

**Exeter City Council
Debt Collection Policy
December 2015**

The purpose of this policy is to establish guidelines for the recovery of Rent, Council Tax, Housing Benefit Overpayments, Former Tenancy Arrears and Housing Rechargeable Repairs.

Exeter City Council (ECC) has a legal duty to recover debt to protect the Council's income for the ongoing provision of services in Exeter. This policy aims to ensure that collection is fair, cost effective and consistent across all debts covered in this policy.

Prevention of Debt

Our preferred approach is to prevent debt and to support this we will:

- Provide skilled staff for quality welfare benefit/local support advice and debt prevention
- Identify the debtor's ability to pay and tailor our advice accordingly
- Appropriately use discretionary funds available
- Promote a payment culture with the support of professional advice
- Give early notification of debts accruing to encourage early contact

Where we need to take enforcement action to recover money owed to us, we use the following key principles:

- Recognition of priority debts and non-priority debts in relation to the severity of legal remedy. We will prioritise debts to ECC covered in this policy, in the following order:
 1. Rent
 2. Council Tax
 3. Housing Benefit Overpayment
 4. Former Tenancy Arrears
 5. Rechargeable Repairs
- Maximisation of income available to the customer (including welfare benefit checks)
- Clear and timely communication
- Ring fencing previous year's debts and in-year recovery focus
- Equality and recognition of vulnerability

Our recovery approach will be proportionate, striking a balance between recovery of debt to ECC, the cost of recovery action and the customer's ability to pay within a reasonable timescale.

Recovery action will be applied consistently, while recognising the individual circumstances of our customers.

Our recovery methods will be transparent, helping customers and their representatives to understand our communications, their responsibility and the circumstances for discretionary help that may be available.

All our correspondence will contain the details required by law, clearly shown using plain language. We will also have clear information and advice on our website. We will give clear information about any fees and charges that the debtor may incur and we will detail the consequences of further recovery action. All of our information and notices will be available in different formats upon request to meet customer's needs.

An income and expenditure analysis will be carried out as standard to fully understand customer circumstances and determine realistic, manageable payment options. Customers will be encouraged to pay promptly and regularly. By utilising tailored payment arrangements and methods, we will help and advise on the best options to suit individual needs.

Customers will be encouraged to contact us promptly if they begin experiencing difficulties, and we have the following contact channels available:

- telephone
- email
- face to face
- letter
- home visit if appropriate

Income maximisation is key to our recovery process and will include:

- welfare benefit checks including Housing Benefit and Council Tax Support checks
- Council Tax exemption and disregard checks
- budget and debt advice referral
- use of discretionary funds
- signposting to other appropriate accredited agencies
- exploring the potential of external discretionary funds

Multiple debts to ECC will be dealt with in a holistic way. We will take one view of debt by working with the customer to understand their financial position balanced against the debts they owe to both ECC and other parties and we will seek solutions to allow the customer to meet both their liabilities and their daily living expenses. Debts to ECC will be reduced proportionately under a managed arrangement.

Escalating ECC and third party debts will trigger, with the customer's consent, referral to a professional, independent debt adviser, currently within the Exeter Money Advice Partnership (EMAP).

We will actively pursue formal recovery action through the courts with customers who refuse to engage with ECC officers, EMAP or third party representatives to arrange payment.

We will consider the customer's circumstances and decide if any characteristic unique to the customer is hindering their management of payments to us. We will also consider customer vulnerability as defined in the Vulnerability Statement 2015 (appendix A) to ensure our recovery actions are reasonable and proportionate to individual circumstances and adapt our actions accordingly.

It will be an integral part of our aim to protect the public purse and recover monies due to the Council and that we should also support the customer to discharge their responsibilities, either through our own efforts or together with our colleagues within the Council or via referral to third party agencies.

Some debts may be considered for write off under ECC's procedures and will include:

- Vulnerability decisions where recovery is inappropriate
- Customer untraceable
- Cost effectiveness of recovering a small debt
- Payment likelihood balanced against cost of proceeding
- Insufficient funds in the estate of a deceased customer

Customers in credit will be refunded unless they have another debt with ECC. In these cases, the credit will be transferred to clear or reduce the other debt. Credit and debt will be transferred automatically. Refunds will not be given if other debts to ECC exist.

Any enforcement or collection agents used by ECC will be appointed under a service level agreement. This will specify the terms in which they will operate and will cover:

- Professional conduct
- Legislation adherence
- Recognition and adherence to ECC appropriate policies
- Maintaining accurate records
- Vulnerability reporting
- Officer contact protocol
- Authority to remove goods protocol
- Membership of a professional conduct body

Customer Responsibility

Exeter City Council expects any person that owes money to the Council, or has a liability or pending liability to pay, to comply with all legal obligations in respect of that liability or potential liability. The Council's commitments to fair debt collection processes are set out in this policy and the Council's expectations of customers are set out below:

- Pay amounts due promptly on or before the date the amount is due
- Follow instructions to ensure payments are received correctly against the amount due
- Inform the Council immediately if they are unable to pay the amount due or have had a change in circumstance that may affect their ability to pay
- Notify the Council promptly of address changes
- Respect the Council, its employees and agents and respond to them courteously
- Be frank and honest when providing information in connection with billing and recovery of sums due to the Council.

Council Tax and Rent Arrears

Early contact and intervention to prevent arrears is essential, the measures we will take to achieve this are as follows:

- Offer payment by direct debit, and arrange the payment to the most convenient/relevant date for the customer available
- Offer special payment arrangements on Council Tax outside of the direct debit dates available at a frequency to help the customer to budget their payments
- Offer a wide range of payment options and pro-actively advertise these on our bills, letters, website and in all contact with the customer
- Make arrangements for payment by instalment, that are realistic and offer the best support to allow the customer to become financially independent
- Timely contact and issue of reminders to avoid the debt escalating
- Check all cases that escalate to a Council Tax liability order summons
- Check all cases before the issue of a notice to seek possession of a dwelling
- Provision of up-to-date advice and contact details on our website and correspondence.
- Encourage payment and highlight the consequences of under/non-payment

Thorough review of all cases, before recovery action is escalated will consist of:

- Checking contact has been made with the customer; and
- That accurate history and any dispute connected with the debt has been investigated and resolved
- That substantial consideration has been given to the customer's circumstances and reason for non-payment and no alternative recovery option remains
- That further Housing Benefit, Council Tax Support/Council Tax Reduction, exemption and discount checks have been exhausted, including any discretionary fund applicable to the case.
- That robust vulnerability checks for the customer and their household have taken place
- Considering reasonableness and proportionate action in relation to the customers circumstances
- That substantial assessment of the consequences of the proposed recovery action have been considered

Former Tenancy Rent Arrears

The circumstances and ability of the customer to pay will be considered as stated above, for manageable repayments to be made. Where the customer does not engage with us or moves out of the ECC area the debt will be referred to a debt collection agent if appropriate.

Garage Rent Arrears

The customer will be notified by letter of a missed payment relating to garage rent together with any other contact method agreed with the customer (e.g. text, phone call and email).

If garage rent arrears continue and the customer fails to contact ECC to discuss clearing the rent arrear a notice will be served.

If the rent arrears continue the locks on the garage will be changed, and the lock change fee will be charged to the customer. The customer will be given 28 days to remove any contents in the garage, any contents remaining after 28 days will be disposed of by ECC.

Housing Benefit Overpayments:

Overpayments occur because the customer has been paid Housing Benefit (HB) in excess of their entitlement. A large number of overpayments are due to the customer's failure to report changes in their circumstances to us promptly. The measures we have in place to minimise this happening are:

- Clear information and support to understand the importance of declaring changes promptly at the application stage.
- Clear information about changes and how to report them on our website and all benefit communications

Thorough review for all cases will be carried out as stated for Council Tax and Rent arrears

Rechargeable Repairs Recovery:

Rechargeable repairs occur when ECC charge for the cost of repairs carried out to an ECC property by the Council or their contractors.

The customer will be notified of the charge by invoice. At this point, if they cannot make payment in full, we will negotiate an affordable payment arrangement. The customer's circumstances and ability to pay will be taken into account. Multiple debts to ECC that include a rechargeable repair will be considered together when negotiating the repayment amount.

The customer will receive reminders if they fail to make payment towards their charge, and will be encouraged to make contact to discuss payment. If the customer fails to make an arrangement or full payment, we will consider referral of the outstanding amount to a collection agent if appropriate to do so, and in accordance with the customer's circumstances.

Write Off

We will consider seeking approval to write off an outstanding Council Tax debt, rent and/or garage arrears, Housing Benefit overpayment or rechargeable repair costs where the customer's circumstances dictate through financial or personal vulnerability as detailed in the Vulnerability Statement 2015

Council Tax debt will also be considered for write off in accordance with ECC criteria for using powers under Section 13A of the Local Government Finance Act 1992 (appendix B).

Council Tax Support recovery write off decisions will be made in accordance with the ECC Council Tax Support Recovery Write Off Policy 2013/14 (appendix C).

The authority to write off and monetary limits are contained in ECC's Financial Regulations, contained in the Constitution of the Council.

Insolvency:

Any customer who is subject to:

- Bankruptcy
- a Debt Relief Order
- an Individual Voluntary Arrangement
- an Administration Order

will not be pursued for any ECC debt that is correctly included in the insolvency order in accordance with the relevant legislation¹. These debts will be written off in accordance with ECC policy and financial regulation. The customer will be advised of and supported to meet any ongoing charges they have responsibility for.

Any insolvency order in respect of a debt outstanding for a joint and several Council Tax liability, will only relate to the individual it is granted for. The person who is not subject to an insolvency order will still be liable for the amount outstanding and recovery will continue in accordance with this policy.

Until an insolvency order is granted, we will continue with recovery of the debt unless the customer's circumstances dictate otherwise or the customer actively engages and fulfils the requirements of the Council's money advice services, currently the Exeter Money Advice Partnership (EMAP).

General

The effectiveness of this policy will be monitored through the following outcomes:

- Collection rate
- Levels of arrears at each recovery stage
- Effectiveness of contact methods
- Complaints
- Equality impact
- Internal practice review

This policy will be reviewed annually to ensure it is fit for purpose. This policy will be updated at the time relevant legislation changes.

Disclaimer

The Council will seek to adhere to this policy, however no omission in respect of the requirements of this policy shall invalidate a requirement to make a payment, nor shall it be accepted as a basis for delay in making a payment.

This policy does not affect the statutory rights of the Council or any appointed collection or enforcement agents, their companies or the debtor.

Data Collection

The Council will collect and store personal data for the purposes of billing and recovering money owed. Data retained for this purpose will be processed lawfully

Data will be shared with agents or contractors appointed by the Council for the purposes of recovering money owed to the Council. Data may also be shared within

¹ County Courts Act 1984, Civil Procedure Rules 1998, Insolvency Act 1986 & Insolvency Rules 1986 as amended

the Council or with external organisations where the law allows and where it is in the interests of the customer and to prevent fraud or the evasion of amounts due.

Related documents

Vulnerability Statement 2015 – Appendix A

ECC Criteria for using powers under Section 13A(1)(c) of the Local Government Finance Act 1992 – Appendix B

ECC Council Tax Support Recovery Write Off policy 2013/14 – Appendix C

Exeter City Council (ECC) Financial Regulations

Equal Opportunities Policy

Equality Act 2010

Data Protection Act 1998

Taking Control of Goods: National Standards (MoJ)

Housing Act 1988 (as amended)

Housing Act 1985 (as amended)

Pre-action Protocol for Possession Claims based on rent arrears (MoJ)

Local Government Finance Act 1992 (as amended) & subordinate legislation

Social Security Administration Act 1992 (as amended) & subordinate legislation

ECC Vulnerability Statement September 2015

This document incorporates information from, and should be read in conjunction with, Exeter City Council's Child and Vulnerable Adult Protection Policy and Exeter City Council's Council Tax Support Vulnerability Statement.

Exeter City Council (ECC) will ensure that functions carried out by staff and organisations acting on their behalf will safeguard and promote the welfare of children and protect vulnerable adults.

A child is anyone aged less than 18 years old. No recovery action can be taken, by any contact method, when only a child is present.

ECC staff and external contractors carrying out a function on behalf of ECC will be expected to report any suspicion of abuse or lack of care.

ECC staff and external contractors delivering ECC services will be made aware of, and be expected to abide by, ECCs procedures and policies as appropriate.

The characteristics below are not an exhaustive list; the assessment of vulnerability may include one or more characteristic, the decision on vulnerability should be made on a case by case basis based on the circumstances of the individual customer.

Guidance on Vulnerable Cases

Care should be taken when dealing with someone who is or appears to be vulnerable. It must be recognised that any of our customers may be vulnerable or become vulnerable, on a temporary or permanent basis, due to their personal circumstances. It must be recognised that people respond in different ways to the same situation and there are different trigger points and tolerances to an individual's ability to cope in a situation. Additionally, ability to cope can vary depending on the level of support the individual has. Anyone dealing with a potentially vulnerable customer in debt (including agents acting on our instruction) will consider:

- Does the customer understand the action being taken?
- What level of support is available or is required?
- How can this support be provided?

It is important not to make immediate assumptions or try and define specific groups of people as being vulnerable. However, in order to give some guidance on what is expected the approach below is required.

Elderly

Many elderly people are physically and mentally healthy and financially secure. However where it is evident that an elderly person is frail, unwell, confused and unable either to deal with their own affairs or keep track of their affairs then consideration should be given on further/type of recovery action and liaison with customer representatives or a third party advocate.

Disability

If the debtor has a disability, and it is evident that this person is frail, unwell, confused and unable either to deal with their own affairs, or keep track of their affairs, and they are the only person present, then consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate by virtue of their disability.

Mental health problems

If it is evident that the debtor is unable either to deal with their own affairs or keep track of their affairs, and they are the only person present, then consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate.

Serious/Long term illness

If it is evident that the debtor (or the debtor's partner), is suffering from any health condition which is serious or life threatening, consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate, and if it is in the interests of the customer and ECC to pursue recovery of the debt.

Recently Bereaved

Where a debtor has recently suffered bereavement it may be that they will have difficulty in coping or dealing with any contact, consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate or a period of non-recovery that may be appropriate.

Pregnancy

If the debtor or the debtor's partner (if present) is pregnant and appears distressed, consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate or a period of non-recovery that may be appropriate.

Lone Parent

If it is evident that the debtor is unable to cope with the situation or doesn't understand the action being taken, and there is no other adult present to provide support, consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate.

The above list is not exhaustive; if any debtor is frail, unwell, confused and unable either to deal with their own affairs or keep track of their affairs and they are the only person present, then consideration should be given on a case by case basis regarding recovery action.

ECC staff must be aware of the Child and Vulnerable Adult Protection Policy and recognise their responsibility to be vigilant for abuse of vulnerable adults and to also protect them from illness and injury whether self inflicted or inflicted by others. Where they identify a person to be at risk they must immediately report this to their line manager. If a member of staff identifies a child at the property and considers that the child is at risk of abuse, they must report this immediately to their line manager.

Persons under the age of 18

If a child (person under the age of 18) is the only person present at the property recovery action must cease. If it is established that the debtor is under the age of 18 consideration should be given to further/type of recovery action, and liaison with customer representatives or a third party advocate.

This statement will be reviewed every 2 years to ensure it is fit for purpose. This statement will also be updated at the time relevant legislation changes.

Statement Date/update:	Responsible Officer:	Version Control:
December 2015	Jayne Hanson	001

**Exeter City Council
Criteria for using powers under Section 13A of the Local Government Finance
Act 1992
(LGFA S.13A (1)(c))**

The Council will consider using its powers to reduce Council Tax liability for any Council Tax payer or class of payer and each case will be considered on its merits. The following criteria should be met for each case:

- There must be evidence of extreme hardship or personal circumstance that justifies a reduction in Council Tax liability (the Vulnerability Statement will inform decision making).
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application. The customer is expected to take up any offer of money advice and support via EMAP.
- In the case of an unoccupied property it must not be the sole or main residence of a customer.
- The customer does not have access to other assets that could be realised to pay their Council Tax.
- Eligibility for Council Tax Support has been explored and any entitlement awarded
- All eligible discounts or exemptions have been awarded.
- The customer must not be prohibited from access to public funds
- In the case of an unoccupied property, there must be evidence that every effort is being made to bring the property back into use.

Any reduction made under S.13A (1)(c) will be for the current financial year only. If the situation has not been resolved by the end of the financial year a further application will be required.

David Hodgson
Assistant Director Finance

Exeter City Council

Council Tax Support Recovery Write Off Policy 2013/14:

Enacted under The Accounts and Audit (England) Regulations 2011 (SI 817/2011) (Reg. 5(4)(c))

(1) Any overpaid Council Tax Support, except support to which paragraph 2 applies, shall be recoverable.

(2) Any Council Tax Support allowed in consequence of an official error, where the applicant or a person acting on his behalf or any other person to whom the Council Tax Support has been allowed, could not, at the time the support was allowed, or upon receipt of any notice relating to the allowance of that support, reasonably have been expected to realise that it was allowed in error.

(3) Council Tax Support allowed in consequence of an official error means support allowed to which there is no entitlement caused by a mistake, act or omission by –

- (a) Exeter City Council; or
- (b) An officer or person acting for Exeter City Council;

Where the applicant or a person acting on his behalf or any other person to whom the Council Tax Support has been allowed, did not cause or materially contribute to that mistake, act or omission.

(4) Paragraph 2 does not apply to-

- (a) a reduction in the amount a person is liable to pay in respect of Council Tax in consequence of
 - (i) regulations made under section 13 of the Local Government Finance Act 1992 (reduction in the amount of a person's Council Tax); or
 - (ii) any discount to which that tax is subject to under section 11 of the Local Government Finance Act 1992; or
 - (iii) any disregard to which the liable person is entitled under Schedule 1 of the Local Government Finance Act 1992; or
 - (iv) a substitution under section 31 of the Local Government Finance Act 1992 of a lesser amount of Council Tax previously set by the Council under section 30 of the same Act; or
 - (v) any dwelling that is prescribed as exempt under section 4 of the Local Government Finance Act 1992

(5) Advance Council Tax Support allowance (Technical overpayments)

An amount of Council Tax Support allowed in advance to the end of the financial year that is subsequently disallowed under the provisions of Exeter's Council Tax Support scheme,² will be recoverable.

David Hodgson
Assistant Director Finance

² The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (as amended) & Exeter City Council, Council Tax Reduction Scheme Policy 2013/14 (under LGFA 1992 S.13A)