

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Customer Services

**REPORT NUMBER:** **G136**

**TO:** STRATEGY COMMITTEE

**DATE OF MEETING:** 15 November 2007

**USE OF RESOURCES – RECOVERY OF ARREARS (COUNCIL TAX AND NON-DOMESTIC RATES)**

**1. PURPOSE OF REPORT**

- 1.1 To update the Committee on the action taken to finalise the recovery of Council Tax and Non-Domestic Rates arrears for financial years prior to 1 April 2003.
- 1.2 Targets are proposed for the recovery of Council Tax and Non-Domestic Rates which the Committee is recommended to approve.
- 1.3 The Council's Debt Management Strategy and Policy has been reviewed and revised. The Committee are recommended to approve the revised document.
- 1.4 Direction is sought on the recovery of Non Domestic Rate arrears where the ratepayer remains in occupation and there is ongoing liability but there is little likelihood of payment being made.

**2. RECOMMENDATIONS**

- 2.1 That the action taken by officers to finalise arrears recovery for financial years prior to the 1 April 2003 is noted and that the following targets are set for the collection of Council Tax and Non-Domestic Rates arrears, as at 31 March 2008:-

<b>Financial Year</b>	<b>Council Tax (Balance outstanding)</b>	<b>Non-Domestic Rates (Balance outstanding)</b>
2003/04	32,000	10,000
2004/05	45,000	11,000
2005/06	76,000	35,000
2006/07	133,000	60,000

- 2.2 That the Debt Management Strategy and Policy attached as Appendix B is approved and adopted.
- 2.3 That Committee be requested to give direction on the recovery of Non Domestic Rate arrears where the ratepayer remains in occupation and there is ongoing liability but there is little likelihood of payment being made.

**3. FINANCIAL IMPLICATIONS**

- 3.1 At the present time Council Tax amounting to £43,297 remains outstanding in respect of financial years 1999/00, 2001/02 and 2002/03, £19,199 of that total has been identified as bad debt and written off.
- 3.2 Similarly, Non-Domestic Rates amounting to £23,051 remains outstanding in respect of the financial years from 1996/97 through to 2002/03, £14,511 of that total has been identified as bad debt and written off.

- 3.3 Collection of the bad debts in question would cost between £210 and £3,000 per case dependent upon the process being adopted. Given the number of cases involved that would mean expenditure and use of resources totalling somewhere between £15,000 and £20,000 with no guarantee of a successful outcome. Continuing to progress recovery of those accounts is therefore not cost effective. Consequently, those debts have been written off in accordance the Council’s Debt Management Strategy and Policy. The overall level of write-off remains within the provision for bad debt made in the Council’s budgeting arrangements.
- 3.4 One Non Domestic Ratepayer however has ongoing liability but because of the business set up and financial situation is virtually impervious to existing methods of recovery. Unless action is taken to force a winding up of the business it will continue to operate despite not fulfilling one aspect of its statutory obligations. Forcing a closure will cost around £3,000 and it is unlikely that either the outstanding rates or those costs will be recovered.

4. **RISK MANAGEMENT**

- 4.1 This report should be considered in the context of “financial, performance and risk management” (Risk 7 – Significant Business Risk Register).

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation</b>
Resource is expended where there is little likelihood of successful collection.	Significant	Marginal	Debts are regularly reviewed and written off immediately if recovery is not cost effective.
Debtors will attempt to gain a financial advantage, if it is known that at some point the Council will cease action.	Low	Negligible	Policies control identification of bad debt. Where payment and cost of action taken is likely to be secured, action continues.
Focusing too much on arrears collection delays recovery on current debts and may over time compound the issues.	Low	Marginal	Debt Management Strategy and Policy sets out clear guidelines for staff on the effective management of debt.

5. **KEY INFORMATION**

- 5.1 On 9 October 2007 the Overview and Scrutiny (Stewardship) Committee reviewed the Council’s performance in recovering Council Tax and Non-Domestic Rates from 2003/04 onwards, together with the resources used to achieve those outcomes. A copy of that report (Council Paper G113) is attached as Appendix A.
- 5.2 Following discussion at the meeting the Council’s Debt management Strategy and Policy has been reviewed and revised to reflect the comments made. The revised document attached as Appendix B is recommended to the Committee for approval.
- 5.3 Also, following the meeting, in order to finalise the recovery for financial years prior to 1 April 2003 all debt remaining live within that period have been reviewed on a case by case basis and written off where is no longer cost effective to progress recovery action.
- 5.4 To make best use of the 2.5 FTE’s currently deployed specifically on arrears collection, and prepare for the introduction of revised legislation on the use of Bailiffs, which may increase the Council’s costs from 1 April 2009, the focus now needs to move to the period from 1 April 2003 onwards, with the aim of consistently completing recovery within a four year cycle.

- 5.5 The first step in that process is to set targets for the collection of arrears to fix the point at which a case by case review will be triggered to determine whether continuing the recovery process remains cost effective for the year in question.
- 5.6 With that strategy in mind, it is proposed that the following targets are set for arrears collection and management during 2007/08:-

<b>Council Tax</b>			
	<b>Balance O/S @ 31/10/07</b>	<b>Target Reduction</b>	<b>Balance O/S @ 31/3/08</b>
2003/04	44,560	12,560	32,000
2004/05	60,653	15,653	45,000
2005/06	91,689	15,689	76,000
2006/07	195,305	62,305	133,000
<b>Business Rates</b>			
	<b>Balance O/S @ 31/10/07</b>	<b>Target Reduction</b>	<b>Balance O/S @ 31/3/08</b>
2003/04	11,998	1,998	10,000
2004/05	22,271	11,271	11,000
2005/06	44,105	9,105	35,000
2006/07	84,235	24,235	60,000

- 5.7 On the basis of performance in previous years, it is felt that those outcomes are stretching while remaining achievable. Actual performance will be reported to the Overview and Scrutiny Committee (Stewardship) as normal during the first quarter of 2008/09.
- 5.8 It should, however, be noted that in the cast of Non-Domestic Rates, some fluctuation in the level of “arrears” inevitably occurs as the result of retrospective changes in assessments by the Valuation Officer. Consequently “arrears” may actually increase even though no debt was initially raised during the period concerned.
- 5.9 In one case where debt has been written off because there is no likelihood of obtaining, the ratepayer concerned has post 2003 liability and continues to remain in occupation. That situation has occurred because the ratepayer has no assets other than cash held in their till or a bank account. Both of which are extremely difficult to access in order to obtain payment although some minor success has been achieved on occasions. It is therefore inevitable that bad debt will continue to accrue unless action is taken to force the closure of those businesses.
- 5.10 Closing the business is not a complicated process but will cost around £3,000 and, despite a successful outcome in that sense, it is unlikely that either the outstanding rate liability or the costs of the action taken will be recovered. Equally it is also possible that the company or individual concerned may simply re-emerge in continuing occupation as a different entity but in name only. In which case it would probably lead to a repeat of the existing situation.

## 6. APPENDICES

- (A) G113- Use of resources- Recovery of Arrears  
 (B) Draft Debt Management Strategy and Policy (Revised October 2007)

## 7. BACKGROUND PAPERS REFERRED TO:

None

**CONTACT: Bob Southgate**

**DIRECT LINE: 01473 825789**

**BABERGH DISTRICT COUNCIL****FROM:** Head of Customer Services**REPORT NUMBER** **G113****TO:** OVERVIEW AND SCRUTINY  
(STEWARDSHIP) COMMITTEE**DATE OF MEETING** 9 October 2007**USE OF RESOURCES –RECOVERY OF ARREARS (COUNCIL TAX, NON DOMESTIC RATES, HOUSING RENTS AND HOUSING BENEFIT OVERPAYMENTS)****1. PURPOSE OF REPORT**

- 1.1 The report reviews performance and the resource used in recovering arrears of Council Tax and Non Domestic Rate. Comment is also made on the recovery of Housing Rents and Housing Benefit overpayments.
- 1.2 It is proposed that Strategy Committee consider the cost of recovering arrears for Council Tax and Non Domestic Rate and set recovery targets which link to the Council’s Financial Strategy.

**2. RECOMMENDATION**

- 2.1 That the Head of Customer Services be requested to submit a report on the cost of recovering Council Tax and Non Domestic Rates arrears to the Strategy Committee.

The Committee is able to resolve this matter.

**3. FINANCIAL IMPLICATIONS**

- 3.1 Effective and efficient debt recovery is essential to support the Council’s Financial Strategy. Maintaining high collection rates for Council Tax, both for in year collection and the recovery of arrears reduces borrowing needs and costs. For Non Domestic Rate the Council has stewardship of a large amount of public funds and must show due diligence The Council in under increasing, and sustained pressure, to become more efficient and deliver ongoing savings.
- 3.2 In that environment it is important that resources are focussed where they will have the greatest effect. Adopting the best practice recommended by the Audit Commission in their use of resources assessment will over time increase the effectiveness of the Council’s recovery of outstanding debt and the use of resources in that process.

**4. RISK MANAGEMENT**

- 4.1 This report should be considered in the context of “financial, performance and risk management” (Risk 7 – Significant Business Risk Register).

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
Insufficient attention is given to the recommendations and best practice identified in the Audit Commission’s use of resources assessment.	Low	Marginal	Recommendations are implemented as promptly as possible.

5. **KEY INFORMATION**

- 5.1 The Audit Commission has assessed as “Level 3” on its use of resources. To maintain that rating at the next assessment the Council needs to strengthen the arrangements for monitoring and managing the recovery of Council Tax, Non Domestic Rates, Housing Rents and Housing Benefit overpayments. In particular evaluating the effectiveness of its procedures and processes, the effectiveness of recovery actions; the associated costs and the cost of not recovering debt promptly.
- 5.2 A review of the Council’s arrangements for monitoring and managing the recovery of debt has been undertaken and has reached the following conclusions.
- 5.3 **Council Tax and Non Domestic Rate:** As the following table shows performance has steadily improved, regularly either reaching, or very close to top quartile.

Collection Rates at 31 <sup>st</sup> March	2003/04	2004/05	2005/06	2006/07	2007/08
Council Tax	98.53%	98.71%	98.80%	98.84%	99%*
Non Domestic Rate	98.86%	98.91%	98.95%	98.87%	99.1%*
*Estimated outcomes					

- 5.4 As a consequence arrears, on the basis of the estimated outturn for 2007/08, are running at about 1%. However although not previously reported to the Committee collection of arrears is monitored on a monthly basis by officers and follows the same trend as “in year” performance.

Collection Rates at 31 <sup>st</sup> March	2003/04	2004/05	2005/06	2006/07	2007/08
Council Tax (£'s)	947,440	504,712	394,842	347,742	282,557*
Non Domestic Rate (£'s)	424,026	147,350	116,923	77,023	121,273*
*Balance outstanding at 20 <sup>th</sup> September 2007.					

- 5.5 The resource used to achieve those outcomes, broadly speaking equates to 7.3 full time equivalent members of staff (FTE’s) if the process of amending customer accounts and issuing revised bills is included. Issuing accurate bills promptly is key factor in achieving successful collection outcomes and accounts for 4.8 FTE’s. Consequently in terms of arrears recovery 2.5 FTE’s are specifically engaged on that activity.
- 5.6 Other staff also participate in the recovery process(e.g. front facing staff will resolve enquiries or negotiate payment arrangements) but without creating a heavy time recording bureaucracy is impossible to quantify.
- 5.7 Similarly allocating the cost of the software the Council the software for administrative purposes between administration and recovery can be nothing more than an arbitrary decision.
- 5.8 Evaluation of the methodology or stages of recovering debt using a sample of accounts over a 3 month period from April to June. Full details are shown in Appendix A. As you would expect it is the post bailiff processes that are the least successful and have the greatest overhead. Simply getting a case before the Magistrates requires detailed paperwork and research, often with very little chance of success.

5.9 The following table shows the overall position for Council Tax and Non Domestic Rate arrears as at the 20<sup>th</sup> September.

<b>Year of Debt</b>	<b>Council Tax £</b>	<b>Provision for Bad Debt</b>	<b>Non Domestic Rates £</b>	<b>Provision for Bad Debt</b>
1996/97	0	-	3,795	4674
1997/98	0	-	2,512	2,920
1998/99	0	-	849	1,676
1999/00	0		1475	1,740
2000/01	889	3,005	191	1,366
2001/02	16,100	19,475	5640	5,430
2002/03	26,395	29,650	1202	4,189
2003/04	44,287	30,093	10,804	9,230
2004/05	66,487	17,523	19,015	17,796
2005/06	99,476	27,189	43,382	41,078
2006/07	217,981	66,034	101,527	57,657

5.10 This is possibly the most important and informative aspect of the review.

- Although the Council's Debt Management Strategy & Policy is being followed on a case by case basis, no comprehensive picture of the cost of recovering those debts exists.
- Small amounts of debt remain outstanding prior to 2003/04 and relate to retrospective accounts adjustments at a later date or payment arrangements still to be completed. The balances remaining are below the provision for bad debt.
- For 2003/04 Council Tax although the concept of recovering the £14,000 required to reach to reach the bad debt provision is attractive, focussing effort there could potentially delay or prejudice recovery for 2004/05 onwards where substantial amounts remain to be collected.
- Non Domestic Rate is either already below or very close to, the bad debt provision for every year other than 2006/07 which is not unexpected. From past experience it would be unusual for arrears to be recovered in full during the following financial year.

5.11 Revised legislation concerning the use of bailiffs is likely to come into effect from April 2009. The Government have yet to finalise the legislation following a period of consultation but early indications are this is likely to involve an up front payment of £42 per case to a bailiff prior to any work being undertaken and also a requirement for any bailiff activity to be completed within 3 months of receiving an instruction.

5.12 At the current level of referrals to the Council's bailiffs this will involve a significant level of expenditure which can only be reduced by pre-bailiff checks by staff rather than issuing bulk instructions. It is therefore important that in the lead in to 2009/10 all action possible has been taken the level of arrears at that time is as low as possible.

5.13 It is proposed that a report be prepared for consideration by Strategy Committee on the 15<sup>th</sup> November setting out the cost of recovering Council Tax arrears for each year from 2000/01 onwards, and for Non Domestic Rate from 1996/97 onwards. In both cases after having allowed for all debts considered to be irrecoverable, and that targets are set to link with the Council's Financial Strategy.

- 5.14 **Housing Rents** has been excluded at this stage as a desktop review during March 2007 identified areas of weakness in the recovery process and that staffing levels could be reduced. As a result business process re-engineering is being used to improve performance and also to reduce the level of resource engaged on the processes involved. The work will shortly be complete at which point revised arrears recovery targets can be set. It is envisaged that around (2.5 FTE's) are required to support the new processes which is reduction on previous staffing levels.
- 5.15 The Committee already receives quarterly reports on existing targets for in year collection rates (which includes arrears) and the number of tenants more than 7 weeks in arrears with their rent.
- 5.16 **Housing Benefit** overpayment recovery is already measured against a set of targets by the Committee. This however a complex area of work because of the variation in the amount to be recovered during the course of each year and the opportunities for recovery that open up or close down as benefit claims move in or out of payment. More work is required on the recovery of Housing Benefit overpayments before more precise targets can be set which reflect the length of time debts have been outstanding. That is however reliant on some software amendments.
- 5.17 The Council's software suppliers are working, in response to requests from a number of authorities, to provide more comprehensive and practical aged debt analysis reports. It is not known as yet however when that work will be complete. At the present time around 1.5 (FTE's) are used to support the recovery process.

6. **APPENDICES**

Appendix A - Analysis of the effectiveness of recovery methodologies  
Appendix B - Debt Management Strategy and Policy.

7. **BACKGROUND PAPERS REFERRED TO**

None.

**CONTACT:** Bob Southgate, Head of Customer Services **DIRECT LINE:** 01473 825789

**Effectiveness of debt recovery**

**Percentage of debt reduced during a 3 month period - April –July 2007.**

<b>Stages</b>	<b>Council Tax</b>		
	<b>April - July % reduction</b>	<b>Values</b>	
		<b>02/04/2007</b>	<b>02/07/2007</b>
Bill	53.12%	£98,582.52	£46,211.69
Reminder	43.47%	£65,952.93	£37,286.30
Reminder 2	25.72%	£35,924.52	£26,684.70
Summons	29.42%	£157.39	£111.09
Liability order	43.86%	£79,153.94	£44,437.93
14 Day notice	27.59%	£90,361.66	£65,437.90
Attachment of earnings	47.27%	£37,014.54	£19,548.58
Attachment of earnings reminder	52.30%	£2,596.90	£1,238.92
Attachment of earnings revised balance	40.54%	£1,901.37	£1,130.49
Attachment of Benefit	16.56%	£27,800.83	£23,196.31
Bailiff	38.47%	£135,951.17	£83,653.48
Bailiff Return	11.45%	£19,416.56	£17,193.04
Bailiff Return Nulla Bonna	0.01%	£12,048.12	£12,046.58
Adjourned from a previous court	5.18%	£16,902.55	£16,027.03
Pre Committal	9.90%	£133,998.90	£120,733.23
Instalment cancellation notice	0.00%	£129.42	£129.42
Charging order	3.95%	£11,400.77	£10,950.77
Arrest Warrant no bail	0.00%	£2,476.78	£2,476.78
<b>Overall Reduction</b>	<b>31.52%</b>	<b>£771,770.87</b>	<b>£528,494.24</b>

<b>Stages</b>	<b>Non Domestic Rate</b>		
	<b>April - July % reduction</b>	<b>Values</b>	
		<b>02/04/2007</b>	<b>02/07/2007</b>
Bill	35.15%	£110,734.92	£71,807.29
Reminder	68.73%	£44,767.14	£44,767.14
Liability order	17.09%	£18,964.22	£15,723.39
7 Day notice	21.44%	£39,769.26	£31,241.14
Bailiff	61.85%	£14,751.00	£5,627.71
Bailiff Return	10.47%	£100,453.19	£89,936.22
Arrest Warrant with bail	0.00%	£2,882.00	£2,882.00
<b>Overall Reduction</b>	<b>30.42%</b>	<b>£332,321.73</b>	<b>£261,984.89</b>

<b>Stages</b>	<b>HB Overpayments</b>		
	<b>April - July % reduction</b>	<b>Values</b>	
		<b>30/03/2007</b>	<b>06/07/2007</b>
Invoice	19.30%	£109,595.82	£88,445.38
Reminder	11.89%	£56,248.18	£49,558.78
Reminder 2	17.31%	£17,473.29	£14,449.06
Enquiry / info request	37.55%	£35,916.00	£22,427.86
Attachment of Benefit Pre Court	19.93%	£9,182.86	£7,352.54
Collection Agency	22.59%	£8,181.66	£6,333.47
<b>Overall Reduction</b>	<b>20.30%</b>	<b>£236,597.81</b>	<b>£188,567.09</b>



*2004-2005  
Supporting People*  
*2006-2007  
Waste and Recycling*  
*2006-2007  
Culture and Sport for  
Hard to Reach Groups*

**DRAFT**

**Debt Management Strategy and Policy**  
(Council Tax, Business Rates, Housing Rents,  
Housing Benefit Overpayments and Sundry Debts)

# **CONTENTS**

- 1. Foreword**
- 2. Billing and Invoicing arrangements.**
- 3. Payment of Bills and Invoices**
- 4. Enforcement.**
- 5. Extenuating Circumstances**
- 6. Potential Enforcement Action**
- 7. Debt Advice**
- 8. Priority of Debts**
- 9. Bad Debts**
- 10. Complaints and Errors**
- 11. External Contractors.**

## 1. **Foreword**

- 1.1 The Council is reliant upon statutory and non-statutory revenue to provide services across the district. It is essential that all monies due are recovered effectively and efficiently.
- 1.2 To achieve that goal the Council will use any cost effective means at its disposal to ensure that all monies due are paid on time and if not that the appropriate steps in any enforcement process are taken quickly in order to secure payment to protect the Council's interests.
- 1.3 In doing so the Council will ensure that its interaction with individuals and organisations in is undertaken in a manner which:-
- Is timely
  - Is fair.
  - Is accountable.
  - Is efficient.
  - Is consistent.
  - Recognises diversity and the individuality of residents and business
  - Acknowledges the merit or circumstances of individual cases.
  - Ensures that at all times information is presented, or conveyed clearly and accurately and that the recipient of any communication knows what is required of them.
  - Complies with Human Rights and other legislation.
- 1.4 Debt is a feature of everyday life and in the event of late or non payment may lead to serious consequences for an individual or a business. This can lead to ongoing problems and has a knock on effect such as poverty, homelessness, illness and social exclusion. In economic terms it may result in a loss of employers or jobs and accelerate a decline in local communities.
- 1.5 The impact of debt is not restricted to the individual or business concerned. It will affect families, dependants and employees or customers of a particular business. The cumulative effect should not be underestimated.
- 1.6 The Council will as far as possible take account of these issues when making decisions upon the collection, recovery or enforcement of debt. Every effort will be made to ensure that any entitlement(s), reductions or assistance which may be available are made known or granted to the individual or business concerned.
- 1.7 The Council is working to ensure a fully inclusive community. Documents issued will be available upon request in alternative languages, large text, audio or braille either individually or combined as necessary to meet specific needs.
- 1.8 This policy reflects the Council's vision
- A district where strong and inclusive communities are built on active citizenship and where all citizens have the opportunity to develop to their full potential.
- its values,
- Recognition of individual, community and economic diversity within the district.
  - Treatment of all people with fairness, equality, dignity and respect.
  - Provision of maximum individual choice within a framework of responsible citizenship

- Open and accountable decision making.
- Responsible stewardship of public money and resources on behalf of all Babergh's citizens.

and its priorities.

- Maintain a safe clean and sustainable environment
- Increase the supply of housing that local people can afford to rent or buy
- Promote healthy living and reduce health inequalities.
- Give easy, convenient access to quality public services
- Raise individual and community ambitions and encourage active citizenship.

## **2. Billing and Invoicing Arrangements**

- 2.1 Delay in sending bills, accounts or invoices can inadvertently create debt problems from the outset. Debt will accumulate and if no provision has been made by the debtor for a liability that will create pressure for the household or business concerned. Services standards are used to ensure that information received is assessed and processed as quickly and efficiently as possible.
- 2.2 Bills, accounts, invoices and all similar documents will be issued promptly in accordance with the Council's service standards. Upon issue those documents will:
- Be accurate.
  - State clearly what payments are required.
  - State clearly when payment should be made.
  - List the options for payment
  - List the locations where payments can be made
  - Include, where appropriate, a statement advising those having difficulty making payment to contact the Council.
  - Include, where appropriate, the consequences of payment being late or not made.
  - Include a contact point where advice can be obtained or a query resolved.
  - Include a statement that alternative versions of the document are available to meet individual needs. i.e. large text or alternative languages.

## **3 Payment of Bills and Invoices**

- 3.1 The Council is committed to achieving the most efficient and effective payment methods, both for payments received, and payments made.

It will encourage and promote the use of Direct Debit, BACS transfer and other electronic systems, as the most efficient and secure options, and also to protect those involved in the handling of cash against the risk of crime.

- 3.2 Although electronic media forms the basis of the Council's preferred payment methods, the widest possible range of alternatives will be offered, subject to the existence of sufficient demand and an appropriate balance of resource required to support any particular payment method.
- 3.3. Delays in payment or inability to pay are not always a reflection on the individual or business concerned. On occasions the problem may arise where monies due to that individual or business have not been received or paid on time which, in turn, has led to outgoing payments being late or falling behind.
- 3.4 The Council recognises that it has a role to play in this process. Bills, invoices and charges for which the Council is responsible will be paid promptly. Monies due for return to individuals or businesses will be processed promptly and refunded without any unnecessary delay.

Payments made to a third party such as Housing Benefit payments made directly to a landlord at a tenants request, will be made regularly and on time.

## 4. **Enforcement**

- 4.1 It is inevitable that for a variety of reasons money due to the Council will not be paid as requested.
- 4.2 In all cases the Council will follow the relevant statutory or civil process to enforce payment. Those processes will constitute the basic standard of service, the individual or organisation can expect to receive. Extenuating circumstances, as defined below may warrant deviations from that principle.
- 4.3 In general terms enforcement of an unpaid debt will commence with a reminder. Reminders will:
- Be issued promptly
  - Comply with any legislative requirements.
  - State clearly the amount outstanding.
  - State clearly the consequences of the payment not being made as requested.
  - List the options for payment.
  - List the locations where payment can be made.
  - Include a contact point for any query or issue arising from the reminder.
  - Include a statement, requesting the recipient to make contact immediately if payment cannot be made or will be delayed.
  - Include a statement that alternative versions are available to meet individual needs. i.e. large text or alternative languages.
- 4.4 As the enforcement process progresses, cases of payment difficulty will be revealed. Those cases will be approached positively and constructively, to achieve a manageable and effective solution. In reaching a decision the Council will work to the following principles.
- The enforcement process comprises a number of stages, which increase in severity in order to focus the debtor on making payment. When contact is made with the Council to resolve a payment difficulty, the enforcement process will be held at that point. This will reward early contact. In reaching an agreement on payment the Council may include conditions necessary to protect its interests.
  - Voluntary solutions will always be considered in preference to statutory or civil remedies.
  - Past history of payment will be a factor in any decision.
  - Extenuating or household circumstances will be taken into account in any decision.
  - Where payment solutions are agreed, confirmation of the agreement will be made in writing and include the action that may be taken in the event of non-payment.
  - Where a payment solution cannot be agreed, the debtor will be advised of the reason for that outcome.
- 4.5 Progression of the enforcement process is a factor in assessing the potential success of a payment solution. As early contact is effectively rewarded by a more relaxed approach, solutions achieved later in the process will attract a significantly higher level of security and payment monitoring arrangements in order to protect the Council's interests.

- 4.6 Recovery of debt will as far as possible be co-ordinated to avoid unreasonable or excessive pressure being placed upon an individual and to maximise the income from that individual. A more positive outcome can be achieved, by combining all debts, and agreeing a realistic payment schedule as opposed to leaving the individual to face and manage a number of competing pressures from the same organisation.

However, it should be recognised that this solution will only work with the positive engagement and commitment of the individual or household concerned. Every effort will however be made to ensure that they have adequate advice and support in that process. In the event that an arrangement fails or the level of debt is not as a minimum being contained, the Council will have no alternative but to follow through with whatever action is necessary to recover the debt.

## 5. **Extenuating Circumstances**

- 5.1 There will be occasions where the Council must look beyond the debt itself and take account of the potential impact upon the individual, family, household or business concerned, either to protect vulnerable people, to avoid the transference of a problem elsewhere or where there may be some impact upon the local community.

Examples of this are:-

- The presence of very young or elderly people in the household
- Chronic or terminal illness
- Recent bereavement of a spouse or member of the household
- Potential homelessness.
- The ability of the individual, household or business to make payment.

Additional factors may apply for business debts. Examples of this are:-

- Potential loss of employment for employees of the business
- Loss of key facilities for the local community
- A payment option is the only choice because the business has no assets
- Impact upon the local community if the business was forced to close

The list is not exhaustive. It is simply intended to reflect the type of issue that the Council may react to when recovering or enforcing debts.

- 5.2 Officers making decisions on the recovery of debt will ensure that consideration has been given to issues of this nature and that any action taken is proportionate to the situation.
- 5.3 Where decisions are made, the reasons will be documented and the individual or business concerned will be made aware of those reasons.

## 6. **Potential Enforcement Action**

- 6.1 The Council will use all means at its disposal to ensure that all monies due to the Authority are recovered. In doing so it will consider any option to achieve that goal.
- 6.2 However, within that process there will be a core of regular, routine actions or remedies which are used to secure payment.

**Attachment of earnings or allowances:** Will be used where a voluntary arrangement has failed, or previous payment history indicates a voluntary arrangement will create unnecessary administrative overheads or is unlikely to be successful.

The law allows different attachments to run concurrently. Officers will use their discretion if that situation occurs to ensure that hardship is not inadvertently created.

**Bankruptcy proceedings:** Will be used as a last resort and only where sufficient equity is believed to exist to support a full or partial settlement of monies outstanding. In doing so however the Council recognises that there may well be situations where it is in the interest of the individual to take that option as a solution to their overall situation.

**Benefit overpayments:** Recovery of benefit overpayments is covered by the Council's Housing and Council Tax Benefit Overpayment Policy

**Charging Orders:** Will be used where the individual or business concerned cannot make payment and an equitable solution is to allow or enable payment of the debt from the equity within a property at a later date.

Whenever a charging order is in place the debtor will be encouraged keep up to date on future bills.

**Committal Proceedings:** Will be used routinely to recover Council Tax and Business Rates where there is no evidence of hardship or extenuating circumstances.

The role of the Magistrates Court in committal proceedings is to close the enforcement process. In this context they have considerable discretion, ranging from the imposition of a prison sentence through to the ability to remit all or part of the debt in question.

In cases where it is a possibility that the enforcing payment in full will create hardship or an unjust outcome, but not to the full extent of the debt, committal proceedings will be used to gain an independent ruling on the issue. It is anticipated that this situation will only apply in exceptional circumstances.

**County Court Order:** Will be sought as necessary to support the recovery process.

**Deductions from Benefit:** Will be used routinely to secure payment. Regulations control the way in which this remedy is applied. Consequently, the Council has little or no discretion.

**Distrain:** As distraint is a pre-requisite of higher level enforcement action for Council Tax and Business Rates the intention to distraint will be used routinely to evaluate the prospect of obtaining payment for those debts. A similar approach will be adopted for Housing Rent, although it is not a pre-requisite for further action.

Actual distraint will, however, only be undertaken where sufficient goods, stock or possessions are available to recover the cost of the distraint process and either a full or significant partial settlement of the debt involved. Distrain will not be used where the effect would be punitive and nothing more. Bailiffs used in the enforcement process will be certificated and comply with a specific code of conduct regulating their activity.

**Liquidation:** Applies to companies and normally will only be used where sufficient funds to clear any debt either partially or in full, will be created from the outcome. However there may be occasions where a company is using the law to avoid payment. In that case the Council will take action to force a liquidation of the company.

**Notices to quit or seeking possession:** Will be used whenever housing rent arrears escalate to the point where direct action needs to be taken to focus tenants on the seriousness of their situation or the Council has no alternative but to regain possession of the property.

**Warrant of possession:** Will not be executed where a Housing Benefit application has not been determined, subject to the tenant concerned having complied with all requests for, or has provided, full information.

## 7. Debt Advice

- 7.1 In the process of achieving payment solutions, debtors may look to the Council to provide debt advice or even full debt counselling.
- 7.2 In this context staff involved in negotiations with debtors are trained to ensure that:-
- Any benefits or entitlements, over which the Council has direct control, are made available or taken up.
  - Information required to assess the financial position is captured in a standard format suitable for use by complementary organisations. A copy of that information will be given to the debtor should additional or independent advice and assistance need to be sought elsewhere.
  - Debtors are directed to other agencies or organisations who offer support or assistance suitable to their needs.
  - Debtors are alerted to the availability of other benefits generally which may alleviate their situation.
  - Debtors are aware of both their rights and responsibilities and the consequences of not meeting the required level of payment.
- 7.3 It is important to recognise however that in this situation the Council may face a possible conflict of interests. While advice given will be as impartial as possible, the Council cannot offer advice which may prejudice recovery of its own debts. If that situation arises the debtor will be advised to take independent advice such as the Citizens Advice Bureau or a registered debt practitioner.
- 7.4 The Council also works in partnership with external service providers to ensure that households with serious debt or associated problems have access to support workers with the necessary expertise and knowledge to help them overcome or manage those situations.
- 7.5 Where officers assess that support is necessary the householder concerned will immediately be directed to the appropriate organisation who will make an independent assessment of their household and financial situation. They will then work with that householder to obtain any benefits, assistance or grant that may be available to them in order to reduce the overall debt and support them in the lifestyle changes or decisions they need to make in managing the overall situation.

- 7.6 In keeping with the Council's value, "*the treatment of all people with fairness, equality, dignity and respect*", the Council will take account of that independent involvement in its decisions on recovering amounts due. In most cases this will result in protection from further action while any recovery plan agreed is progressed.
- 7.7 The involvement of that third party however must be a positive engagement. Although the Council will make every effort to respect a person's right to manage their own affairs it cannot allow that principle to unreasonably delay recovery of monies due. If the support worker's assessment is to advise the Council that they are unable to work with a household or an officer's recommendation to accept support is refused enforcement action will continue.

## 8. **Priority of Debts**

- 8.1 In Order to manage debt effectively, it may be necessary to prioritise debts. The Council attaches the following level of importance and priority when reaching agreements to pay outstanding debts.
- Payments necessary to retain occupation of a person's home.
  - Statutory payments.
  - Payments in respect of a non-statutory current debt.
  - Payments in respect of a previous, non-recurring debt.

It should be noted that although this priority is intended to guide action on Council related debts, it will also give guidance, when extenuating circumstances are being considered.

- 8.2 It is also necessary to consider the order in which payments will be allocated.

Payment arrangements must meet ongoing liability, plus an additional amount towards any arrears. However there may be exceptional circumstances where ongoing liability only may be appropriate. Any arrears or retrospective debt being classified as bad debt until there is an improvement in the overall situation.

Payments in respect of arrears will be allocated on an oldest debt first basis, unless specified otherwise by the individual or business concerned.

## 9. **Bad Debts**

- 9.1 The Council, like any organisation whose business involves the recovery of monies due, will inevitably encounter "bad debts". The policy of the Council is to minimise the incidence and impact of bad debt and will use all means at its disposal to achieve this objective. *In all cases, bad debt decisions are based upon the total outstanding, not any part, unless part of the debt can legitimately be isolated for specific action..*
- 9.2 For the purposes of this policy a "bad debt" is classified as:-

**Money due when there is little or no likelihood of recovery.**

Examples of this are:-

- The debtor has absconded and current address is unknown
- The debtor resides outside the UK and is unlikely to return.
- The debtor has been declared bankrupt and the debt in question forms part of the bankruptcy proceedings
- A company has ceased trading, or is being liquidated and has no assets.
- The debtor has died and the only recovery option is a claim upon the estate
- The debtor has died leaving no will and there is insufficient equity in the estate to cover the debt.

**Money due where it is uneconomic or inefficient to recover the sum involved.**

Examples of this are:-

- A small balance outstanding
- A balance outstanding where the expenses of recovery in terms of fees, staff time and other charges, balanced against the likelihood of recovery (including all additional expenses and charges) outweigh the prospect of full or partial payment.
- Where enforcement of the debt involves an arguable point of law and for that reason enforcement action could fail, with the imposition of costs or charges upon the Council.

**Money due where the Council do not wish to pursue recovery because the circumstances of a case would attract well-founded adverse publicity or public reaction, or the concept of natural justice would be compromised.**

Examples of this are:-

- A long period of time before the debt was brought to the notice of the individual concerned.
- Incorrect information or advice being given by a person within the organisation
- The individual being entitled to help or assistance with the debt, which are no longer available, but which would have cancelled or reduced the debt had they been granted or applied for at the time the debt occurred or was created.

*It should, however, be noted that the examples listed are not exhaustive, and are not absolute or definitive classifications.*

*All decisions on individual debts are decided on the circumstances that exist, at the time.*

***There will be occasions when what would otherwise be a “bad debt” will be subject to recovery action.***

For example

- Although a small balance is outstanding it has arisen because of a personal protest, or to initiate or support a protest campaign.
- The individual concerned has made a complaint, which has been held to be unfounded.
- An issue of principle is involved. If all debtors in this situation took similar action, the cumulative effect would be a large sum of money.

- 9.3 The Council will make suitable and adequate provision for the incidence of bad debts in its accounts to accord with Chartered Institute of Public Finance and Accountancy (CIPFA) recognised best practice.
- 9.4 Bad debts will be identified in the Council's accounts. This is to ensure that accurate records are maintained which reflect recoverable revenue, and both accounting and statistical information which may be used for reporting and management purposes is not distorted or overstated.
- 9.5 Immediately a bad debt is identified it will be written off promptly, to preserve and maintain the principle of accurate and up to date information.
- 9.6 All write offs must be processed according to the Council's financial regulations.
- The appropriate authorisation must be obtained for the transaction. Requests for authorisation must be made in writing.
  - All submissions for authorisation must be accompanied by a short report and evidence to support the request. The detail and degree of evidence supplied will however, be proportional to the size and nature of the debt involved to achieve the best use of resources.
  - Authorisation for a write off includes the responsibility to ensure that all appropriate methods of recovery have been considered or used; suitable research has been undertaken; the logic used to reach any conclusion is sound; and the circumstances and evidence are appropriately documented and sufficient.
  - There should not be any delay in completing the write-off once authorisation has been obtained.

The cumulative total of debts written off will be monitored to ensure that the incidence of bad debt remains consistent with the Council's estimates and projections. Periodic checks will be made to ensure that authorised write offs equal the cumulative total within the Council's systems, that the correct procedures are being followed and work is to the appropriate standard.

The Council will maintain a record of significant bad debts which will be regularly reviewed against ongoing changes to resident's accounts and other records. This is particularly important in the case of those who have left debts outstanding either intentionally or unwittingly when changing addresses. This is the most common reason for bad debt.

The Council has a strong commitment to eliminate fraud and other activities which impact upon the public purse. *Debts written off do not close the Council's intention to recover or to resurrect the debt, if further information comes to light.*

*Debtors who have deliberately or unwittingly created a bad debt by omitting to make satisfactory forwarding arrangements on a change of address should not gain from that situation. If they are traced, the debt concerned, subject to any legal constraints, will be resurrected and recovery recommenced.*

*Where bad debts are attributed to an individual or company, that information may be retained by the Council and may influence future decisions in relation to the individual or company concerned*

## 10. **Complaints and Errors**

10.1 Errors or mistakes made in the process of collecting monies and revenue due to the Council will normally be resolved using the Council's established complaints process.

10.2 However, in the process of enforcing payment of outstanding debts it is possible that facts, unknown at an earlier stage but which nullify or influence the situation, only emerge after proceedings have been taken or have been completed.

In the event of that situation occurring the Council will take appropriate action to remedy the situation as far as possible.

- Proceedings will be stopped immediately.
- The debtor's account will be noted to reflect the revised situation.
- Where appropriate the Court involved will be advised.

10.3 Although the Council will make every effort to resolve a misrepresentation of the true situation, once some legal documents have been issued they can only be rescinded or "quashed" by judicial review at the instigation of the Council.

10.4 This would apply for example where a liability order for Council Tax has been obtained by the Council in good faith but information received after the court hearing reveals a situation which had it been known at the outset would have stopped the matter going before the court.

10.5 Because of the cost involved in taking an issue to judicial review it is not in the public interest to take that action other than in exceptional circumstances.

## 11. **External Contractors**

11.1 The Council uses private contractors to provide the necessary expertise and resource to complete specific parts of the enforcement process. In the main this will be the engagement of bailiffs to undertake the distraint process or serve legal documents.

11.2 Any contractor engaged to undertake part of the enforcement process will:-

- Be suitably accredited for the role they undertake.
- Have the appropriate procedures in place for:-
  - Complaints
  - Health and Safety
  - Conduct
  - Customer Care
  - Training
  - Data and information security
- Have received and acknowledged their understanding of the Council's:-
  - Anti Fraud and Corruption Policy
  - Whistleblowing procedures
  - Its role, value and priorities