us using the above contact details or email:

[customer.services@southhams.gov.uk](mailto:customer.services@southhams.gov.uk) or,  
[customer.services@westdevon.gov.uk](mailto:customer.services@westdevon.gov.uk).

The corporate complaints procedure provides the Council with the opportunity to investigate and, where appropriate, provide a remedy in circumstances where the Council is alleged to have been guilty of "maladministration" which has caused injustice (and where there is no other reasonable avenue available to the complainant to appeal or seek redress).

It is important to note, however, that the corporate complaints system cannot entertain objections against the merits of a decision which has been properly taken and which the complainant does not agree with.

In the event that the complainant remains dissatisfied after the Council has investigated the complaint, the complainant may refer his/her complaint to the Local Government Ombudsman, who is independent of the Council, but will not consider a complaint where more than 12 months has elapsed since the alleged act/omission.

NB: Some complaints in respect of certain debt matters are also supported by specialist or independent bodies e.g.: The Appeals service, The Housing Ombudsman and Local Government Ombudsman. Details of these bodies together with any external referrals will be provided to customers by the team dealing with the complaint.

## **Rights of Appeal**

There are a number of ways in which people can appeal about decisions the Council may have taken:

Valuation Tribunal: For people who believe the Council has acted incorrectly on a Council Tax billing matter.

Magistrates Court: For people who are aggrieved by the recovery process for Council Tax, Fixed Penalties and Non-Domestic Rates and for Business Improvement District Levy payers or payers who believe the Council acted incorrectly on a billing matter.

Appeal Tribunal: For decisions made on Housing Benefit claims

## **How we will meet the Policy**

The councils will take steps to:

1. Give early advice to the customer on repayment options and where to get assistance with debt problems.
2. Make all advice on how and where to pay clear and simple.
3. Raise awareness of a debt as quickly as possible and take action when it says it will if the amount remains unpaid.
4. Raise the implications for non-payment – review all reminders and letters periodically, change type face, font, printing and paper colours, if required to heighten the impact.
5. Review each case individually, taking into account the known circumstances of that customer, if possible and endeavouring to find a remedy before taking any proceedings.
6. If an account remains unpaid then advise the customer what will happen and let the customer know which organisation or agencies can advise them and how they can get in touch with them.

## **Protecting the Councils from Late Payment**

The councils are supported by current UK and EU legislation to recover any amounts expended in recovering overdue amounts from debtors who unnecessarily avoid or delay payment. Examples of these fees are: late payment charges, Court action fees, Enforcement Agent' fees, interest and these may be charged to the debtor's account. The aim of the legislation is to reimburse the councils costs in taking debt recovery action, prevents the citizens of the Borough having to bear the costs of recovering debt from this minority of customers and also acts as a deterrent against deliberate or malicious non-payment.

The relevant legislation relating to recovering these charges shown below along with links to obtain further information;

### **DIRECTIVE 2011/7/EU ON COMBATING LATE PAYMENT IN COMMERCIAL TRANSACTIONS**

<https://www.gov.uk/government/publications/late-payment-directive-user-guide-to-therecast-directive>

### **Late Payment of Commercial Debts (Interest) Act 1998**

<http://www.legislation.gov.uk/ukpga/1998/20/section/2>

### **Local Government Act 1972**

<http://www.legislation.gov.uk/ukpga/1972/70/section/111>

### **Local Government Finance Act 1992**

[www.legislation.gov.uk/ukpga/1992/14/contents](http://www.legislation.gov.uk/ukpga/1992/14/contents)

### **Local Government Act 2003**

<http://www.legislation.gov.uk/ukpga/2003/26/section/93>

### **Localism Act 2011**

<http://www.legislation.gov.uk/ukpga/2011/20/section/3/enacted>

## **Traffic Management Act 2004**

[www.legislation.gov.uk/ukpga/2004/18/pdfs/ukpga\\_20040018\\_en.pdf](http://www.legislation.gov.uk/ukpga/2004/18/pdfs/ukpga_20040018_en.pdf)

## **Taking Control of Goods Regulations 2013 (comes into effect 6.4.14)**

<http://www.legislation.gov.uk/uksi/2013/1894/made>

### **If further or outside advice is needed**

Some people or businesses may require the assistance of one of the following:

Homemaker Southwest – for personal debt and housing advice

Tel 01392 686752

[www.homemakersw.org.uk](http://www.homemakersw.org.uk)

The National Debt Line

Tel 0808 808 4000

[www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)

The Citizens Advice Bureau – for personal debt and housing advice

Tel 0844 826 9713

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Age UK for independent advice on benefits / financial concerns

Tel 0800 169 6565

[www.ageuk.org.uk](http://www.ageuk.org.uk)

### **How we will take Recovery Action**

The following table sets out the various collection pathways for the major debt topics within the councils debt portfolio's, however it should be noted that the councils operate many of their recovery pathways in cooperation with private and public partners to rationalise services and achieve efficiency.

As such the councils retain their options to utilise collection and enforcement agents from both the private sector and the courts to carry out associated or appropriate enforcement actions on behalf of the councils to prevent or mitigate the need to escalate debts along the collection pathway shown below.



**Corporate Debt Portfolio: Collection Pathways.**

<b><u>Type of Debt</u></b>	<b><u>Charging Method</u></b>	<b><u>*Default Collection Pathway</u></b>	<b><u>Appeals</u></b>	<b><u>Option of Final Resort (Persistent/deliberate Default)</u></b>
Council Tax	Annual Bill	Magistrates Court	To the Valuation Appeals Office.	Fine and/or custodial sentence
Sundry Debt	Invoice	Magistrates/County Court	High Court	Bailiff/custodial sentence
NNDR	Annual Bill	Magistrates Court	To the Valuation Appeals Office.	Fine and/or custodial sentence
Housing Ben O/payments	Invoice	County Court	To the Tribunal and Appeals Service	Deducts from wages/bens...

- Action following the exhaustion of all prescribed/standard recovery efforts e.g. after written, electronic, verbal contacts and reminders have failed to illicit a sustainable payment response from the debtor.