

Report to Cabinet
25 June 2014
Report of Executive head of business relationship management
Subject Update to debt collection policy

Item

10

KEY DECISION

Purpose

To seek approval for an update of the debt collection policy specifically to reflect the Ministry of Justice regulation changes in relation to bailiff terminology and the removal of the historic powers of distress for commercial rent and its replacement with a new regime called Commercial Rent Arrears Recovery (CRAR)

Recommendation

To approve the updated debt collection policy

Corporate priorities

The report helps to meet the corporate priority “value for money services”.

Financial implications

No direct financial implications

Ward/s: All wards

Cabinet member: Councillor Waters- Deputy Leader and resources

Contact officers

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Background documents

None

Report

The revised Ministry of Justice regulations came into force on 6 April 2014 this brought in, amongst other things

1. Changes in terminology
 - a) A bailiff *will now be* an enforcement agent (EA)
 - b) Distress/Levy *will now be* taking control of goods (TCOG)
 - c) A Walking Possession Order *will now be* a Controlled Goods Agreement
2. Removal of a landlord's right to use distress to recover arrears of commercial rent. This has been replaced by a new statutory regime for Commercial Rent Arrears Recovery called CRAR
3. An updated policy is attached which reflects these changes
4. For ease of reading the amendments to the policy have been highlighted using light shading.



NORWICH
City Council

Norwich City Council Debt Collection Policy

Version 1.2 – 28 April 2014 draft

Norwich City Council debt collection policy

Introduction

Norwich City Council is required to collect monies from both individuals and businesses for a variety of reasons and has a legal duty to recover all sums due to it efficiently and effectively. This policy reflects the legal requirements the council must meet for safeguarding public money.

In collecting these funds it is inevitable that the council will be required to pursue the recovery of arrears from persons and or businesses that do not pay such accounts. However, in accordance with the council's charging policy, wherever possible up front or point of activity charges will be collected so the council neither encourages nor incurs debt.

An agreed policy of how the council manages and collects debts is required to ensure consistency of practice across council services.

This policy covers all debts owed to the council including:

- council tax
- rents, both housing and others, e.g. garages and commercial
- service charges / rechargeable repairs
- benefit overpayments
- business rates or national non domestic rates (NNDR)
- general debtors, e.g. unpaid fees and charges
- legal / court costs
- penalty charge notices (parking contraventions).

This policy will apply to all council services. Some individuals and businesses may have multiple debts to the council. The policy does not prejudice any legal action that the council take.

It seeks to be "fair but firm" and the full range of collection and recovery methods will be used as appropriate if debts are not paid. The policy works within and takes account of relevant legislation e.g. data protection, human rights, equalities etc.

The policy

The council will try to collect all monies owed to it in a timely manner and will endeavour to remind people quickly if they do not pay.

The council will

- Send bills out in good time and, in addition to detailing the amount payable and a description of the charge, the council will include the following information on all accounts:
 - the payment options available and encouragement to debtors to pay through the automated telephone payment line or the website
 - the councils contact number for queries in relation to the accuracy of the account
 - where appropriate the councils contact number for discussing payment arrangements where the customer has difficulty in paying the amount requested on the account.
- Where requested provide information to meet specific communication needs in the following formats: braille; large print; audio tape / disc; community languages. In meeting individual needs the council will record individual preferences so that on going and future correspondence can be delivered in the preferred format. The council will use accredited language translators/interpreters to assist persons whose first language is not English and BSL interpreters for those who are deaf.
- Remind people quickly if they do not pay.
- Encourage people who have difficulty in paying to contact the council to reach an agreed way forward as soon as possible.
- Take enforcement action if an arrangement can not be agreed, against deliberate non-payers or those who delay payment.

We will encourage people who have difficulty in paying to contact the council to reach an agreed way forward as soon as possible.

Council staff will always seek to make realistic arrangements to clear outstanding amounts by regular payments, in preference to taking legal or other action for recovery. If an arrangement cannot be agreed however, enforcement action may be taken.

Where legislation or other provisions exist that allow the council to take action to recover debts without the need for court action, the council will make use of those provisions. For example the Social Security (Overpayments and Recovery) Regulations 2013 allow the council to recover housing benefit payments from

earnings using a notice to an employer to deduct sums and pay them to the council.

If the council finds it necessary to take court action against a debtor and that action is successful, the council will then be empowered to enforce payment through a number of statutory remedies, including powers which impact on a person's possessions or liberty e.g. taking control of goods, have an attachment to earnings order, to evict a tenant, to request imprisonment etc and will apply the most appropriate remedy.

One of the remedies is to 'take control of goods', which Norwich City Council exercises through the use of external enforcement agencies. To ensure effective, consistent and appropriate application of this, Norwich City Council's appointment of enforcement agency services is through contractual agreement which details the standards the enforcement agents must adhere to.

The council will ensure that these more 'severe' powers, for example, removal of goods will only be used when all other reasonable methods have failed and where all appropriate internal and statutory processes have been properly followed.

Irrecoverable debts

The council recognises that not all debts are collectable and therefore in the last resort it may be appropriate in certain circumstances to classify debts as irrecoverable. The council will ensure that there are guidelines and policies in place which detail the action to be taken prior to an account being written-off.

The council reserves the right to reinstate, within statutory deadlines any debt where it becomes apparent the circumstances for write off are no longer applicable. i.e. a debtor is traced / funds become available.

Credits

Norwich City Council and its services will adopt a corporate approach to refunding credits, in that, wherever possible, checks will be made for other outstanding debts to the customer, prior to a refund being made. Where other debts are identified, it may be necessary to obtain the customer's permission, prior to a credit transfer. Other credit refunds, for example compulsory purchase compensation and home loss payments will be included in this procedure approach.

Costs

Where the council incurs additional costs as a result of non-payment, e.g., court costs, these will be added to the outstanding debt and (where allowed under statute) recovered from customers.

Where the council employs third party collection agencies, these agencies may apply their own costs to the amount to be recovered.

Appendix A - Principles supporting the debt collection policy

1) Priority debt

There are many types of debt, but those considered as “priority” debts are those debts owed to creditors who can take the strongest legal action against an individual who does not pay.

It isn't the size of a debt that makes it priority but what creditors can do to recover their money.

Individuals are often but not always aware of the consequences of failure to pay and frequently pay to whoever shouts the loudest.

The actions supporting this procedure should ensure customer awareness of what priority debts are.

The Procedure identifies the following as equal priority debts:

- commercial rent arrears – as it can result in forfeiture, Commercial Rent Arrears Recovery (CRAR), attachment of earnings, bankruptcy, county court judgements, charging orders
- residential rent arrears – as it can result in eviction
- mortgage arrears – as they can result in repossession
- council tax – as it can result in enforcement agent action, attachment of earnings / benefits, bankruptcy or imprisonment
- other secured loans – as they can result in loss of home
- income tax and VAT – as they can result in bankruptcy or imprisonment .

Other priority debts:

- fuel debts – as they can result in disconnection
- Income tax and VAT – as they can result in bankruptcy or imprisonment
- county court judgements - can result in enforcement agent action, attachment of earnings or bankruptcy
- fines or compensation / costs orders – as they can result in imprisonment
- maintenance / child support – as it can result in repossession of goods or even imprisonment
- hire purchase – will be considered essential if, for example it is for the purchase of a car needed to get the owner to work.
- water rates – as it can result in enforcement agent action and water companies can reduce supply to a trickle.
- business rates – as it can result in enforcement agent action, bankruptcy or imprisonment
- benefit overpayments – as it can result in deductions from on-going rent / benefits / earnings
- maintenance or child support – as it can result in enforcement agent action or imprisonment
- penalty charge notices (parking contraventions)- can result in enforcement agent action.

The following are considered non priority debts:

- credit / store cards
- unsecured personal loans
- bank overdrafts
- credit / interest free / hire purchase agreements
- catalogue debts
- money borrowed from family and friends
- mobile telephone and TV subscriptions.

2) Customer standards and support

The council's customer standards apply when implementing this policy.

Integral to the policy is the provision of support mechanisms and arrangements to all customers. It details the approach to collecting debt in Norwich and also provides practical help, advice and support in the management of multiple debts.

The council will maintain a consistent and sensitive approach to collecting debt whilst, at the same time, ensuring that the council continues to maximise collection performance. For commercial debt recovery it may be necessary to take a more business like approach to reflect any contractual obligations that may exist.

When people do not pay

When people in debt make contact with the council they should, where possible, identify all debts they have with the council. This will allow the council to take a holistic approach to debt recovery and avoid duplication.

Where it is apparent that a customer is unable to pay an account, or a number of like accounts as requested, then the aim will be to agree an arrangement to pay which takes into consideration the specific circumstances of the customer.

Ability to pay will be assessed on the customer's disposable income in proportion to the level of debt, the extent of debts owing to the council and that council tax and rent arrears are equal priority debts. The initial aims of arrangements to pay will be to clear the debt(s) as soon as possible but as a minimum will ensure that the person's indebtedness to the council does not worsen.

In practice this may mean ensuring that the current or most recent account is cleared, while making the maximum contribution to clearing other debts.

A financial statement may be required to support a request for an arrangement. This will be a list of the customers' household income and expenditure. Documents to support the information contained in the financial statement may be required

before an arrangement can be agreed. A financial statement can be completed with the help of an independent agency such as the Citizens Advice Bureau (CAB).

The council's website also contains various details to help with managing money and who to contact. Visit www.norwich.gov.uk and use the search to find information on "money advice" or "debt".

Commercial tenants will not generally have access to CAB services but they may be able to get assistance from Business Link and the Consumer Credit Counselling Service (CCCS). These organisations may be able to offer some guidance on the provision of financial statements etc.

Penalty charge notices (parking contraventions)

Penalty charge notices, prior to county court charge registration, are excluded from the arrangement process in the policy. Only post charge registration cases may be considered in any arrangement process, provided that severe financial hardship is identified as a result of the parking debt adding to other council debts. Such consideration would normally be through partner advice agencies or the multiple debt referral process. The council's parking services team must be contacted directly to make such arrangements.

Commercial debt recovery

A separate debt procedure has been developed to help maximise debt recovery with regard to the council's commercial property portfolio. The procedure will operate in parallel to Norwich City Council's debt policy and will provide a consistent and business like approach, whilst reflecting the council's "fair but firm" policy. There will be occasions however, when it becomes necessary to pursue commercial tenants as per the terms of their lease agreement. This action may vary from the Council's debt policy, but it will reflect the tenant's contractual obligations.

Continued effectiveness of this policy

Where minor amendments need to be made to ensure the continued effectiveness of this policy such amendments will be made after consultation with the deputy leader and resources portfolio holder.

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

Report author to complete

Committee:

Cabinet

Committee date:

25 June 2014

Head of service:

Anton Bull

Report subject:

Update to debt collection policy

Date assessed:

30 April 2014

Description:

Approval of implementation of updated debt collection policy

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Managed debt collection ensures the council recovers money that is owed to it
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	A debt collection policy helps to manage the risk of not being able to collect debts.

Recommendations from impact assessment
Positive
Negative
Neutral
Issues