



**BRACKNELL FOREST COUNCIL**

**ADULT SOCIAL CARE**  
**DEBT RECOVERY POLICY DOCUMENT**

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# 1. Introduction

The purpose of this document is to set out consistent and effective processes for the collection, recovery and enforcement of Adult Social Care charges owed to the Council.

Effective financial management is fundamental to being able to fund the quality of services the Council provides. The best method of debt collection is the prevention of debt arising and this policy covers both prevention and recovery.

Key principles of the Policy:

- 1.1 Collection of all money due; quickly, efficiently and economically taking into account the financial circumstances and mental capacity of the customer.
- 1.2 Prevention of debt and arrears; by prompt notification of charges, billing and collection of money due and affordable repayment plans and early intervention when a customer is in arrears.
- 1.3 Ensuring that principles protecting the rights of vulnerable customers underpin all actions and that where there are issues of financial mismanagement or exploitation, appropriate investigations are carried out under the Council's Safeguarding Policy.
- 1.4 Provision of a legal framework to enable legal enforcement (where necessary and appropriate) to recover debts.
- 1.5 Compliance with the Council's Financial Regulations and Standing Orders Considerations
- 1.6 This document should read in conjunction with the Council's Financial Regulations and the Council's Sundry Debt Policy. It is also supported by the operational debt procedures.

## **2. Legal Status**

- 2.1 The Care Act 2014 provides a legal framework for the recovery of any debts that may have accrued because of the Council meeting a person's eligible care and support needs. Powers provided under Section 69 of the Care Act provide equal protection to both the Council and the person. Section 70 of the Care Act also provides the Council with the power to recover charges from a third party where a person has transferred assets to them to avoid paying charges for care and support.
- 2.2 Ultimately the Care Act enables the Council to make a claim to the County Court for a judgement to recover the debt. As a first step, the Council must offer a person the option of a deferred payment agreement (DPA) to recover the debt, where relevant, and can only make an application to the court should this be refused.
- 2.3 This policy outlines the requirements of the Care Act 2014 and the associated regulations and statutory guidance. It should be read in conjunction with:
- Sections 14, 17 and 69-70 of The Care Act 2014
  - Care and Support (Charging and Assessment of Resources) Regulations 2014
  - Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.
  - Chapters 8 and 9 and Annexes A to E of the Care and Support Statutory Guidance
  - Internal Procedures and Guidance

## **3. Principles for debt recovery**

The intention is to maintain a “firm but fair” approach to the collection and recovery of Social Care Charges.

- 3.1 We will financially assess a customer in a timely manner to ensure customers are aware of how much they have to pay and when.
- 3.2 We will take reasonable endeavours to ensure that every individual undergoing a financial assessment under the Care Act Guidance is provided with written information on maximising entitlements to benefits.
- 3.3 The Council will clearly discuss with the person or their representative at the outset that care, and support is potentially a chargeable service and that,

where the person has been assessed as being able to afford to do so, they will be required to contribute to the cost of that care. It will also be explained that this means there will be invoices and an agreement should be reached as to whom the invoices are sent, and if the person wishes, that their agreement and authority is obtained to communicate and correspond with a nominated representative.

- 3.4 We will take all reasonable endeavours to issue prompt and accurate bills ensuring the correct calculated assessed charge is made.
- 3.5 We will take all reasonable endeavours to make the payment of social care charges as easy and convenient as possible by prompting a wide range of payment methods including our preference of Direct Debit.
- 3.6 We will give our customers a variety of options to contact us to discuss payment of their accounts:
  - By telephone
  - By email
  - Face to face
- 3.7 We will use reasonable endeavours to process changes to charges in a timely manner to ensure customer's accounts are as up to date as possible.
- 3.8 We will inform customers who fall behind with their charges or payment arrangements, at the due date plus 1 day of the need to bring their payments up to date.
- 3.9 We will try to engage with the customer at every opportunity during the recovery process to discuss and make a suitable repayment arrangement and to avoid further recovery action. This includes clearly warning customers about further recovery actions that may happen and the additional costs and charges they may incur if they do not come to an earlier payment arrangement.
- 3.10 We will attempt to collect all debts owed where they are legally collectable, irrespective of age, in order that we can maximise revenue to the Authority to be fair to all those taxpayers who have paid their liabilities.
- 3.11 We will review the appropriateness of each recovery option based on what we know about the customer's circumstances, their ability to pay, their past payment history, their mental capacity or any other physical health or age-related limitations and the requirement to recover outstanding monies in a timely and efficient manner.

- 3.12 We shall take special care in pursuing debts relating to particularly vulnerable customers. When pursuing debts relating to particularly vulnerable customers, we shall seek to involve a responsible third party who can act for the customer in the customer's best interests and check the customer consents to the arrangements.
- 3.13 Before pursuing any course of action, the Council will consider whether it is appropriate and reasonable to recover the debt. Although it has the power to do so, and in many cases will wish to do so, there may be occasions when recovery is not pursued. For example, where the amount of the debt is small, and the costs of recovery would be disproportionate.
- 3.14 The Council will also consider how different approaches might impact on a person's wellbeing, in line with the general duty to promote a person's wellbeing.
- 3.15 Where appropriate, we will direct the customer to sources of debt and benefits advice.
- 3.16 We will regularly review accounts which are in arrears to ensure that they are subject to ongoing recovery and enforcement action acting fairly or lawfully.
- 3.17 The Council also recognizes that it is bound by the public law principle to act reasonably and will act in accordance with the human rights legislation, as well as the wellbeing principle set out in the Care Act. Given this, the Council will consider all other reasonable avenues before utilising the powers provided under the Act.
- 3.18 The Council regularly review our policies and procedures. This document is reviewed annually

## 4. Procedure

- 4.1 This procedure provides a framework to enable legal enforcement to recover debts where appropriate.
- 4.2 The method of recovery of money owed is the same whether the care services are provided in the community or in a residential environment. For services provided in the community and for residential care the main powers and duties for local authorities to charge for Social Care services are described in The Care Act 2014.

### Charged Services

#### 4.3

The Council will charge for the following services:

- Respite care.
- 24-hour care in registered care/nursing home
- Third party top ups for the above services.
- Home care support.
- Purchased activities including day support.
- Transport costs
- Telecare

#### 4.4 The Council will not charge for the following services:

- Aftercare services provided under Section 117 of the Mental Health Act 1983
- Providing advice about the availability of services or for the assessment of community care needs and financial assessments.
- Care and support received by customers suffering from any form of Creutzfeldt- Jacob Disease (CJD).
- Intermediate Care including reablement (for up to 6 weeks)
- Community equipment (minor adaptations less than £1000, all aids – see Community Equipment Policy).
- Any service or part service which the NHS is under a duty to provide e.g. continuing health care and NHS contribution to Registered Nursing care.
- Any service which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act. (this refers to services other than care, that Local Authorities can charge for – under different legislation).

## Financial Assessments

- 4.5 As part of the Council's social care assessment to determine if there is a need for care or residential services to be provided, the Council will undertake a financial assessment. This financial assessment will determine how much the customer is required to contribute towards the cost of their care and residential services.
- 4.6 The Council will provide support through the assessment process and will need full financial disclosure from the customer to undertake this assessment. Where the customer fails to provide full financial disclosure or fails to co-operate with the financial assessment process, they will be assessed as full charge for their assessed eligible needs.

## Assessing the customer's ability to pay

- 4.7 The Council will establish if the customer has capacity to sign the consent forms or provide details of who is managing their financial affairs before the is made.
- 4.8 Where a customer is required to contribute towards the cost of care, the Council's representative will meet with the customer and provide full details of the customer's financial position and their responsibilities. This will include the explanation of the financial contribution (how much, how it is calculated and the associated debt recovery processes including legal action if necessary).

## Property

- 4.9 For customers who are going into residential care (assessed in accordance with the Care Act 2014) their property may be included in their assessed contribution and considered as part of the financial assessment process. The treatment of property owned by the person receiving care will depend on whether the resident is a legal or a beneficial owner of the property. Where ownership is disputed, written evidence to prove ownership via the customer and Land Registry documents will be obtained and considered as part of this decision. Any transfer of assets that may have taken place will be investigated under section 70 of the Care Act 2014.
- 4.10 The Council will determine the value of the property when undertaking a financial assessment. This will involve the Council obtaining a professional valuation of the property.



## Deferred Payments Agreement Scheme

- 4.11 In some circumstances, the Council will offer the Deferred Payment Agreement Scheme (DPA) if a customer meets certain criteria governing eligibility for the scheme. The Council is only required to offer the DPA for the accrued debt and is not obliged to defer any future costs; however, it may wish to consider allowing the person to defer further payments to avoid any further accrual of debt.
- 4.12 Only where a person refuses the option of a DPA or does not meet the eligibility criteria can a local authority seek to enforce the debt via an application to the County Court.
- 4.13 Under the DPA scheme, the customer is not required to immediately sell the property they own or have a financial interest in. The Council will require a signed legal agreement that allows the Council to place a legal charge on the property and defer that part of their assessment relating to the value of their property until the property is sold or the debt is settled. Once the agreement has been signed, a Charge will be placed on their property pursuant to section 34 of The Care Act 2014. Under this scheme the Council will continue to meet the difference between the customers assessed contribution and the full cost of the care home fees either until the home is sold or the customer leaves residential care. The Charge will show up in future searches of the property in question and the customer's solicitor/conveyancer will ask the Council to remove the Charge before the sale goes through.

## Declaring a legal charge/Deferred payment

- 4.14 Section 34 of the Care Act gives the Council an option to place a legal charge on a resident's interest in a property to secure a debt for adult social care services with the agreement of the customer or their legal representative. The deferred payment process should commence at the financial assessment stage and the customer, or their representative must agree. The legal charge covers the outstanding amount in respect of a adult social care charge, where the debt has accrued from unpaid fees. The Council's Legal Services will need to be instructed to register the legal charge with the Land Registry. It is important that all information provided to Legal Services is accurate, complete, and current so that they can deal with the registration of the legal charge appropriately.
- 4.15 Deferred payments should be offered via a DPA when individuals own or have an interest in property and are willing to pay their assessed contribution but do not wish to do so immediately, as doing so would force them to sell their property.

## Third Party Payments and Top Ups

- 4.16 If a customer chooses care/support that is more expensive than rates set by the Council, (and this is their preferred option and not because their needs cannot be met adequately in a less expensive setting) then a third party can pay the difference. This is also known as a Third Party Top up.
- 4.17 Customers are not permitted to pay their own Third-Party Top Up, unless it is evidenced that the customer is willing and able to meet the additional cost.
- 4.18 The Third Party will need to enter into a legal agreement with the Council to make the regular payments. This states that they are responsible to pay the top up fees and that any debts may be recovered from them through legal action. The Council will not agree to any Third Party Top Up arrangement unless the legal agreement has been signed and agreed by the customer and the Third Party.
- 4.19 If there are arrears on a third-party account, the Council will commence the legal debt recovery process. The Council may choose to terminate the agreement and reassess the care and support with a view to changing the care and support that is less expensive, where possible and following a review of their assessed eligible needs.

## Attorneys and Deputies

- 4.20 Where a person is appointed to make decisions about property and affairs (including finance matters) and fails to pay care contributions, then the Council should contact the Office of the Public Guardian (OPG) to request an investigation.

The OPG may consider a court order to remove the powers if the attorney/deputy has not acted in the person's best interests.

- 4.21 In cases where the customer has an Appointee and there has been inappropriate use of monies, the Council should inform the DWP

## **5. Debt Recovery**

- 5.1 Where an invoice is disputed, it will be put on hold as not requiring further action until the dispute has been resolved. If the dispute is raised with the Council, the invoice should be put on hold and the matter should be referred to the Exchequer Manager.
- 5.2 Where an invoice is disputed the Finance Team should ensure:
  - 5.2.1. the reason for the dispute is clearly identified.
  - 5.2.2. every effort should be made to resolve the dispute at the earliest opportunity; and
  - 5.2.3. any obstacles to partial or full payment should be explored and resolved.
- 5.3 The aim should be to resolve disputes within 14 days. The dispute should be resolved between the debtor and the Council. If the outcome is that the disputed point is not accepted, the invoice should be reinstated, and the debt recovery process continued from the point at which it was put on hold. If the outcome is that the disputed point is accepted, a credit note should be raised in respect of the invoice, and if necessary, a new invoice issued for the remaining part of the debt.

## **6. Credit Notes**

- 6.1 Credit notes will be raised by the team which raised the initial invoice and should be properly supported by documentary evidence that validates the reason for reducing or cancelling a previous amount invoiced. A credit note must be issued to cancel an incorrect invoice before re-invoicing correctly. The Exchequer Manager or other suitably authorised officers must authorise all relevant paperwork or approve credit notes electronically.
- 6.2 A credit note must only be applied to, or reduce the balance of, the invoice it was raised against. A credit note must not be used as a method to write off debt, as it is primarily a means of adjusting the value of a debt for valid and agreed reasons e.g., the initial value of the debt raised was incorrect.

## 7. Returned Invoices

- 7.1 Where an invoice is returned by Royal Mail stating 'gone away', 'undelivered' or 'addressee not known', the Finance Team should suspend any recovery action and refer the invoice to the appropriate manager who shall:
- 7.2.1 Make attempts to contact the debtor to obtain an up-to-date address and, having amended the debtors address details in the corporate financial system, re-issue the invoice to the correct address. The Finance Team shall be notified of such action to enable recovery action to be instigated should the debt remain outstanding.
- 7.2.2 Where contact cannot be made with the debtor the Exchequer Manager shall decide on the further action to be taken, e.g., write off the debt or consider the use of a debt tracing service to locate the debtor. The Budget Managers cost centre will bear the cost of any charges incurred in locating the debtor.
- 7.2.3 Where withdrawal of a future service will not cause undue hardship or breach the Council's statutory duties, the Budget Holder should decide whether it is appropriate to withdraw the provision of further services pending payment of the debt

## 8. Timing of debt recovery

- 8.1 The point at which a debt becomes due to the Council is the due date stated on the Council's invoice. If, for example, a bill was sent giving 21 days to pay, the payment becomes due on or before 21 days from date of invoice. The invoice becomes overdue at 22 days from date of invoice.
- 8.2 For any debts occurring after the commencement of the Care Act 2014, the time to recover debts has been extended to six years from the date when the sum would become due to the Council. Where a debt is taking some time to be recovered, provided legal proceedings have been issued within the limitation period, enforcement can continue. If it has not, the debt will be written off.
- 8.3 Legal proceedings need to be issued within **6 years of the date of the invoice** to prevent any claim from being statute barred, unless the debt has been acknowledged.

## 9. Options to Recover Debt

- 9.1 The Council will consider the full range of options available to recover the debt. This is particularly important if court proceedings are commenced, the court will consider what efforts have been made to resolve the issue first.
- 9.2 Whilst it is at the discretion of the court to award costs, if no effort has been made to resolve the issue, the court will take into account the conduct of the Council when considering the issue of costs. If the court determines the Council has acted unreasonably or not followed pre-action protocol, an order of costs against the Council could be made. The greater the person's need, the more effort will be made to resolve the issue positively. Options may include negotiation, the use of an advocate to help the person understand the options available to them, supporting the family to gain a power of attorney or deputyship, the Council itself applying to be a deputy in certain situations, or the use of independent mediator to resolve the matter.
- 9.3 As a first step the Council will contact the person or their representative to ascertain why the contribution to their care and support costs has not been met.
- 9.4 Where necessary, there will be more than one effort made to contact the person in order to simply and quickly address the issue, if possible, whilst balancing the need to minimise further delay.
- 9.5 In some cases, the issue will be easily resolved through the initial contact, either through the amount being paid, an agreed repayment plan, or from the offer of a DPA, where appropriate. However, some cases will be more complex e.g., if a person does not meet the eligibility criteria for a DPA, where a DPA is refused or there remains an ongoing dispute about the amount. Equally a person may be unhappy with their care provision or be unable to address the matter due to their presentation, such as depression, mental health issues or dementia. In these circumstances, assistance from the care management team may be required.
- 9.6 The Council must establish whether the person has the mental capacity to make financial decisions. This is important as a person who lacks capacity to make financial decisions is in a different legal position from someone who has capacity. While both may be liable for their debt, the way to proceed to recover the debt is different.
- 9.7 Where a person has mental capacity to make financial decisions, the Council will consider the following options prior to making a legal referral to commence legal action:

#### 9.7.1 Negotiating an agreement.

This could be through dealing directly with the person or their representative to resolve the issue. This can be done by the Council but, in some circumstances may be better led by an independent person such as an advisor. In some cases, it may be beneficial to involve an independent advocate to support the person to understand the options available to them.

#### 9.7.2 Mediation

This is where an independent third party assists those involved to reach an agreement. This could be carried out by a professional mediation service but could equally be carried out by anyone who is not directly involved in the case, such as an independent practitioner or a local voluntary organisation. In these situations, it is the parties involved, not the mediator, who decides the course of action.

#### 9.7.3 Arbitration

This involves an independent arbitrator hearing both sides of the issue and deciding how to resolve the issue. Arbitration is usually binding on both sides and therefore the Council would not be able to take the case to court after the arbitrator has decided unless the other party defaults on the terms of the arbitration decision.

## **10. Diminishing or Lack of Mental Capacity**

- 10.1 A debt may have accrued because of diminishing or a lack of mental capacity. In such cases, a decision will be taken as to whether the matter is a safeguarding issue and the Council's safeguarding procedures should be followed. Practitioners will carry out a decision specific capacity assessment where there is a diagnosis of mental impairment or mental disorder, or where the person's engagement with care planning indicates they may lack capacity to make some decisions.
- 10.2 The Council will adhere to the principles of the Mental Capacity Act 2005. Where a person has been assessed to lack capacity and they have an appointed attorney or deputy to make financial decisions, the Council will consult the appointed representative in any financial decision making.
- 10.3 An appointed attorney or deputy for property and financial affairs will have the legal authority to make financial decisions on behalf of the person. The Council can discuss all the previously listed debt recovery options with the attorney or deputy.

- 10.4 Where the person lacking capacity has no attorney or deputy and has substantial debts, then an application for a deputy is required. The application must be made to the Court of Protection. Where there are family involved with the person, they may make the application to become a deputy. In cases where there is no family member or other suitable person willing to apply to be a deputy, the Council may make the application. The Council will always consider any risk of a conflict of interest where it applies to take on a property and financial affairs deputyship.
- 10.5 The Council will always seek to establish who has legal authority to make financial decisions on behalf of the individual and will engage with that person.

## **11. Recovering Debt & Deferred Payments**

- 11.1 Where a debt has accrued and a person could be offered a deferred payment agreement, the Council will offer the person, or their attorney or deputy, the option of repaying the debt through a DPA as set out in Section 69 of the Care Act 2014. A person could be offered a DPA if they are receiving care in a care home or are renting an extra care property, and the person has a form of security adequate to cover the DPA (usually a property). The non-deferred payment contributions are still payable 4 weekly.
- 11.2 The Council is only required to offer the DPA for the accrued debt and is not obliged to defer any future costs. However, it will consider allowing the person to defer further payments to avoid any further accrual of debt.
- 11.3 This option is likely to be attractive to a person as the maximum interest rate for DPAs is set by regulations and is lower than the maximum amount the County Court can apply. It will also avoid the person needing to meet the costs of the Council if a county Court judgment is obtained, and an order of costs is made against them. For the Council, a DPA will ensure the debt is secured, is less at risk and is likely to be quicker to secure.
- 11.4 Only where a person refuses the option of a DPA or does not meet the eligibility criteria can the Council seek to enforce the debt via an application to the County Court. The Council will therefore make sure a refusal, along with the reason, is recorded appropriately.

## **12. Issuing a Claim through the County Court**

- 12.1 Where all other reasonable avenues have been exhausted, the Council may decide to issue court proceedings at the County Court to recover the debt owed subject to Legal advice.
- 12.2 The Court will require the Council to prove the legal basis for the claim together with the necessary documentary evidence, including witness statement from the instructing officer. Further, if the matter proceeds to a hearing, the instructing officer may be required to give oral evidence at Court.
- 12.3 The issuing of a court claim and other court processes, including enforcement, will require a court fee. The level of the court fee will vary depending on the value of the claim and whether the claim is issued online or by paper. Whilst there is an upfront cost to the Council to meet this fee, if an order or judgement is made in favour of the Council, the Court may add the fee to the debt recoverable.
- 12.4 In order for the Council to claim interest on the debt, it must include the calculated amount in the 'Particulars of claim'.
- 12.5 Once the Court has issued the claim, a Notice of Issue will be sent to the Council and a copy of the claim to the person the Council is seeking to recover the debt from. The person will then have the option of admitting the full amount or part of the claim or defend the claim by filing either an Admission or Acknowledgement of Service to the Court. If no response is received to the claim, or if the person admits part or the whole amount of the claim, and the Council accepts the part admission, the court can be requested to enter judgement against the person. The Council may then commence enforcement proceedings if the person does not pay the judgement. If the claim is defended or the person does not accept the part admission, the claim will proceed to the next stage.
- 12.6 If the person is a protected party, the Council may only issue and serve the claim. Any person who lacks capacity to litigate will need to have a Litigation Friend appointed. It is the responsibility of the Council to inform the Court that there is a need for a Litigation Friend. Where the person has an attorney or deputy, that person may be appointed as a Litigation Friend with the permission of the Court. Ultimately it is the Court that will appoint the Litigation Friend.
- 12.7 The role of the Litigation Friend is to represent the person in Court. They may therefore raise any issue that the person would such as disputing the debt, seek alternative arrangements to repaying the debt, or raise any other issue



they consider relevant to the question of the debt. It is therefore essential that the Council has acted appropriately in relation to the person who lacks capacity with the assistance of the care management team.

- 12.8 Once a final judgment or order has been made it is not possible to add any further debts that may have accrued. The Council will therefore need to consider what steps can be put in place to ensure that a person is able to meet their ongoing assessed contribution towards the cost of their care and support. If debts continue to accrue, the Council will need to begin the debt recovery process again.
- 12.9 Where there is a court order or judgement for payment, but the person has not complied with it, the Council may seek to enforce the order.
- 12.10 There are various methods of enforcement, and the Council will need to consider the most appropriate action considering the person's circumstances. Possible methods include:
- A warrant or writ of control
  - An attachment of earnings order
  - A third-party debt order
  - A charging order
- 12.11 A warrant or writ of control essentially enables enforcement agents or officers to take control of goods from a person's home or business to auction. Enforcement agents are limited to the kinds of goods which they can remove. If the order is for £5,000 or less, an application for a warrant of control may be made to the County Court. If the order is for over £5,000 the Council may apply to the High Court for a writ of control.
- 12.12 An attachment of earnings order allows for the periodic deduction of monies by the person's employer (where they are known). It is not an option if the person is unemployed or self-employed. An application may also be made to the court for deductions to be made from other earnings such as a pension.
- 12.13 Earnings are disregarded during the financial assessment of what a person can afford to contribute towards the cost of their care and so, in some instances, this may be an option.
- 12.14 A third party debt order will instruct a third party such as a financial institution that holds a bank or building society account for the person to pay out the available funds, less that institution's fees, to the Council. The process will only be successful if there are monies in the account on the day the financial

institution receives the court order. Third party debt orders may not be made where the account is held in the name of more than one person. Savings are considered in the financial assessment of what someone can afford to contribute towards the cost of their care, and this may therefore be a suitable option in some cases.

- 12.14 A charging order places a charge on a property or other assets owned by the service user to secure the debt. This means that, just as with a DPA, payment will only be realised when the property or assets are disposed of. A further claim must be made for an order for sale to enforce the charging order. Where a person owns their property, this is likely to be the most viable option for recovering the debt. However, the Court will list the matter for a hearing to consider the matter further before an order for sale is made. When an order of sale is made in favour of the Council, the Council will take possession of the property and make arrangements to sell it to recover the monies owed. It is similar to a DPA in that a charge is secured against the person's property but by order of the court. The charge is usually a first charge unless other charges such as a mortgage are already registered against the property.

## **13.Complaints**

- 13.1 A person may wish to make a complaint about any aspect of the way the Council discharges its duties or uses its powers under the Care Act. The Council has a complaints procedure, and the person will be directed to this for information and advice on how to lodge a complaint or to contact the Local Government and Social Care Ombudsman.

## 14. Responsibilities

### 14.1 Resources Finance - Accounts Receivable

- Following the usual Adult Social Care Debtor's procedures in the initial stages.
- Ensuring that the person or nominated representative, or their attorney or deputy (where relevant), is contacted to determine why payment has not been received.
- Ensuring that the person or nominated representative, or their attorney or deputy (where relevant), is sign-posted to any applicable support resources.
- Ensuring that, where no payment has been received, a Final Reminder letter indicating final demand for payment is sent. This letter should clearly state that failure to take action to settle the amount due may result in a referral to Council's Legal team to consider proceedings to recover the debt.

### 14.2 Debt Management Group

- Reviewing all debts.
- Ensuring that care management is consulted, and any concerns or issues are considered as part of each case review.
- Recommending actions for debt recovery including possible legal action. Heads of Service are required to discuss with their Assistant Director each case where legal action has become a possibility, prior to each Debt Management Group meeting.
- Recommending the write-off where recovery is unlikely or may not be considered cost effective.
- Having established the facts in individual cases, and the views of the relevant Assistant Director, the Chair of the Debt Management Group will make the decision on whether to proceed with further action, including legal action where relevant.
- The Finance Business Partner has the delegated authority to write off debts for Adult Social Care up to £25K.

### 14.3 Debt Liaison Officer

- To support the work of the Debt Management Group
- Visiting customers to gain a better understanding of their financial position
- Completing payment plans & direct debits on visits
- Signposting Customers to debt agencies and supporting them with the documentation
- Work with the Care Teams to understand any safeguarding issues

#### 14.4 Financial Assessment Officer

- To review any financial assessments where debt has been identified
- Update the DMG with deferred payment progress
- Update case notes using ControCC and LAS

#### 14.5 Delivery - Legal

- Advising the Debt Management Group on all legal issues arising in respect of pursuing outstanding debt.
- Upon authorisation and receipt of instruction together with the necessary evidence, to advise on the commencement of legal action to recover outstanding debt, and where so advised, to commence legal proceedings.
- In respect of probate matters, where so advised and upon the authorisation to instruct specialist lawyers, to commence legal action to administer the estate of the deceased.

#### 14.6 Write-off

All agreed debt write-off will be completed in accordance with the People Directorate Scheme of Delegation, and the Council's financial regulations.

## **15. Definitions and Abbreviations**

DPA	Deferred Payments Agreement.
The Council	Bracknell Forest Borough Council.
MCA	The Mental Capacity Act 2005.
DMG	Debt Management Group

## Appendix 1 - 1<sup>st</sup> Debt Letter

Account Reference: xxxxx

[Date]

[Name]

[Address]



Dear [Customer Name]

### **FIRST REMINDER**

**Account: \*\*\*\*\* Regarding Invoice \*\*\*\*\***

**Outstanding sum: £xxx.xx**

Enclosed is an up-to-date statement of your account, the following Invoice(s) remain unpaid:

1. ...
2. ...

Please ensure that payment is made within the next **14 days of the date of this letter** to avoid any further action being taken, this could include referral to our Legal team for debt recovery action through a court claim.

If you are experiencing financial hardship, to discuss your case further please contact us:

Tel: (01344) 352178 or

Email: [accounts.receivable@bracknell-forest.gov.uk](mailto:accounts.receivable@bracknell-forest.gov.uk)

Please be advised that, should you wish to do so, you may obtain free, confidential and independent debt advice from a number of organisations including the following:

- National Debt line (Tel. 0808 808 4000)
- Step Change Debt Charity (Tel: 0800 138 1111)
- Advice UK (Tel: 0300 777 0107)
- Christians Against Poverty (Tel: 0800 328 0006)
- Citizens Advice (Tel: 03444 111 444)

Depending on your circumstances, it may be convenient to agree a repayment plan with us, please contact us to discuss this further. Alternatively, you can make payment quoting your customer reference when making the payment. On the reverse of this letter you will find a list of accepted payment methods.

If payment has been made within the last few days, please disregard this letter and accept our apologies for any inconvenience.

Yours sincerely

**Accounts Receivable**

**Bracknell Forest Council.**

**Email: [accounts.receivable@bracknell-forest.gov.uk](mailto:accounts.receivable@bracknell-forest.gov.uk)**

## Appendix 2 - 2<sup>nd</sup> Debt Letter

Account Reference: xxxxx

[Date]

[Name]

[Address]



Dear [Customer Name]

### **FINAL REMINDER**

**Account: \*\*\*\*\* Regarding**

**Outstanding sum: £xxx.xx**

## **PLEASE DO NOT IGNORE THIS LETTER**

Further to our letter of ... requesting you contact the Council about this outstanding debt by ..., we have not heard from you.

Enclosed is an up-to-date statement of your account, the following Invoice(s) remain unpaid:

1. ...
2. ...

Please ensure that payment is made within the next **seven days** of the date of this letter to avoid any further action being taken. If you fail to contact us about making appropriate payments, our next step will be to refer your debt to our Legal team for recovery action through a court claim.

If you are experiencing financial hardship, to discuss your case further please contact us:

Tel: (01344) 352178 or

Email: [accounts.receivable@bracknell-forest.gov.uk](mailto:accounts.receivable@bracknell-forest.gov.uk)

Please be advised that, should you wish to do so, you may obtain free, confidential and independent debt advice from a number of organisations including the following:

- National Debt line (Tel. 0808 808 4000)
- Step Change Debt Charity (Tel: 0800 138 1111)
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Depending on your circumstances, it may be convenient to agree a repayment plan with us, please contact us to discuss this further. Alternatively, you can make payment quoting your customer reference when making the payment. On the reverse of this letter, you will find a list of accepted payment methods.

If payment has been made within the last few days, please disregard this letter and accept our apologies for any inconvenience.

Yours sincerely

**Accounts Receivable  
Bracknell Forest Council.  
Email: [accounts.receivable@bracknell-forest.gov.uk](mailto:accounts.receivable@bracknell-forest.gov.uk)**



## Appendix 3 – Other supporting documentation

Mental Health Act 1983

[Mental Health Act 1983 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1983/36)

Care Act Guidance

[Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/care-act-guidance)

Care Act Legislation 2014

[The Care and Support \(Charging and Assessment of Resources\) Regulations 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2014/1124)

Care Act Guidance Annex D – Recovery of debts

[Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/care-act-guidance-annex-d-recovery-of-debts)

Care Act Guidance Annex E – Deprivation of assets

[Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/care-act-guidance-annex-e-deprivation-of-assets)

Options for paying off your debts

[Options for paying off your debts: Overview - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/options-for-paying-off-your-debts-overview)

Citizens Advise

[Citizens Advice](https://www.citizensadvice.org.uk/)

Bracknell Forest Council Adult Social Care Complaints

[Adult social care complaints | Bracknell Forest Council \(bracknell-forest.gov.uk\)](https://www.bracknell-forest.gov.uk/adult-social-care-complaints)

OPG (Office of the Public Guardian)

[Office of the Public Guardian - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/office-of-the-public-guardian)

Human Rights Act 1998

[Human Rights Act 1998 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1998/42)

Bracknell Forest Council Finance Procedures

[..\Financial - Financial Assessments\Process Documents\Financial Assessments\Adult Social Care Finance Procedures\Adult Social Care Finance Procedures .pdf](https://www.bracknell-forest.gov.uk/financial-assessments-process-documents/financial-assessments/adult-social-care-finance-procedures/adult-social-care-finance-procedures.pdf)