

## APPENDIX D

### Parking Services Penalty Charge Notice Debt Policy

#### Introduction

These documents form the approach the PCN Appeals Team has to debt related to parking fines.

Approval committee date: Transport & Sustainability committee Dec 2023

#### 1.2 Aim of Policy

1.3 The purpose of this policy is to establish guidelines and set out the usual processes for the recovery of debt owed to Brighton & Hove City Council (BHCC), and to strike a fair balance between the collection of debt and the social needs of our customers.

#### 1.4 Policy Scope

The policy is subordinate to national legislation and central government guidance or local corporate policy.

#### 1.5 Council's Corporate strategy

Brighton & Hove City Council recognises that it is essential to have a clear debt recovery policy and workflow to ensure that every debtor is treated fairly, as an individual and with compassion. The approach to debt within Parking is consistent with the full corporate policy outlined in the corporate debt collection & recovery policy which covers all debts due to the council.

#### 1.6 Background

It is important that the Parking Department collect debt owed to it in a timely but consistent and sensitive manner. We need to reflect new considerations around debt collection including the Government's 'Breathing Space' help for debtors scheme, ensuring we have dedicated members of staff to support this initiative. We also need to have a progressive and ethical approach to vulnerability that reflects contemporary considerations about debt collection and utilises the latest technology and early intervention initiatives.

BHCC will work with debtors wherever possible to ensure the impact of a national crisis is considered in relation to individual circumstances. BHCC will operate according to the advice delivered by the British Parking Association and Civil Enforcement Association.

#### 1.7 Policy Statement

Where possible, we will work with customers to prevent existing debt from accumulating. We recognise that persons who owe parking debt to BHCC are individuals who are to be treated fairly, regardless of age, gender, race, religion, creed, disability, and sexual orientation.

We will always seek to maximise income collection but will consider individual circumstances and financial hardship.

We will signpost debtors to appropriate support agencies. Where there may be a safeguarding concern, we will inform the person of the need or duty to share relevant information with appropriate agencies.

Information will be shared with debt collection and tracing agencies, local and central government, courts and tribunals (whichever is appropriate) to recover debt owed and to prevent and detect fraud in accordance with the Council's data protection registration and the requirements of the Data Protection Act 2018 (DPA).

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## 1 [Key principles](#)

When considering individual customer circumstances, there are certain principles common to all types of debt:

- To encourage customers to contact and work with us at the earliest possible opportunity to manage debt and facilitate payment.
- To ensure that all debt types are recovered in accordance with legislation and good practice.
- The Council will aim to deliver services in accordance with its fair and inclusive priorities and its approach will be proportionate, consistent, and transparent for all customers.

## 2 [Transparency](#)

The Council will help customers to understand their situation, what is expected of them and what they can expect from the Council in plain terms and free of jargon.

## 3 [Additional Costs/Fees](#)

The Council will apply and seek to recover debt registration fees from the customer which the Council or their instructed agents have had to pay in the process of recovering debt owed. Only in exceptional cases, where it is deemed not to be in the public interest, would these fees be waived.

## 4 [Billing and Recovery](#)

The Council recognises that prompt recovery action is key to managing and maximising the collection of debt. The Council therefore aims to:

- Regularly review and monitor the level and age of debt.
- To use innovations in the latest technology to trace debtors and enable early intervention.

This will help avoid external enforcement action involving additional fees and administration for both debtors and staff.

There are several options we can use to encourage early intervention which include:

- Bulk case data cleansing
- Manual tracing/address checking
- Use of 'nudge' letters
- Review of cases prior to debt registration
- Regularly review the use of available methods of recovery to ensure effectiveness.

- To review and document irretrievable debts (and those where recovery is not economic) for write-off by the Council.

## 5 Correspondence

Ensure that correspondence is written in plain English and avoids the use of jargon and unexplained acronyms/abbreviations. Where there is a legal process, the Council will use the wording prescribed by legislation.

Clearly set out the terms of any payment timeframes and the potential consequences and subsequent fees which may be incurred if the debt is not paid. Where requested, produce documents in a different format or language to help support customers so that they are not at a disadvantage when using our services.

## 6 Payment and Arrangement

Encourage our customers to pay promptly and regularly. Provide a range of payment methods which will be detailed on documents issued and on the website.

Encourage customers to pay online through the Council website or by using the automated telephone payment line.

When making a payment arrangement, get as much detail as possible about a customer's individual circumstances to make an accurate assessment of their ability to pay. This may require the customer to complete an income and expenditure form and provide supporting evidence.

Monitor arrangements and, where the customer fails to maintain the agreed payments, commence recovery action. This may be without the need for any further reminder or warning if the customer has previously received clear information about the consequences of non-payment.

## 7 [Contact and Advice](#)

Using electronic contact forms which are available on the Council's website.

Email

Postal Letter

## 8 [Proportionate Approach](#)

Always be fair and firm in respect of debt owed.

Set out in communications where there is a right of appeal against a decision.

Ensure that where further enforcement action is required, the process has been clearly explained, in writing, with timescales set out and a distinction made between advice and legal requirements.

Make arrangements for appropriate customer contact where a customer is deemed to be vulnerable. Advise customers to seek independent legal advice if necessary and signpost to charities/organisations to help.

## 9 [Debt Advice Agencies](#)

We will only refer customers to accredited specialist debt services, ideally where free advice is offered. The list of organisations we will refer people to includes, but is not restricted to:

- Citizen's Advice Bureau
- National Debt Helpline
- Christians Against Poverty
- Money Advice

## 10 [Enforcement](#)

The Council will use enforcement agents that have been appointed under the Council's procurement processes and will work in accordance with an agreed contract and, where in place, a service level agreement. The service level agreement will specify the terms in which they will operate, including:

Enforcement agents to always act in a professional, responsible, and courteous manner and operate in accordance with current legislation.

Maintain accurate records of all action taken and to contact the Council immediately where they identify a customer to be vulnerable and await further guidance by the Council on appropriate action to be taken. This must be recorded by both the enforcement agent and the Council on the customer's file and retained by each party.

Transfer information between the Council and the enforcement agent using an agreed secure electronic transfer method.

Use of the fees structure for the collection of statutory debts, as prescribed under The Taking Control of Goods Regulations. The fees are owed to the enforcement agent and not the Council.

The Council expects Enforcement Agent companies employed by it to work in a professional manner and to consider its Policies and Codes of Conduct, including:

- BHCC Equality Policy
- BHCC Policies on Safeguarding
- Data Protection Policy and the General Data Protection Regulation (Data Protection Act 2018)
- Civil Enforcement Agency Code of Conduct
- National Standards for Enforcement Agents
- Charging order, Wind-Up Petition, bankruptcy, or committal to prison

## 11 [Vulnerability](#)

It is important that the Council and those acting on our behalf recognise individuals who appear to be vulnerable and endeavour to identify and put into place additional measures to ensure that vulnerable individuals are treated appropriately. The fact that a person is vulnerable does not take away their obligation to meet their liabilities, but this will necessitate consideration of the appropriateness and course of any recovery action we take.

- The policy does not specify any groups of people who may be considered vulnerable. Many of our customers may be vulnerable, or become vulnerable, on a temporary or permanent basis, due to their personal circumstances at a specific point in time.

Where a customer has multiple debts with the Council, develop a joint strategy for repayment of those debts.

Where a customer contacts the Council, or organisation acting on its behalf, such as enforcement agents, to advise that they consider they have a physical or mental disability, they will be asked to provide supporting evidence to either party. This may include requesting a letter from a doctor or support worker, or other supporting information, indicating how their health problem affects their ability to function and deal with their financial affairs.

On receipt of such evidence, it will be at the Council's discretion to determine the extent of the affect outlined in the supporting evidence. Enforcement agents acting for the Council will consider information concerning whether a person is vulnerable and will make any necessary adjustments to the way the debt is administered.



## 12 [Penalty Charge Notice Write-off policy](#)

As part of an effective debt management policy, it is important to identify debts which may need to be written off. Debts will be assessed and if considered irrecoverable they will be subject to a write off process that is consistent with good accounting practices and covered by the Council's Financial Regulations. The Council will seek to minimise the amount of debt written off by taking all appropriate action to recover what is owing. This policy links to the Corporate Debt Management Policy which covers all debt relating to the Council.

All recovery action taken will be as set out within the Traffic Management Act and the Corporate Debt Management Policy. This policy applies to all sums owing to the Council in relation to parking debt and has been developed to ensure a consistent approach to the management of debts across the Council.

We will always ensure that the recovery method is appropriate for the debt. Enforcement agents will only be engaged at the appropriate stage of the recovery. We will follow the principles of enforcement outlined below: Our approach will be consistent – with the aim of achieving consistency in the advice we give, the use of our powers and in the recovery methods we use and in line with the Traffic Management Act.

PCN cases that will be considered for write-off fall within specific categories. These will be reported in accordance with the Corporate Debt Management Policy. However, in terms of PCN debt it will be deemed that they are unrecoverable and therefore recognised as valid reasons for write-off for the following reasons:

- Warrant returned or expired
- Vehicle owner deceased
- Vehicle owner bankrupt / in liquidation

- DVLA mismatch
- The age of the debt precludes recovery as outlined in the Traffic Management Act 2004
- Where there has been a procedural error made
- In prison
- Unable to trace
- Vulnerability
- Propensity to pay/financial hardship

These are debts where designated officers, for example, the Service Manager or other Service Managers will have approval to recommend write off under the Council's Financial Regulations.

Where a debt is written off it does not rule out the possibility of re-activating the debt and pursuing it in the future in accordance with legislative requirements. This would apply, for example, where a customer has left with no forwarding address but is subsequently traced. Another example could be where there is an insolvency application which fails or is revoked. Where the debt has been written off for over twelve months, before reinstating, consideration should be given to whether it is reasonable to do so and there are realistic prospects of collection.

We will monitor the effectiveness of this Policy through internal management and the Council's Complaints procedures.

All debts will be reviewed by the PCN and Bailiff management team prior to any write off action taking place.

### 13 [Policy review](#)

We will review and update the Policy and relevant appendices in the light of:

- Legislative changes.
- Feedback from our monitoring of this Policy.
- Equalities input.
- Changes to the economic climate, both locally and nationally.
- Changes to the Council's Corporate Strategy.