

**Medway Council**

Corporate Debt Policy

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# **Introduction:**

This document sets out Medway Council’s policy with regard to the billing, collection and recovery of monies due to the Council.

It is essential that all monies due are collected effectively by the Council and that debt owed to the Council is kept to a minimum. This is because the Council has both a legal duty and a responsibility to its citizens to ensure that income due is paid promptly. Effective collection of debt enables more resources to be available for the delivery of essential services.

Sums due to the Council represent a combination of statutory and non-statutory charges. The methods for billing and recovery of statutory debt are prescribed by statute. Our recovery practices take account of the wide range of services Medway Council provides to customers and businesses and we will apply fairness principles when considering the correct legal options.

Debt is not only an issue for the Council but also for individuals and businesses. Nationally borrowing, levels of debt and insolvency action is at an all-time high, all of which can cause stress and misery. In undertaking income and debt recovery it is inevitable that we will be required to pursue the recovery of arrears from customers and businesses that may experience difficulty in paying. It is therefore important that we set out how the Council manages and collects debt to ensure consistency and best practice in such situations. Our policy identifies where responsibility for collection of different debts lie; it sets out the principles and standards in relation to proactive customer contact and engagement, recovery processes, manageable and sustainable repayments, support in maximising income and debt advice.

With good advice and help, debt problems can be managed and eventually overcome or resolved. This strategy should therefore be of benefit to Medway Council and its customers and businesses. Our strategy sets the priorities and objectives for the successful treatment of debt incurred by the Council and the underlying policy sets the framework for a consistent and sensitive approach to collecting debt whilst at the same time ensuring that the Council continues to maximise income collection.

# **Overarching Strategic Objectives:**

Medway Council Corporate Debt Policy seeks to deliver against three overarching strategic objectives:

* Maximising the income collected by the Council and minimising the level of outstanding debt.
* Ensuring a coordinated approach to debt recovery by all services through the establishment of a corporate debt team and through a “single view of citizen”.
* Taking a “preventative” approach to debt wherever possible by the prepayment of service charges, offering payment options and to work with debt advice providers to give customer’s access to debt advice.

# **Medway Council’s Corporate Debt Policy:**

The aim of this policy is to act as a guide to the Council’s recovery and enforcement of statutory and non-statutory charges and in particular to ensuring:

* A professional, consistent, and timely approach to recovery action is delivered at the earliest point across all Council functions.
* A co-ordinated approach to the recovery of debt across the Council through effective data sharing and the management of multiple debt owed to the Council.
* Due flexibility and consideration is given to individual and exceptional circumstances when pursuing debt.
* That debt collection is managed in accordance with legislative provisions.

# **Scope of the Corporate Debt Policy:**

The approach applies to the collection of all debt owed to the Council including the following:

Council tax.

National non-domestic rates (NNDR).

Housing benefit overpayments.

Housing rent (excluding housing rent collection but including recovery of former tenant arrears).

Housing repairs and service charges (including Housing enforcement notices, works in default).

Adult social care contributions.

Penalty charge notices / parking fines / warrants.

Commercial rent and service charges.

All other sundry debt, including fees and charges.

# **Recovery Principles within the Policy:**

The principles within this policy apply to all debt due to the Council, irrespective of their source or reason. In this way, the Council can ensure that debts are dealt with in a consistent manner with the application of fairness together with the recognition of [vulnerability](https://www.medway.gov.uk/downloads/file/3677/vulnerable_persons_recovery_policy) and hardship.

It is important to note that for certain types of debt there are specific rules and legislation, which govern their collection and enforcement. Details of specific legislation are shown at Appendix A. This policy will ensure that debt is not only collected in a legally correct manner (and in accordance with any government or professional guidance), but that they it is also collected following the principles within this policy. We will seek to recover all monies and debt due to the Council.

The following principles will be applied by Medway Council when collecting monies due:

* Where possible, charges for services will be through prepayment.
* Demands for money will be correctly addressed to the liable person, business or organisation. They will be clear and accurate, contain all necessary information, including narrative that explains the debt and the period to which the debt relates.
* Demands, bills or invoices will be issued in a reasonable and timely manner in line with statutory requirements.
* The Council will levy and seek to recover any costs, fees or disbursements incurred.
* Debtors will be encouraged to make prompt contact if they disagree with the debt or have difficulty paying.
* Services will seek to resolve disputes promptly.
* Consideration will be given to circumstances such as [vulnerability](https://www.medway.gov.uk/downloads/file/3677/vulnerable_persons_recovery_policy) and hardship and this will be identified at the earliest opportunity in order that support may be offered.
* Data driven intelligence: e.g., propensity to pay, credit score checks may be used to decide appropriate courses of action.
* Where multiple debt exist which are at an advanced stage of recovery, we will combine and co-ordinate communications in relation to all debt due.

# **Medway Council’s commitment to its customers:**

When dealing with customers who owe money we will:

* Raise all bills and invoices in a timely manner. They will be correctly addressed to the person(s), company, organisation liable for the debt and the implications of non-payment will be clearly communicated.
* Treat individuals consistently and fairly, regardless of age, sex, gender, disability, and sexual orientation, ensuring individual’s rights under GDPR and human rights legislation are protected.
* Ensure that where customers owe multiple debt, we will seek to co-ordinate communications relate to all debts due to avoid undue stress, duplication and reduce costs. The exception to this will be where recovery action for a debt is at an advanced stage and is specific to that debt type, for example where an Attachment to Earnings for a council tax debt has been issued.
* Encourage customers to engage with us if they dispute the debt or have difficulty making payment as requested.
* Use plain English in our communications.
* Work with welfare and advice agencies, signposting customers and businesses to third sector debt advice where appropriate.
* Only use enforcement agents or debt recovery companies when all other methods of recovery have been exhausted.
* Monitor actions of enforcement agents to ensure they comply with the [Taking Control of Goods: National Standards](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/353396/taking-control-of-goods-national-standards.pdf)
* Add costs or interest to a customer’s account only where appropriate and in line with limits and requirements laid down in legislation.
* Deal with complaints in line with the Councils complaints procedure.
* Comply with GDPR requirements with regard to the maintaining and processing of data against the following criteria:
  + Processing with Consent
  + A legal basis
  + A legitimate interest
* Collect and store personal data for the purposes of the effective billing, collection, and recovery of sums due. Data retained for this purpose will be processed in accordance with the Data Protection Act 2018 and stored securely at all times. Data will only be shared with agents or contractors appointed by the council for the purposes of the billing, collection, and recovery of sums due. Data may also be shared within the council or with external organisations where the law allows and, where it is in the interests of the debtor or where it will prevent fraud or the unlawful evasion of payment of sums due.
* Ensure that all staff dealing with debt recovery have the skills required to undertake the role effectively and to deliver this policy. All staff will receive the necessary training and their performance will be reviewed as a part of our performance management process.

# **Our approach to supporting customers to avoid debt:**

Where possible the Council will look to charge services through prepayment. Services that cannot be charged through prepayment will be invoiced or billed in line with statutory requirements, which may request payment in full or via instalments.

We will also advise customers of any discretionary schemes, exemptions, discounts, reliefs, grants or alternative support that may be available.

At each stage in the recovery process, customers will be signposted to third party debt advice providers as well as welfare support that can be offered within the Council.

Where a debtor is unable to repay the debt, we will negotiate an arrangement for repayment. In such circumstances, a review of the affordability to pay via income and expenditure, to establish the proposed level of repayment is appropriate given the debtor’s financial circumstances.

If the debt has not been recovered through internal recovery methods, dependent on the type of debt, we may instruct Enforcement Agents or take County Court action.

# **Treatment of multiple debts:**

Some customers will owe more than one debt to the Council and may be vulnerable or experiencing financial hardship. In such cases, officers will discuss which debts the Council considers a priority.

Priority will be given to debt where non-payment could lead to a repossession order or imprisonment. These relate to Rent/Service charges, Council Tax and NNDR, which are most commonly enforced through the courts as per statutory requirements. Priority will also depend on the stage reached in the recovery process. The Council will seek to recover all debt owed.

Where customers have debt from multiple years, we would expect they continue to maintain payment for the current year whilst arranging to reduce any previous year debt over an agreed extended period. Instalment plans / special arrangements will be made with a view to place the customer in an improved position over the extended period. In all instances customers will be signposted to independent third sector debt advice

# **Writing off debt:**

The Council recognises that after all recovery action has been exhausted that debt can become irrecoverable, and in such circumstances prompt and regular write offs is good practice.

The council will undertake regular reviews of outstanding debt per debt category and will ensure for each a bad debt provision is calculated. This will avoid chasing debt where it legally cannot be pursued or where there is no realistic prospect of recovery.

Each debt category will have a written procedure document for writing off debt which will contain:

* The checks that should be carried out before each type of write off / reason for write off is actioned.
* Reporting: including the frequency, the value of write offs and the reasons for write offs carried out in each financial year (Absconded, deceased, bankruptcy etc).
* Segregation of duties for recommending, approving, and entering write offs.

Each write off procedure document will be reviewed annually.

Write offs will be undertaken in line with the Constitution of Medway Council Part 3, chapter 5 – Financial limits. This includes an annual report to Cabinet detailing all debt written off.

The Council will seek to minimise the cost of write-offs to the local Council taxpayers by taking all necessary action to recover what is due. All debt will be subject to the full collection, recovery and legal procedures as outlined in this policy.

Write off is only appropriate where there is a justified reason why the debt should not be pursued.

Justified reasons may include:

* Where Insolvency proceedings have commenced and where it has been confirmed there is no dividend payable.
* If the customer cannot be traced / has absconded.
* Where the debt is uneconomical to pursue, or to pursue further. This may be based on more than one factor, such as the amount of the debt, the financial position of the customer and the cost in administrative and officer time in pursuing the debt.

Finance Business Partners will work with service areas to ensure appropriate provision is made for debt write off based on historic recovery performance. They will also work with service managers regularly reviewing debt performance to ensure that the debt position is minimised.

Where a customer has an account in credit it may be transferred to offset a

outstanding debt.

# **Review of this policy**

This policy will be reviewed on an annual basis to reflect any changes to legislation or strategy by the Council.

# **Appendix A. Debt recovery legislation**

**Specific Legislation covering the collection of Council Debt.**

### Council Tax

Council Tax recovery procedures are laid down in statute in the Council Tax (Administration & Enforcement) Regulations 1992 and subsequent amendments. The use of external enforcement agents is governed by the Taking Control of Goods Regulations 2014 and Taking Control of Goods (Fees) Regulations 2014.

### NNDR

NNDR recovery procedures are laid down in statute in the Local Government Finance Act 1988 and subsequent regulations and amendments. The use of external enforcement agents is governed by the Taking Control of Goods Regulations 2014 and Taking Control of Goods (Fees) Regulations 2014.

### Housing Benefit Overpayments

Housing Benefit (HB) overpayments are reclaimed in accordance with the Housing Benefit Regulations 2006 and the Housing Benefit (persons who have attained the qualifying age for state pension credit) Regulations (as amended). There are separate arrangements in place for HB overpayments which are covered by the Housing & Council Tax Benefit Overpayments Policy (copies available from the Benefits Section).

### Housing Rents

Housing rents are recovered in accordance with the Council’s Rent Arrears Policy and procedures, which is in accordance with the requirements of the Housing Act 1985 (and subsequent amendments). There is also a separate policy and procedure for the collection of former tenant arrears.

### Sundry Debt

Other Income & Sundry Debt are collected within a laid down procedure managed within the Central Finance Section. Enforcement and recovery can include use of external collection agents where necessary. There is discretion to charge interest on debt if appropriate.

### Housing Enforcement charges

Housing Enforcement Charges and Fees are chargeable under powers set out within the Section 49, Housing Act 2004 and are covered in the Housing Enforcement Policy. The cost of works in default to remedy identified Hazards are also chargeable.

The Council has a duty to provide certain households with temporary accommodation under the Housing Act 1996 (As Amended) and is able to charge for this provision. Details of the fees and charges for this accommodation is set in the Annual Fees and Charges report and they are charged in-line with the Councils Policy for this provision.

The Council also has duty to provided removals and Storage for household items in some circumstances where the Council has a duty to provide accommodation.

### Penalty Charge Notices

Internal procedures. The use of enforcement agents is governed by the Taking Control of Goods Regulations 2014 and Taking Control of Goods (Fees) Regulations 2014.

### Adult Social Care

Adult Social Care contributions are recovered in accordance with the Care Act 2014.

The Care Act 2014 introduced a modern legal framework for the recovery of any debt that may have accrued as a result of a local authority meeting a person’s eligible care and support needs. Powers provided under Section 69 of the Care Act provide equal protection to both the local authority and the person. Section 70 of the Care Act also provides a local authority with the power to recover charges from a third party where a person has transferred assets to them in order to avoid paying charges for care and support.

**Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.**

**12. Document Control**

**History**

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| --- | --- | --- | --- |
| **Version** | **Date** | **Change Description** | **Changed By** |
| 0.1 | March 2022 | Initial Version | Phil Watts |
| 0.2 | May 2022 | Amended | Karen Powell |

**Approvers**

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