REIGATE AND BANSTEAD BOROUGH COUNCIL

ENVIRONMENTAL HEALTH DEBT RECOVERY POLICY

Background

This Debt Recovery Policy should be read in conjunction with the following Environmental Health policies;

- Environmental Health and Licensing Enforcement Policy
- Housing Enforcement Policy
- Civil Financial Penalties Policy

These set out in full the circumstances when fees, charges and fines will be applied and the levels at which these will apply.

Most actions to recover fees, charges and fines issued by the Environmental Health service, will be taken by the Council’s Debt Recovery team, with input from the case officers when required.

Introduction

This document sets out the principles that the Council will follow in the recovery of monies due to it, where these have arisen in the course of the Environmental Health service’s activities.

The Council has a duty to ensure the prompt and cost-effective collection and recovery of all sums due. These may include but is not limited to debts arising from;

- Civil financial penalties imposed under housing related provisions (fines)
- Works in default costs
- Fees and charges associated with the service of formal enforcement notices
- Fees and charges for services which are not paid in full on application, for example those relating to mobile home site licensing
- Recovery of the costs of undertaking the public health funeral function from the estate of the deceased
- Recovery of the costs of agreed financial contributions towards certain grant funded works

Delays can lead to higher administrative costs and reduced resources being available for the provision of services. Collection of debts that have arisen from the Council’s regulatory functions is an integral part of a robust enforcement policy. The deterrent effect of fines and enforcement costs is likely to be significantly weakened if offenders know that debts will not be effectively enforced. Uncollected debt represents lost revenue for reinvesting into regulatory work.

In addition to our statutory duties with regards to debts, we also have a duty to help the more vulnerable in our community. We understand that there is a distinction between those who “can’t pay” and those who “won’t pay”.

Aims and Principles of The Debt Recovery Policy

The aim of this policy is to:

- achieve the prompt collection of sums of money due to the Council whilst ensuring that a fair and consistent approach is taken to the recovery of sums that are not paid when due
- give customers clarity not only on what we will do, but what we expect debtors to do

It is recognised that most fees, charges and fines covered by this policy will have arisen due to the failure to act in accordance with legal requirements by a person holding a duty to resolve a problem or manage property etc. It is therefore not unreasonable that those who require intervention and enforcement should bear the costs of the Council's time in having to do so.

Reigate and Banstead Borough Council's Responsibilities

Invoicing

We will:

- Issue requests for payment promptly and accurately
- Be clear on what needs to be paid, when and how
- Ensure that our documents are easy to understand, whilst complying with any legal requirements
- Provide information on anything that may reduce debt – for example, if prompt payment discounts are available

Debt Recovery

We will:

- Commence action to recover unpaid amounts promptly
- Ensure that all debt recovery documents are clear and inform the debtor of the consequences of not paying
- Assist customers who have a legitimate dispute against the debt
- Endeavour to recover the full cost of enforcement action from the debtor to ensure that the cost does not fall on local council taxpayers
- Consider all the enforcement options legally available to us for a specific debt

Helping those in financial difficulties

We will:

- Signpost debtors to free sources of independent money and debt advice, including how to access the national Debt Respite (Breathing Space) scheme

- In certain circumstances, consider arrangements with debtors to allow them to pay debts off over a longer time

Helping the vulnerable

We recognise that some members of the community are more vulnerable than others and may need additional support in dealing with their financial affairs. The cause of vulnerability may be temporary or may be permanent in nature, and the degree of vulnerability will vary widely.

However, vulnerability does not mean that they will not be required to pay amounts they are legally obliged to pay.

It is noted that in many cases, those who have incurred such debts will be operating in a commercial activity, such as a property landlord, managing agent or site operator, and the debt will have been accrued due to deficiencies in the management of this business activity.

Debtor's Responsibilities

We expect any person or organisation owing sums to the Council to:

- Pay amounts due promptly to ensure receipt by the Council on or before the date that payment is due
- Follow instructions regarding the making of payments to ensure payments are credited correctly against the amount due
- Inform us promptly of any changes to their circumstances that may affect the amount to be paid or the ability to pay
- Notify us promptly if their address changes
- Contact us promptly if it is believed the amount charged is not correct, both where the amount may be too much or too little
- Contact us promptly if they are unable to pay an amount that is due
- Identify where they owe us multiple debts so that we can in turn help them to manage that situation
- Respond to any requests for financial information

Payment Arrangements

The intention is that all debts should be cleared as soon as possible.

We will consider individual repayment arrangements based on a debtor's specific circumstances. To do this we will ask for as much information as possible to help us assess ability to pay. In general, repayment arrangements will not extend beyond one year, unless there are exceptional circumstances, in which case a Charging Order will also be sought.

Agreements will stipulate the consequences of missing payments or defaulting on the debt.

If a debtor refuses to provide any information that is considered essential to assessing their ability to pay, then a payment arrangement will not be agreed.

Processes to Enforce Recovery of the Debt

Environmental Health will issue invoices and/or Demands for Payment when a fee, charge or fine is due or imposed.

If this is not paid within 30 days of the due date, a Reminder Notice will be sent by the Council's Debt Recovery team.

If the debt is not paid within 7 days of the reminder, a Final Notice will be sent.

If the debt remains outstanding 7 days after the Final Notice, a Letter Before Action will be sent. This will give formal notice of the imminent instigation of County Court recovery proceedings.

Where the person against whom it was imposed, fails to pay following the reminder process, in most cases, the Council will apply to the County Court for an Order to enable enforcement of the debt through the Court.

Other potential routes to recover the debt are:

- **Warrant of control** – For debts up to £5,000 the County Court bailiff can visit the debtor's home or business to seize goods to be sold to satisfy the judgment debt.
- **High Court Action (HCEA)** – For debts over £600 the judgement can be transferred to the High Court to use High Court Enforcement Officers to take goods from the debtor's home or business to satisfy the judgment debt.
- **Attachment of earnings order** – this allows deductions to be made from the person's salary by their employer and paid to the creditor.
- **A third-party debt order** – this means that money in a debtor's bank, building society or business account can be frozen for the benefit of the creditor.
- **A charging order** – this prevents the person or organisation from selling an asset, usually a property, or remortgaging a property without paying the

amount due under the charging order. This could also allow the chargee to recover the debt by enforcing the sale of the asset.

- **Bankruptcy or insolvency proceedings** – this entails a creditor petitioning the court to make a bankruptcy order against a debtor. In the case of a company, the company can be wound up. In both cases the trustee-in-bankruptcy collects the debtor's/company's assets and distributes them amongst the creditors in accordance with insolvency law. The amount of the debt must be at least £5,000 for insolvency proceedings to be instigated.
- **Order to Obtain Information** - the Council can request a court hearing where the debtor must answer questions about their income and assets to help decide the best enforcement method.

The Council will consider the circumstances of the debtor and the amount of the debt before deciding on how best to collect it, as well as having regard to government guidance. This is particularly the case regarding the collection of civil financial penalty debt, as these fines are intended as a robust sanction against serious non-compliance.

Irrecoverable Debt

When all possible means of recovery have been exhausted or the Council is legally prohibited from recovering the debt e.g. if the debtor enters into an insolvency solution, or it becomes apparent that the debt cannot be recovered economically, or without causing undue hardship, then the outstanding balance may be submitted to the Council (or those with delegated authority) to be declared as irrecoverable.

Complaints

The Environmental Health service subscribes to the Council's Corporate Complaints and Appeals Procedure.

In addition, statutory appeal rights exist where notices are served or charges levied and these are set out in the legislation. If you disagree with a statutory notice, you should act as specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail.

Only complaints about Council actions or decisions will be considered. Issues regarding Court processes or outcomes are outside the scope of the Council's complaints process.

If you do not agree with any action taken by an officer, you should contact the case officer to discuss this informally in the first instance.

Data Protection

All information is held and processed in accordance with the Environmental Health and Licensing privacy notice, available on the Council's website.