

DEBT RECOVERY & ENFORCEMENT

Performance, Finance and Customer Focus Overview and Scrutiny
Committee Wednesday 8 August 2018 3.00 pm



I. BACKGROUND

I.1 On 7 March 2017, Cabinet approved the Income and Credit Management Policy for the Council (Appendix A). This outlines the processes that are followed in order that the Council:

‘Maximise the amount of collectable debt, through the prudent extension of credit, the balancing of financial risk and the efficient collection of income, within a framework of customer care and client sensitivity’

I.2 The policy covers income recovery, which includes:

- General Income (including Adult Social Care)
- Penalty Charge Notices
- Council tax
- Non Domestic rates

I.3 The policy does not cover the recovery of Housing Benefit Overpayments. The Council administers Housing Benefit on behalf of the Department of Work and Pensions, who provide legislation and guidance to facilitate that administration and by which we are bound. The process of recovery of Housing Benefit Overpayments is outlined in this paper.

I.4 The general principle of income and credit management stated in paragraph I.1 in operational terms means that we make a series of informal approaches when failure to pay is identified, encourage payments that the customer can afford and take formal action where all other steps have failed. Cabinet agreed a Welfare Support Framework on 8 March 2016, which defines indicators of vulnerability and clarifies that our approach to debt recovery is to:

- encourage customers to contact us at the earliest opportunity
- ensure our collection does not place vulnerable customers at further risk
- adapt and personalise our debt recovery and collection appropriately to minimize hardship or distress
- broadly follow the best practice guidance produced by the Local Government Association and Citizens Advice Bureau (Appendix B)
- benchmark our approach against other best practice and consider research and associated recommendations.

I.5 [Research](#) published in November 2017 by the Money Advice Trust, the charity that runs National Debtline and Business Debtline, shows that local authorities in England and Wales referred 2.3 million debts to bailiffs in 2016/17. That report recommends six steps for Local Authorities to take to improve their practice and also to help distinguish between customers who can't pay and those who won't:

Step 1. Make a clear public commitment to reduce bailiff use over time.

Step 2. Review signposting to free debt advice, including phone/online channels.

Step 3. Adopt the Standard Financial Statement to objectively assess affordability.

Step 4. Put in place a formal policy covering residents in vulnerable circumstances.

Step 5. Exempt Council Tax Support recipients from bailiff action. 23 Councils in the UK have introduced this policy. The London Borough of Lambeth introduced an exemption from bailiff action for Council Tax Support recipients as part of its 'Income and Debt Policy' implemented in 2015/16, which involved a partnership with Advising London and investment in dedicated council tax clinics. A 2016 report from the Child Poverty Action Group and Z2K found that Lambeth's collection rate for Council Tax Support claimants increased from approximately 80% in 2014/15 to 93% in 2015/16, taking Lambeth from one of the lowest collection rates to one of the highest. The collection rate for Plymouth council tax support customers was 84.3% in 17/18.

Step 6. Sign up to the Citizens Advice/Local Government Association Council Tax Protocol & examine the Money Advice Service [Working with Debt Advice Agencies toolkit](#). 50 Councils in the UK have signed up to this protocol.

2. LOCAL CONTEXT

- 2.1 In 2016, Plymouth City Council retendered and awarded a contract to three enforcement agencies (commonly known as bailiffs) for the purpose of collecting council tax, housing benefit and business rates debts. Through the same tendering process, different companies were chosen to collect parking and sundry debt. This approach was taken to drive up standards as the different companies compete to be allocated debts to recover from the Council. Debts are recovered using this contract where other approaches have failed.
- 2.2 Charges are levied by the bailiffs which are recovered directly from the customer, except for housing benefit debts. No charges or additional fees are levied by the bailiffs when they attempt to recover these housing benefit debts on our behalf.
- 2.3 Debts are referred to the bailiffs after all other recovery avenues have been exhausted, including making arrangements directly with the customer, attachment to benefits or earnings. However, there is limited resource to make contact with customers who fail to respond to attempts from us to advise and remind them of their debts and responsibility to pay. With customers who do not respond to us, it is sometimes the case that the first time we are aware of a customer's circumstances is after the knock on the door from the bailiff.
- 2.4 Last Autumn we completed an initial review of where the Council sits with the six recommendations in the Money Advice Trust report:

Step 1. Make a clear public commitment to reduce bailiff use over time.

- a) We need to understand the impact this could have on our ability to recover debt. London Borough of Hammersmith and Fulham (LBHF) released a press statement in November 2017 that they were to cease their use of bailiffs altogether for the collection of council tax debt. Since mid-July 2018 they have worked with a company who commit to making arrangements with customers based on their ability to pay. However, it is inevitable that some customers will be unwilling or unable to pay and the approach that LBHF have taken means those debts will not be recovered. It is too early for them to predict the impact on their council tax collection rate. Bristol CC has also announced a pilot scheme for ethical debt recovery to start in the coming months.

Step 2. Review signposting to free debt advice, including phone/online channels.

- a) We have good signposting processes in place, as well as advice online on our website and through the Plymouth Online Directory POD. We also have an Advice and Information project led from the Integrated Health and Social Care commissioning team and have rolled out training for frontline staff, delivered by Advice Plymouth. Our partnership agreement with

DWP for universal credit customers has further strengthened the links with financial advice and information and we regularly work with partner organisations to identify avenues to improve knowledge amongst professionals and signposting to our customers.

Step 3. Adopt the Standard Financial Statement to objectively assess affordability.

- a) We have used the single financial statement format since October 2017 and are looking to roll out the assessment approach across council departments and suppliers.

Step 4. Put in place a formal policy covering residents in vulnerable circumstances.

- a) We adopted a [Vulnerable Customer Framework](#) in 2016, developed with our partners in the Welfare Rights Forum. This covers all council policy areas.

Step 5. Exempt Council Tax Support recipients from bailiff action

- a) There is a degree of risk in exempting CTS customers from recovery using bailiffs as it could reintroduce a disincentive to pay as well as removing one route of recovery. Detail on the number of cases and total value of CTS referrals to bailiffs is included in section 11 of this report but in summary, the Council could lose over £600k per year if alternative methods of recovery are not invested in. Several councils volunteered that while they did not have a policy of exempting Council Tax Support recipients, Attachment of Benefit Orders were used in preference in these cases and this is the approach in Plymouth where bailiffs are used after all other options are exhausted.

Step 6. Sign up to the Citizens Advice/Local Government Association [Council Tax Protocol](#) (published in June 2017) & examine the Money Advice Service Working with Debt Advice Agencies toolkit.

- a) We reviewed our council tax collection practices against the revised CAB Council Tax Protocol in August 2017 and most elements of the protocol have been in place for some time. When the Vulnerable Customer Framework was agreed by Cabinet in 2016, they also confirmed that we would broadly follow the principles of the CAB Council Tax Recovery Protocol. We have been working with the Devon Money Advice Forum and also exploring whether a wider Plymouth protocol would be more effective.

DEBT TYPES

3. SUNDRY DEBT (INCLUDING ADULT SOCIAL CARE)

- 3.1 A flowchart describing the process is included in appendices 3 and 5 of the Income and Credit Management Policy (Appendix A of this briefing paper). The process is explained below:
- 3.2 An invoice is raised and if it is not paid, a reminder is produced and sent (final notice) then a further reminder produced and sent (take notice). These are automated processes.
- 3.3 If still not paid the team contact debtors, primarily by telephone, or email, letters as last resort. The purpose of contacting the debtor is to ask for payment and it is often at this stage that we become aware of issues e.g. disputes with the invoice. These are referred to the originating department for resolution.
- 3.4 If the debtor is unable to pay the amount in full, payment arrangements are discussed. The aim is that the debt should be cleared within 6 months or by the end of the financial year, whichever is sooner. However there is discretion over this as the repayment schedule has to be reasonable in order to ensure payments will be made.

- 3.5 If the debtor states they cannot make requested instalments as they do not have enough money, we ask for information relating to income and expenditure in the form of a completed means enquiry form.
- 3.6 Where a debtor is refusing to pay, or not engaging, and the debt is over £500 we can commence legal action (County Court Judgements). There is a cost to this which the debtor is liable for. Legal advice is usually sought before going down this route; all Adult Social Care (ASC) cases are referred to Legal, for other (non ASC) cases CCJ's can be commenced by the Service Centre.
- 3.7 Debts under £500 are referred to external collection agents. These companies operate as collection agents for the Council but do not have the same powers as enforcement agents (bailiffs), for the purposes of collecting sundry debt.
- 3.8 Where a debtor is vulnerable, for example does not have mental capacity, formal action would still proceed but this would be after we have established a financial representative, or "litigation friend". We work with Livewell to ensure where possible we work with social workers, who work with the client. We do ensure those who are classed as vulnerable have support. If a debtor does not have capacity and has no one else to support, then a referral to the Deputyship Team would be made (by Livewell). We would not take recovery action against someone who is waiting for Deputyship team to accept them as a client.

4. GENERAL INCOME - ARREARS & BAD DEBT PROVISION (BDP)

- 4.1 The most recent arrears and BDP figures are as at 31 December 2017 as follows:
 - Debtors arrears £17.886m
 - BDP £1.755m
- 4.2 The BDP provision requirement has increased by £328k from the previous quarter. The Bad Debt Provision is calculated using corporate policy – see the table below for the provision percentages:

table 1 – bad debt provision

Age of Debt	Provision
0 - 30 days	0%
30 - 60 days	0%
60 - 90 days	5%
90 - 180 days	10%
180 - 365 days	15%
1 - 2 years	35%
2 - 3 years	45%
3 - 4 years	80%
4 - 5 years	90%
5 - 6 years	95%
Over 6 years	95%

5. PENALTY CHARGE NOTICES (PARKING FINES)

- 5.1 A flowchart describing the process is included in appendix 6 of the Income and Credit Management Policy (Appendix A of this briefing paper).

- 5.2 Unpaid penalty charge notices are pursued through the Traffic Enforcement Centre (TEC) which is part of Her Majesty's Court Service once legal appeals have been exhausted. The TEC issues a warrant of execution, similar to a county court order, which authorises the Council to recover the debt. This is passed to a contracted enforcement agent (bailiff) to collect on our behalf.
- 5.3 In 2016/17 there were 7,337 referrals to enforcement agents which amounted to just over £63k. In 2017/18 there were 5,458 referrals to enforcement agents which amounted to £134,348.22.

6. NDR AND BID

- 6.1 The recovery processes for NDR and BID are very similar to council tax and summarised below:
- 6.2 Bills are issued offering monthly instalments (nb BID is payable in one instalment)
- 6.3 Reminder notice is issued after one missed instalment
- 6.4 Second reminder notice issued if first notice paid and second failure to pay (Not for BID)
- 6.5 Final notice issued if second notice paid and third failure to pay (Not for BID)
- 6.6 Summons issued if any of the above notices not paid
- 6.7 Court hearing at Magistrates Court to obtain liability order
- 6.8 Debt referred to Enforcement Agent
- 6.9 If debt not collected by Enforcement Agent we can consider Bankruptcy/ winding up action or committal to prison.
- 6.10 If customer contacts us at any stage then we do make payment arrangements where appropriate, for example some business struggle at certain times (and have increased trade at other times) so we make arrangements to reflect this.
- 6.11 We recall cases from the enforcement agents where appropriate, e.g. cases of vulnerability.
- 6.12 The table below shows the number and value of cases referred to Enforcement agents in 2017/18.

table 2 – cases referred to enforcement agents NNDR and BID

	JBW	Ross & Roberts	Totals
2017/18 as at end Q3			
Cases referred	65	5	70
Amount referred	£300,289	£11,962	£312,252
Amount recovered	£96,827	£6,920	£103,747
Percentage Recovered	32.2%	57.9%	

7. NON DOMESTIC RATES - ARREARS & BAD DEBT PROVISION (BDP)

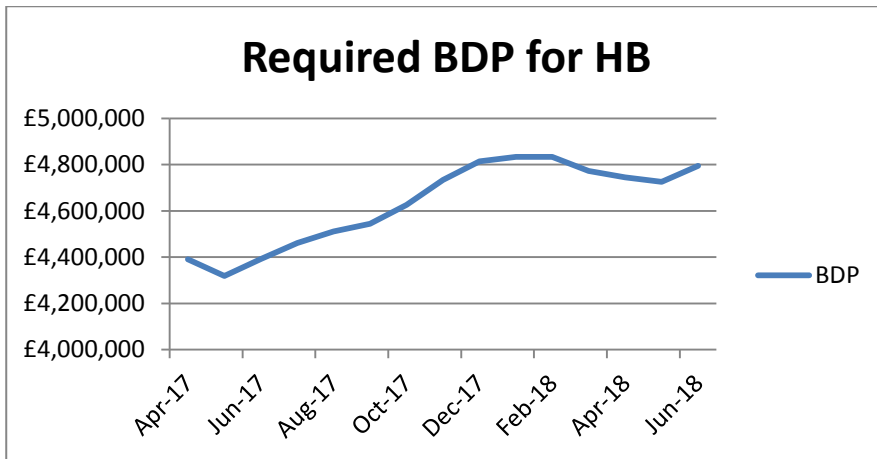
- 7.1 The most recent arrears and BDP figures are as at 31 March 2018, and as follows:
- Council Tax arrears £1.898m
 - BDP £.409m
- 7.2 BDP is calculated on the basis of a weighted average, based on recovery status of accounts, for the current year. Recovery for preceding years is calculated at 80% for 2016-17, decreasing by 10% for each year prior to that.

8. HOUSING BENEFIT OVERPAYMENTS

- 8.1 Overpayments of housing benefit usually occur when there is a change in a customer's circumstances which they do not notify us of, either accidentally or deliberately. As soon as an overpayment is identified, an invoice is raised and sent to the customer to identify the overpayment.
- 8.2 The Council is not obliged to recover housing benefit overpayments and the Council must not apply a blanket policy for recovery. In practice this means that we follow a process which identifies the overpayment, giving the customer an opportunity to respond. Two reminders are sent and if there is no communication further action is considered. The following paragraphs explain the options available.
- 8.3 If there is still housing benefit in payment at the stage the invoice is raised, ongoing benefit deductions can be made from the housing benefit entitlement. The Department of Work and Pensions (DWP) sets maximum levels of recovery from ongoing benefits which varies from between £11.10 to £18.50 per week as standard, depending on whether the overpayment was as a result of fraud. Very occasionally additional amounts can be deducted, up to a maximum of £31 per week.
- 8.4 At any stage, an arrangement can be agreed upon contact from the customer. A standard financial assessment is completed to identify what the customer can afford to pay. Discretion is applied within a framework where we attempt to recover the outstanding amount within 12 months.
- 8.5 If we have attempted contact with the customer without success, we know they are no longer in receipt of housing benefit and we have evidence of their employer, we can set up a direct earnings attachment with the customer's employer. A "21 day warning letter" is sent to customer to give them a chance to contact us.
- 8.6 Attachment to other benefits may be an option, if the customer is no longer in receipt of housing benefit but is still in receipt of other government benefits. Again, the DWP set the maximum levels that can be recovered weekly in this way.
- 8.7 If we usually pay housing benefit to the customer's landlord direct, we can reduce the payment made to the landlord to cover an outstanding overpayment the customer owes. This is known as 'blameless tenant' recovery.
- 8.8 Once the debt has been outstanding for some time and we have attempted all other options, or the customer has become untraceable, we will consider referring the debt to a collection agent. There is no additional fee to the customer if this route is chosen, unlike council tax collection where enforcement agents fees are charged to the customer in addition to the amount of the debt.

9. HB OVERPAYMENTS - ARREARS & BAD DEBT PROVISION (BDP)

- 9.1 The most recent arrears and BDP figures as at 30 June 2018 are as follows:
 - HBO arrears £9.220m
 - BDP £4.794m
- 9.2 The Bad Debt Provision is calculated using corporate policy – see the table in 4.2 above.
- 9.3 With the reduction in net HBO arrears the requirement for the HB BDP has shown a small reduction this year. We are forecasting the BDP top up required based on current known figures.



10. COUNCIL TAX

- 10.1 A flowchart illustrating the council tax recovery process is included in appendix 2 of the Income and Credit Management Policy (Appendix A of this briefing paper). The Collection Framework can be found here <http://www.plymouth.gov.uk/sites/default/files/CouncilTaxCollectionFramework.pdf> and is summarised below:
- 10.2 An annual bill is issued which offers monthly instalments. Council Tax is due on the 1 April each billing year.
- 10.3 A Reminder notice is issued after one missed instalment. If that is paid, but a further instalment is missed later in the year a second reminder notice is issued.
- 10.4 A Final Notice issued if second notice is paid but then there is a third failure to pay.
- 10.5 A summons is issued if any of the notices are not paid. Liability orders are obtained from the Magistrate's Court to enable the Council to take formal recovery action.
- 10.6 Attachment to earnings can be set up if we know the customer's employment information.
- 10.7 If the debt is not collected by the enforcement agent, we can consider a Bankruptcy Action/Charging Order (and enforced sale) or Committal to prison.
- 10.8 If a customer contacts us at Final Notice, Summons or Court stage then we do make payment arrangements with them to stop enforcement action. A liability order is sought in all cases in order to expedite recovery should the customer default on any payment arrangement agreed.
- 10.9 Customers who are marked as vulnerable on our system are identified before accounts are referred to our enforcement agents and looked at by officers. We recall cases from the enforcement agents where appropriate.
- 10.10 The national standards for enforcement agents can be found here <https://www.gov.uk/government/publications/bailiffs-and-enforcement-agents-national-standards>. All of our enforcement agents should adhere to these standards.

11. COUNCIL TAX - ARREARS & BAD DEBT PROVISION (BDP)

11.1 The most recent arrears and BDP figures are as at 31 March 2018 as follows:

- Council Tax arrears £8.493m
- BDP £5.139m

11.2 BDP is calculated by reference to the recovery status of the individual council tax accounts in arrears e.g. Enforcement Agent, Attachment of Earnings etc. A recovery % for each category is applied so that we calculate a weighted average of the % of outstanding debt which is expected to be recovered for each year's council tax accounts.

11.3 The table below shows the number and value of cases referred to enforcement agents in 15/16, 16/17 and 17/18 and the amount of debt collected via that route.

table 3 – cases referred to enforcement agents (council tax)

Year	Type	Referred		Returned		Collected	% recovered
		Number	Value	Number	Value		
15/16	JBW	9254	4,550,421.29	8960	2,680,666.12	1,617,591.76	
	Total	9254	£4,550,421.29	8960	£2,680,666.12	£1,617,591.76	35.5%
16/17	JBW	4468	2,078,828.72	2203	450,611.88	506,710.14	24.3%
	Ross & Roberts	4856	2,213,475.04	1573	398,905.19	410,518.20	18.5%
	Jacobs	4522	1,917,719.05	1602	91,919.64	393,722.71	20.5%
	Total	13,846	£6,210,022.81	5378	£941,436.71	£1,310,951.05	21.1%
17/18	JBW	4,611	1,966,536.59	4687	954,565.31	780,919.74	39.7%
	JBW recycled	416	127,791.53	59	15,905.90	6,841.43	5.4%
	Ross & Roberts	2724	1,247,319.54	4255	1,178,961.03	398,432.93	31.9%
	Ross & Roberts recycled	220	108,339.53	39	14,478.41	2,204.85	2.0%
	Jacobs	5206	2,488,981.33	4739	1,114,733.34	900,463.05	36.2%
	Jacobs recycled	2366	903,569.14	561	191,535.15	49,038.31	5.4%
	Total	15,543	£6,842,537.66	14,340	£3,470,179.14	£2,137,900.31	31.2%

- 11.4 If one company is unsuccessful in collecting the debt referred to them, we will consider the case and pass it to another company if appropriate. The rows marked 'recycled' in the table above are those cases that have been returned by one company and passed to another.
- 11.5 The tables below summarise the collectable council tax in each year since 15/16 along with the collection rate achieved and formal recovery routes taken for those accounts that defaulted in year.

table 4 – Council Tax collection performance

Financial Year	Properties liable for council tax	Account type	Net Collectable	Collection rate achieved	CTax written off in year	Net Debt position at year end
2015/16	116,787	Non CTS	£101,063,369	96.76	£835,702	£8,022,823
		CTS	£7,284,421			
2016/17	117,706	Non CTS	£105,134,300	96.92	£1,118,607	£8,108,634
		CTS	£7,245,009			
2017/18	118,820	Non CTS	£111,751,096	97.61	£599,667	£8,435,894
		CTS	£6,994,834	84.27		
		All		96.99		

table 5 – Council Tax formal recovery routes

Financial Year	Summons issued	Liability orders obtained	Attachment of Earnings	Attachment of Benefits	Charging orders	Referred to Bailiff	with CTS
2015/16	21,864	15,867	2,412 £1,713,346	209 £45,845	346 £264,369	7,819 £4,655,139	51.8% of cases £1.5 million
2016/17	16,620	14,502	1,860 £1,328,960	126 £28,313	339 £266,838	11,564 £6,466,160	55.01% of cases £2.2 million
2017/18	17,754	14,390	1,759 £1,290,110	155 £32,206	368 £298,974	11,755 £6,902,255	59.4% of cases £2.1 million

11.6 Taking the 2017/18 total value of referral figures from the table above and applying a recovery rate from bailiff referrals of 31.2% (as achieved in 2017/18), if the council stopped using bailiffs to recover debt from customers in receipt of CTS and did not invest in any alternative means to improve recovery, income would fall by approximately £668k per year.

APPENDIX A



Income and Credit
Management Policy V

APPENDIX B

<https://www.citizensadvice.org.uk/Global/CitizensAdvice/campaigns/Council%20Tax/Citizens%20Advice%20Council%20Tax%20Protocol%202017.pdf>

- a) The overall council tax collection rate in CTS collection rate in Plymouth has improved year on year since 2013/14:

2016-17	96.92%
2015-16	96.76%
2014-15	96.20%
2013-14	95.80%

A large factor in the improving collection rate has been the reestablishment of formal collection protocols, including the use of bailiffs and a new contract for their services, since the end of 2014.

- b) We have not been able to separate CTS collection rates from the general population, as customers move in and out of our scheme during the year. We average approximately 24,500 CTS cases out of a total of approximately 118,600 live council tax properties. **Each 0.1% decrease in the council tax collection rate equates to a loss of approximately £119k in income.**

NEXT STEPS

Further analysis is needed to estimate the impacts, positive and negative, of ceasing the use of bailiffs to recover debts. The priority should be for those debts where the customer has been assessed as being in some financial need e.g. council tax support and housing benefit overpayments.