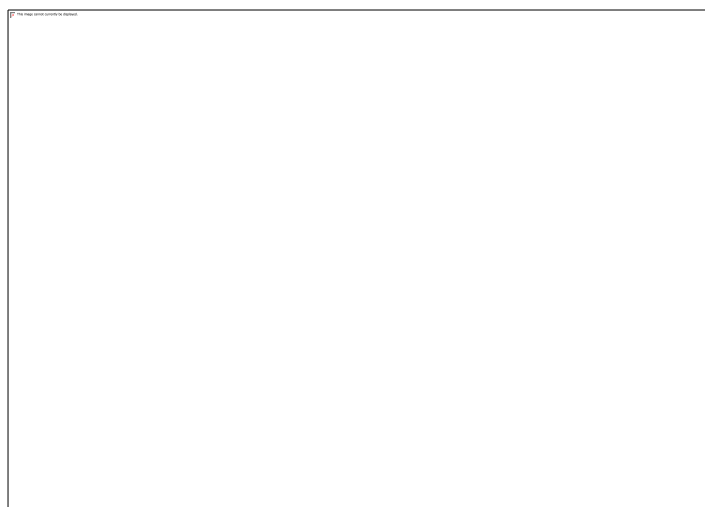


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Southampton City Council
Customer Experience
Fair Collection and Debt Recovery Policy



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Fair Collection and Debt Recovery Policy			
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Lead officer	Vanessa Shahani, Head, Income & Expenditure	Review date	Click here to enter a date.
Contact	vanessa.shahani@southampton.gov.uk	Effective date	Click here to enter a date.

Purpose

This policy sets out the general principles Southampton City Council will follow in collecting income for services we provide to residents and businesses, how we support those struggling to pay, and how we collect monies owed to us.

The charges that the council makes contribute towards its income and, in turn, this is used to provide a range of services for local people. In collecting this income, the council recognises that some people and businesses are in genuine financial hardship or need additional support to manage their finances and, wherever possible, this will be taken into account.

This policy applies to all income and debts. Its purpose is to ensure a consistent approach across the council and that billing, collection and recovery is managed in a fair, proportionate, cost-effective, consistent and sensitive way.

Legislative Context and other Related Documents

There is a wide range of legislation that the council has to follow. Examples include:

- The Data Protection Act 2018
- The Care Act 2014
- The Late Payment of Commercial Debts Regulations 2013
- The Equality Act 2010
- Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- The Business Improvement Districts (England) Regulations 2004
- The Council Tax (Administration and Enforcement) Regulations 1992
- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
- The Landlord and Tenant Act 1985

Different laws apply for different services. Each service will make sure that when they bill for goods or services or recover money that they follow the legislation for their area.

Due to the wide range of services provided it is not possible to list all relevant legislation or national standards in this policy.

There are also local strategies, policies and programmes that are relevant to this document:

- Council Tax and Business Rates (NNDR) Debt Recovery Policy – awaiting approval
- [Customer Access Strategy 2022-26](#)
- [Southampton Homelessness Prevention Strategy 2018-2023](#)
- [Enforcement Policy](#)

Principles, Aims and Commitments

Principles

The council will follow the principles outlined below:

- Our action will be **proportional**
- Our approach will be **consistent**
- Our actions will be **transparent**

Proportionality – Proportionality allows for balance to be struck between the costs of compliance/collecting the debt and potential loss of income to the council and the

Consistency - Consistency means taking a similar approach in similar circumstances to achieve similar ends. The council aims to achieve consistency in:

- The advice the council gives
- The use of our powers
- The recovery procedures used

The council recognises that consistency does not mean simple uniformity, officers need to take into account many variables such as:

- The social circumstances of the debtor
- The debtor's payment history
- The debtor's ability to pay

Transparency – Transparency is important in maintaining public confidence. It means helping customers to understand what is expected of them and what they should expect from the council. It also means explaining clearly the reasons for taking any recovery/enforcement action.

If action is required:

- the reasons why must be clearly explained, in writing
- time scales must be clearly stated; and
- a distinction must be made between advice and legal requirements

An opportunity will be given to discuss what is required to comply with the law before formal enforcement action is taken. A written explanation will be given of any rights of appeal against formal enforcement action either before or at the time the action is taken.

Where required, appropriate support such as the use of the Language Line facility will be made available as an aid to improving verbal communications with those customers for whom English is not their first language.

Aims

The aims of this policy are to:

- Encourage customers to make early contact with us to prevent arrears increasing and being fair, firm and consistent in our approach.
- Support customers who are in genuine financial hardship and struggling to pay e.g. by making early contact to prevent arrears increasing, offering a range of payment methods.
- Balance maximising income for Southampton City Council, while making sure we consider our customers other debts and liabilities when making arrangements for recovering the money they owe.
- Distinguish between customers who genuinely cannot pay and those who could afford to pay and tailor the action we take accordingly. This will include signposting to appropriate forms of support
- Promote access to advice and support.
- Maximise use of benefit take-up and discretionary funds where appropriate to help support customers on low incomes.

Commitments

To support these aims, the council is committed to:

- Ensuring communication is clear so that customers understand their bills, including if payment in advance is required, and know what action they need to take including due dates of payments
- Taking payment in advance where possible to reduce the risk of debt occurring.
- Providing a range of cost-effective payment options that are convenient for our customers.
- Taking into account a customer's personal circumstances when collecting money.
- Making sure that any payment arrangements are affordable.
- Intervening early to support customers falling behind with payments and seeking to make payment arrangements as early as possible in the debt recovery process.
- Considering the impact on customers of the consequences of any recovery options pursued, including their mental wellbeing and the proportionality of these.
- Pausing action for customers in the government's "Breathing Space" scheme (this gives people who are struggling time to seek support with their financial affairs. Appendix 2 has more detail about this scheme).
- Giving customers the opportunity to engage in mediation or other suitable alternative dispute resolution to discuss payment where possible/appropriate.
- Seeking to balance recovering the full cost of enforcement action with avoiding imposing unnecessary or excessive charges.
- Respecting a customer's privacy by conducting enforcement activity as discreetly as possible.
- Considering ceasing a service if payment terms are not agreed, for example the Licensing Act requires suspension of licences for non-payment.
- Reviewing and writing off debt as appropriate.
- Sign posting to free sources of money and debt advice.

Debt Recovery

Priority Debts: In some instances, customers will owe more than one debt to the council. The council has identified current rent, Council Tax and Business Rates arrears as priority debts for repayment. So where the council is made aware that a debtor owes multiple debts to the council, they will be considered in a priority order as follows:

- Current rent arrears.
- Council tax arrears.
- Business rates arrears.
- Other monies owed to the council.

The council recognises that there are other priority debts that it does not collect. These have been defined by Citizens Advice ([Work out which debts to deal with first - Citizens Advice](#)) and are:

- Mortgage arrears or secured loan arrears.
- Gas or electricity bills.
- Phone or internet bills.
- TV licence payments.
- Court fines.
- Overpaid tax credits.
- Unpaid income tax, national insurance or VAT.
- Unpaid child maintenance.
- Payment for goods bought on hire purchase or conditional sale (but only if the goods are really important, for example a fridge to store vital medicines).

This is not an exhaustive list. Other debts may be considered a priority depending on the circumstances. For instance, a benefit overpayment is classed as a priority creditor. Another example is a loan from an employer. This could be because it is deducted at source or could simply be that not repaying the loan could put their job at risk.

The Council will consider the person's circumstances, legislation, the level and priority of debt and the potential for financial hardship when engaging with someone with multiple debt.

Responsibilities of Customers who owe us money: The council expects residents or businesses who owe money to the council to:

- Pay amounts due promptly on or before the date that payment is due.
- Contact the council promptly if it is believed the amount charged is not correct.
- Inform the council promptly of any changes to their circumstances that may affect the amount to be paid or the ability to pay.
- Let us know as soon as possible if they are in genuine financial hardship and struggling to pay. This allows time for payment options to be discussed and agreed.
- Notify the council promptly if their address changes.

Arrangements made by advice agencies: Where an arrangement is proposed by a recognised advice agency, an Income and Expenditure form will normally be provided. Their offers received will be treated in good faith, subject to approval.

Recovery Process: When seeking to recover debt the council will take into account factors such as the individual's needs and their ability to pay.

The council will contact promptly in writing, within the appropriate legislative timescale, any person or organisation that fails to make a payment to inform them that the payment is overdue, the payment options available and the consequences of failing to pay. If payment or an arrangement for payment is not made, enforcement action will be taken. A written explanation of any rights of appeal against formal enforcement action will be given before or at the time the action is taken.

Recovery Options: The council will differentiate wherever possible between those who are financially vulnerable and cannot afford to pay and those who choose not to engage with the recovery process, using the most effective and appropriate recovery methods to recover the debt.

A range of recovery options will be used where arrangements to pay have broken down. The choice of recovery method will depend on a number of factors including the method available for a particular type of debt, but options include:

- Attachment of Earnings Order.
- Deductions from benefit.
- Enforcement agents.
- Insolvency (bankruptcy) action.
- Securing the debt by obtaining a charging order against assets.
- Making a money claim (a way for the council to start the County Court Judgement – CCJ – process).

Appropriate recovery action will be taken, taking into account the size of debt and cost of recovery action(s).

Where the debt is for an ongoing service provided by the council which the council does not have to provide (for example Trade Refuse) the council will stop providing the service until the debt is paid or an acceptable special payment arrangement is made.

Use of eviction from council properties will be a last resort and is governed by legislation.

Enforcement agents: The council appreciates the sensitivity attached to the use of enforcement agents. The council will seek to use enforcement agents only where it has determined that this is the most effective collection method for the debt in question. Any enforcement services will comply with the National Standards for enforcement agents.

Treatment of Costs: The council will seek to recover all costs and fees that are legitimately due from the debtor to the council or its agents. Only in cases where it would not be in the public interest to pursue costs/fees will they be waived. A distinction will be drawn between costs which are withdrawn because they were charged incorrectly and costs which are written off because they are considered to be irrecoverable under the guidance of this policy.

Staff and Councillors in Arrears: The council will use the information it holds on staff in relation to their employment to assist with recovery of employment-related debts and to make arrangements to clear the debt by salary deduction or Direct Debit. Staff and Councillors are expected to engage positively regarding paying the council what they owe.

National Disasters / Pandemic: In these instances, the Council will consider extraordinary measures and potentially implement additional support and take alternative approaches. Wider implications may include Government guidance and changes to legislation at short notice.

Debt Write-Off: The council will take all necessary action to recover what is due. If a debt remains unpaid, after exhausting all appropriate recovery methods, the debt will be written off. We will consider writing off a debt on hardship grounds where there are exceptional circumstances.

Complaints Procedure: When correspondence between the customer/business and the responsible service area fails to rectify any grievance or dispute and the customer wishes to make a complaint regarding the way in which the council has attempted to collect a debt, they will be informed of the council's complaints procedure and will be given assistance to register that complaint.

Governance

Monitoring and Performance Measures:

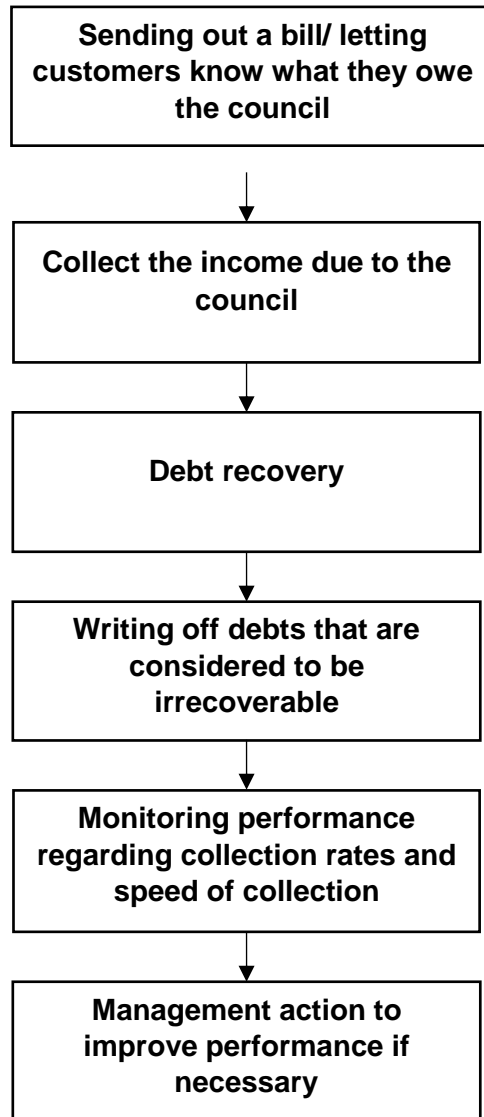
- The monitoring of debts for the authority is undertaken through the use of Performance Indicators which are submitted on a monthly basis for consideration by the Executive Management Team
- The performance targets are set annually by the relevant Head of Service and Director and regularly reviewed throughout the course of the year.
- The performance targets are also reviewed by the Executive Management Board and Cabinet. Where performance is deemed to be underperforming actions will be agreed to rectify this.

Review of this Policy: This policy will be reviewed every two years or more often if a change of circumstances demands this.

[END]

Appendix 1 – High level debt process

There is a range of legislation underpinning recovery of different types of debt the council needs to collect. This means the detail of the process will vary. However, the flow chart below shows the various stages at a high level.



Appendix 2 – General Procedures

Income Collection/Customer Payments

Payment Options: The council recognises the need to make it as easy as possible for customers to pay their bills. Where payment can be taken before a service is provided these cases are to be identified and payment taken in advance, ensuring that no debt is raised in these cases. When this is not possible and a debt is raised, the easier it is to pay the more likely it is that payment will be made.

Direct Debit is the easiest payment method for customers and is the most efficient for the council which helps keep the cost of collection as low as possible. Where appropriate we will propose Direct Debit as the default method of payment to all customers unless they are unable to pay this way.

Where a customer is unable to pay by Direct Debit or it is not appropriate (e.g. for a 'one off' bill or where the flexibility of a Standing Order is required) we will provide a choice of convenient methods of payment.

Prompt and Accurate Billing: The council recognises that prompt invoicing and billing is important. The council will produce clear bills showing:

- What the bill is for and the period of liability.
- The amount due and, where appropriate, the instalment amounts and payment due dates.
- How to make a payment.
- The contact points for enquiries about bill content and negotiating repayment plans.

Payment Arrangements: Payment arrangements will take into account:

- The date the person receives income.
- The method and frequency of agreed payments.

Monitoring payment arrangements:

- All payment arrangements will be closely monitored.
- Further recovery action may be taken in respect of late or missed payments.
- The responsibility for making sure that payment reaches the account by the due date remains with the customer.
- The customer will be reminded that the date on which instalments are due to be paid is the final date on which money should reach the account. This means that customers must allow sufficient time for the payment to reach the council by the due date.

When payment arrangements are not maintained: It is important to ensure that where arrangements have not been maintained, prompt action is taken by the customer to try and bring the arrangement back up to date. If the customer's circumstances have changed, they will be encouraged to contact the council to alter the agreement.

When a customer defaults on an arrangement, we will send a written notice advising them of the need to take action. This will provide the person with the opportunity to bring the arrangement up to date or advise the council of a change in circumstances.

Although the council will ideally require the original agreement to be brought up to date within a short time scale, if there has been a significant change in circumstances it will be possible to negotiate a new arrangement.

Maintaining current instalments: When negotiating arrangements for payment, staff will ensure that current instalments and weekly rent are being maintained i.e. the arrangement will be in addition to and conditional on, the current council tax, weekly rent, business rates, or other council debt being paid.

Prevention of debt and arrears and early intervention and support

Avoiding Debt: The council's aim is to prevent excessive debt. Where possible, the preference is to charge for services through prepayment. Services that cannot be charged through prepayment will be invoiced or billed in line with statutory requirements and where debts remain unpaid customers will be signposted to money and debt advice services. We recognise that some individuals may require a more sensitive approach for example in the case of a recent bereavement, major illness or where they need additional assistance in managing their financial affairs.

Government's Breathing Space Scheme: The Government introduced new legislation on 4 May 2021 called The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, the core principles being:

- To provide legal protection for individuals in problem debt.
- Normal Breathing Space Moratorium that will last for 60 days.
- The Mental Health Breathing Space Moratorium to last as long as the individual is receiving mental health crisis treatment.
- Requirement for creditors to cease action on qualifying debts.
- Requirement for creditors to conduct a reasonable search for all debts owed by the customer.

In order to access Breathing Space the client needs to be working with a debt advisor, they are unable to access the service directly. There are two types of Breathing Space: a standard breathing space and a mental health crisis breathing space.

A standard breathing space is available to anyone with problem debt. It gives the customer legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on debts.

A mental health crisis breathing space is only available to a customer who is receiving mental health crisis treatment. If an Approved Mental Health Professional (AMHP) certifies a customer is in mental health crisis treatment, the customer or someone else can ask for a mental health crisis breathing space on the customer's behalf. The mental health crisis breathing space has some stronger protections than the standard breathing space. It lasts as long as the customer's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).

For these purposes, 'receiving mental health crisis treatment' means that the individual:

- Has been detained in hospital for assessment or treatment (including under part 3 of the Mental Health Act 1983);
- has been removed to a place of safety by a police constable;
- or is receiving any other crisis, emergency or acute care or treatment in hospital or in the community from a specialist mental health service in relation to a mental disorder of a

serious nature. This can include services offered by community mental health services and crisis houses.

Contact with Customers: The council works with money and debt agencies to support individuals in debt or with financial vulnerability.

Activities will include:

- The increased use of multi-channel communication technologies including video calls and text messaging.
- Where possible, outreach teams will make outbound telephone calls and visit from a welfare and support perspective. This approach can be particularly targeted at those customers identified to be in crisis or at financial risk.
- In appropriate cases consult with Social Services or other agencies.
- Assistance with money management.
- Making provision for payment holidays, remission processes, longer collection timescales and other alternative collection strategies.
- Promotion of the services of qualified money and debt advisors.

When customers get into debt we will:

- Make sure that payment arrangements reflect our customers' ability to pay as well as the amount they owe (except where legislation requires a different approach).
- Enable customers who experience change, even after an arrangement has been made, to vary their payments in line with those changes.
- Not take the next step in the recovery procedure if agreements are being met.
- Make sure that when we have to process a non-payment, the action we take is both appropriate for the individual and likely to be effective.
- Acknowledge and respect a persons' obligations to his or her dependants and recognise the need for a person to maintain a reasonable standard of living.
- Expect Priority Debts to be given precedence over other money owed.
- Acknowledge the role of the recognised advice agencies and treat offers made on behalf of their clients in good faith.

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

The council will take into account individual circumstances. It is important that any assessment takes into account deductions from benefits, attachments of earnings and the possibility customers may be using payday and doorstep lenders or have illegal money arrangements (loan sharks). If these circumstances apply, referrals will be made to the national [Illegal Money Lending Team](#).

The council supports a common approach to supporting customers to meet their priority debts. The aim is to support customers to prevent excessive debt rather than advocating against action being taken once the debt has accrued. To develop and maintain a consistent approach, the council will provide briefings and training on debt awareness and money management skills to frontline staff, promote information and weblinks on how customers can help themselves (debt toolkit) and where to get expert advice (local and national).

The council's Welfare Rights and Money Advice Unit uses the Standard Financial Statement (SFS) <https://sfs.moneyadvice.service.org.uk/en/what-is-the-standard-financial-statement> as a standard

income and expenditure statement to be used in assessing debtors' ability to pay. Other services within the council are aligned with the SFS in agreeing what is affordable to pay. This brings a greater degree of consistency to advice and smoother transition through the process for consumers, advisers and creditors. This ensures there is a consistency across the council and with independent debt charities, through using this common tool to assess debt, ability to repay and level of repayments.

Benefit Take-Up and Discretionary Support: The council will take an active role in promoting the take-up of welfare benefits and discretionary support. Where appropriate, the council will provide information on welfare benefits, entitlement and how to claim (for example promoting online benefit calculators, welfare web pages, online claim forms, links to the Department for Work and Pensions) and signpost to local and national welfare advice providers. The council will make every effort to encourage customers to claim benefits they are entitled to and access discretionary support available (for example Discretionary Housing Payments).

Advice and Support: The council will encourage customers to self-help where appropriate and has developed a local 'Debt Toolkit' [Help with debt \(southampton.gov.uk\)](https://www.southampton.gov.uk/help-with-debt) to assist with this. Staff in direct contact with customers will signpost them as to where they can get free, independent advice from local and national debt advice providers.

Priority and multiple debts: The council recognises that some customers will experience financial difficulty either for short or longer periods. Customers who find themselves in debt will often have multiple debts and often experience a spiral of debt that affects entire families, life quality, and becomes a way of life.

Priority debts will be taken into consideration when making an arrangement to pay. It is recognised that customers with multiple debts may not only have arrears with the council, but also other organisations, for example utility companies. This will be taken into account when discussing and negotiating payment arrangements. Customers will also be signposted to assistance in managing debt.

It is recognised that in the absence of a system which provides a 'Single View of Debt' that this will be difficult to establish if the information is not voluntarily given by the customer.

Financial vulnerability: The council recognises that some members of the community may be more financially vulnerable than others and, therefore, may require additional support in dealing with their financial affairs. Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay. The Financial Conduct Authority (FCA) defines a vulnerable customer as, "someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care" and in specific reference to financial resilience considers factors such as being on a low income and having little or no savings to fall back on if experiencing a financial shock.

This is echoed by [The Urban Institute](#), which explains that "financial wellbeing is multifaceted—reflecting people's ability to manage daily finances, resilience to economic shocks (such as an income drop or unexpected expense), and capacity to pursue financial opportunities to move ahead".

Where a person is recognised to be financially vulnerable consideration will be given to:

- Allowing longer to pay period.
- Postponing enforcement action.
- Assisting the person to claim benefits, discounts or other entitlements.

- Referring the person to sources of independent advice.
- Providing information in an accessible format.
- Agreeing a temporary payment arrangement with lower repayments than would normally be agreed.

Extenuating circumstances will be taken into account when considering recovery action in order to protect people who are financially vulnerable. Appropriate measures will be assessed on a case-by-case basis.

For business debts considerations may include:

- 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.
- Consideration to any relief that may be appropriate.

Obtaining details: Staff will try to get as much detail as possible of a persons' circumstances to enable the council to make the best assessment of their ability to pay.

If a person refuses to divulge any information, this will not be used as a reason for refusing to make an arrangement. However, they will be advised that this could lead to a higher rate of payment being required than if their circumstances were fully assessed.

Documentary Evidence: In some cases it will be necessary to request documentary evidence to confirm particular details when arriving at a payment arrangement. Customers will not, however, be asked for documentary evidence unless it is absolutely necessary.

Where it is necessary, the person will be told of the particular items that require confirming and will be given a specified, reasonable time limit within which they are required to provide the documents. If it is easier for the person, arrangements will be made for the documents to be confirmed either by the council or a recognised advice agency.

The person will be advised that if the evidence is not produced within the agreed timescale, the offer of payment may be rejected, and further action could be taken.

Tracing: As part of the recovery process a number of traces and searches will be carried out to try and establish further information on a customer to try to secure payment. This is particularly useful when we have no forwarding address for someone who has moved home before settling a debt. This will include checking internal and external sources of information and sharing information with other authorities and using tracing agents as appropriate.

Refunds: The council will not refund any overpaid monies where the customer owes other monies to the council. When a customer is also a supplier to the council, the council retains the right to offset any overdue debts against any monies owed to the supplier.

[END]