

Executive Committee

Wed 2nd Dec
2009
7.00 pm

Committee Room 2
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
Ivor Westmore
Committee Support Services**

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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency **Assembly Area** is on **Walter Stranz Square**.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



Executive

Committee

2nd December 2009

7.00 pm

Committee Room 2 Town Hall

Agenda

Membership:

Cllrs: C Gandy (Chair) W Hartnett
M Braley (Vice- N Hicks
Chair) C MacMillan
P Anderson M Shurmer
J Brunner
B Clayton

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
3. Leader's Announcements	<ol style="list-style-type: none">To give notice of any items for future meetings or for the Forward Plan, including any scheduled for this meeting, but now carried forward or deleted; andany other relevant announcements. <p>(Oral report)</p>
4. Neighbourhood Groups Task and Finish Group Recommendations	To consider the recommendations put forward by the Neighbourhood Groups Task and Finish Group. <p>(Report to follow)</p> <p>All Wards</p>
5. Single Equalities Scheme (Pages 1 - 6) Head of Strategy and Partnerships	To consider the Council's Single Equalities Scheme that covers the legislative requirements expected of Local Authorities, which is underpinned by the Local Equalities Framework for Local Government. <p>(Report attached – Appendix available on the Council's Website and in Group Rooms)</p> <p>(No Specific Ward Relevance)</p>

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<p>6. Annual Monitoring Report (AMR) - April 2008 to March 2009</p> <p>(Pages 7 - 12)</p> <p>R Bamford, Acting Head of Planning and Building Control</p>	<p>To seek endorsement for submission of the Annual Monitoring Report (AMR) which will report on indicators set by Central Government and monitoring effectiveness of Local Plan Policies, for 1st April 2008 to 31st March 2009 to the Government Office for the West Midlands (GOWM) by 31st December 2009 and publication of the document.</p> <p>(Report attached – Appendix available on the Council’s Website and in Group Rooms)</p> <p>All Wards</p>
<p>7. Council Tax and Business Rate Recovery Policy</p> <p>(Pages 13 - 48)</p> <p>Head of Financial Revenues and Benefit Services</p>	<p>To consider adoption of a Council Tax and Business Rate Recovery Policy.</p> <p>(Report attached)</p> <p>All Wards</p>
<p>8. Procurement Strategy and Corporate Procedure Rules</p> <p>Head of Legal, Democratic and Property Services, Head of Strategy and Partnerships</p>	<p>To consider the adoption of a revised Procurement Strategy and Contract Procedure Rules.</p> <p>(Report to follow)</p> <p>(No Direct Ward Relevance)</p>
<p>9. Minutes / Referrals - Overview and Scrutiny Committee, Executive Panels, Neighbourhood Groups etc.</p> <p>Chief Executive</p>	<p>To receive and consider any outstanding minutes or referrals from the Overview and Scrutiny Committee, Executive Panels, Neighbourhood Groups, etc. since the last meeting of the Executive Committee, other than as detailed in the items above.</p>

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10. Exclusion of the Public	<p>Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting on the grounds that exempt information is likely to be divulged, it may be necessary to move the following resolution:</p> <p>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (<i>to be specified</i>) of Part 1 of Schedule 12 (A) of the said Act, as amended.”</p>
11. Confidential Minutes / Referrals (if any)	To consider confidential matters not dealt with earlier in the evening and not separately listed below (if any).

Executive Committee

No Specific Ward Relevance

9th December 2009

SINGLE EQUALITIES SCHEME 2009-2012

(Report of the Head of Strategy and Partnerships)

1. Summary of Proposals

The Council is under a statutory duty to publish a Race Equality Scheme; a Disability Equality Scheme and a Gender Equality Scheme.

The Single Equality Scheme attached to this report sets out how Redditch Borough Council is promoting and taking action on the specific equality duties placed on it in respect of race, disability and gender. It also explains how it is applying the equality duty principles to other strands of diversity – age, gender identity, religion or belief, and sexual orientation.

The Scheme outlines the context in which the Council operates; the baseline position in relation to equality; and how it intends to continue to promote equality. A single equality scheme can be beneficial as it can focus more on an individual's needs and recognises that people have more than just a single identity. It provides a framework in which to address multiple discrimination and to build synergies between different groups and identities.

2. Recommendations

The Committee is asked to **RECOMMEND** that

the Single Equalities Scheme and Equalities Action Plan attached to this report at Appendix 1 be approved.

3. Financial, Legal, Policy Risk and Sustainability Implications

Financial

- 3.1 Actions within the scheme do not have any immediate financial implications. As the action plan develops in more detail, should any additional requirements for resources arise they will be subject to the normal Council approval procedures

Legal

- 3.2 The Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005 and the Sex Discrimination Act 1975 as amended by the Equality Act 2006 place statutory duties on the

Council to have equalities schemes in place covering race, disability and gender equality. These can be incorporated into a single equalities scheme provided that they can be separately identified within that scheme.

In addition the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Sexual Orientation) Regulations, 2003 and the Employment Equality (Age) Regulations 2006 make it unlawful to discriminate in employment or training through direct discrimination, indirect discrimination, harassment or victimisation on the grounds of religion or belief, sexual orientation or age.

The Single Equality Bill published in April 2009 will streamline the law by creating a clearer legal framework, drawing together a number of pieces of equality law into a Single Equality Act. It proposes the amalgamation of the six equality strands covering gender, race, disability, age, sexual orientation, religion or belief, and gender reassignment into a single equalities duty which is expected to come into force in 2011.

Policy

- 3.3 The Council has had a Race Equality Scheme and a Disability Equality Scheme in place. These are now due for review. The Single Equality Scheme contains the Council's first Gender Equality Scheme.

Risk

- 3.4 Failure to have the required equality schemes in place could lead to action being taken against the Council by the Equalities and Human Rights Commission, who have powers of enforcement under section 31 of the Equality Act 2006.

Sustainability / Environmental

- 3.5 None specific.

Report

4. Background

- 4.1 The Council is under a statutory duty to have in place equalities schemes and action plans covering race, disability and gender equality. These can be incorporated into a single equalities scheme provided that they can be separately identified within that scheme.

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-
- 4.2 The Council's Race Equality Scheme and Disability Equality Scheme are due to be reviewed and will be incorporated into the new Single Equalities Scheme, together with the Gender Equality Scheme.
- 4.3 There is a wide range of equality law to be borne in mind when creating equality schemes. Consideration must also be given to human rights law, and the duty of all public authorities to comply with human rights as specified in the Human Rights Act 1998.
- 4.4 The term "equality" is used to mean that everyone has equal access to Council services or equal opportunities as an employee or Member of the Council. It is not about treating everyone in the same way, but recognising that individuals have different needs, which may need to be met in different ways to achieve equal outcomes.
- 4.5 There are six areas of equality recognised by law – Race, Gender, Disability, Religion or Belief, Sexual Orientation and Age. People in those groups have historically suffered more direct and indirect discrimination and social exclusion than the majority of the population. Some people will fit into more than one of these strands may face obstacles for more than one reason.
- 4.6 Diversity among residents, service-users and employees is not limited to the six statutory equality strands. It also includes issues such as education, geographical location, marital status, class and work experience amongst others.

5. Key Issues

- 5.1 Public authorities were required to prepare and publish a Gender Equality Scheme by 30th April, 2007. The Council has not yet published its Scheme and there is, therefore, a risk that enforcement action may be taken by the Equalities and Human Rights Commission.
- 5.2 A Single Equality Scheme is a scheme that covers all the communities that generally face inequality of opportunity. These have been identified as age, disability, gender, sexual orientation, faith or belief and ethnicity. The aim of the Single Equality Scheme is to provide a clear approach to equality and diversity across all communities.
- 5.3 The Single Equality Scheme has considered how the extension of the principles of the equality duties may work across the other diversity strands of age, gender identity (wider than transsexual as covered by the gender equality duty), religion or belief, and sexual orientation. The Scheme looks at some issues which may be of relevance to those strands, and has considered how our work may impact on them, and what actions we might take. These strands are

also to be included in our equality impact assessments and more actions may be identified for these and other strands as a result of this process.

- 5.4 The Equality Action Plan attached as Appendix 1 to the Scheme incorporates the identified areas for improvement across the six equality strands following consultation.
- 5.5 In some instances, delivering equality may mean breaking down unfair barriers and discrimination. In others it may simply mean changing the way we deliver services to make them more accessible for all. This is a matter of good service delivery for all our residents.
- 5.6 The Council has specific duties to consult on the development of equality schemes and policies. There is a duty to involve people with disabilities in the development of the Disability Equality Scheme.
- 5.7 Good Governance is important for the scheme to have the maximum positive impact and effect over the next three years. This will be achieved through:
- a) Equality Champions.** These are Council Officers who will support their service area and Head of Service to deliver the Council's equality agenda.
 - b) The Community Forum.** This will be a stable, long term working group made up of representatives from community groups. It will be involved in the development and implementation of the Single Equalities Scheme and will nominate a representative to sit on the Redditch Partnership.
 - c) The Corporate Management Team** will monitor the work on equalities. Progress will be reported regularly to the Corporate Management Team during the year.
 - d) The Executive Committee** will receive an annual progress report on the scheme (covering all equality strands) which will then be published in March of each year.
- 5.8 The Single Equality Scheme is a living document, elements of which are likely to change over the three year period of the Scheme. For example, parts of the action plan may develop further as a result of completed actions, future organisational change within the Council, or following changes in legislation. Any changes will be reported on annually in March.

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6. Other Implications

- Asset Management - None specific
- Community Safety - It is anticipated that improving service design and delivery to achieve equality of outcomes for local people (while promoting good relations between different groups in the community) will have a positive impact on matters such as community safety, crime and disorder, and community cohesion.
- Human Resources - There are no staffing implications associated with this report.
- Social Exclusion - Social exclusion of vulnerable or marginalised individuals and communities has a direct link with equality of access to services.

7. Lessons Learnt

- 7.1 The equalities agenda is very complex and requires effective consultation with both internal services and external customers from all sections of the community. Equalities is a fast moving and dynamic policy development area and officers, while researching best practice found a multitude of different schemes, with differing emphasis and different degrees of community involvement.

8. Background Papers

- 8.1 The Equality Framework for Local Government.

9. Consultation

- 9.1 This report has been prepared in consultation with relevant Borough Council Officers.
- 9.2 Other consultees were the Crime and Disorder Reduction Partnership, the Community Forum, the Home Office and support was given by IDeA.

10. Author of Report

The author of this report is Angie Heighway (Head of Strategy & Partnerships) and Pat Bellamy (Policy Officer), who can be contacted on extension 3122 or 3193

Executive

Committee

9th December 2009

(angie.heighway@redditchbc.gov.uk or
pat.bellamy@redditchbc.gov.uk) for more information.

11. Appendices

Appendix 1 – Single Equality Scheme 2009 – 2012.

Executive Committee

No specific ward relevance

9th December 2009

ANNUAL MONITORING REPORT 1ST APRIL 2008 – 31ST MARCH 2009

(Report of the Acting Head of Planning and Building Control)

1. Summary of Proposals

The Committee's endorsement is sought to submit the Annual Monitoring Report (AMR) 2008 - 2009 to the Government Office for the West Midlands (GOWM) by the 31st December 2009 and to publish the document. Being a factual monitoring document, endorsement is also sought for Officers to submit the AMR annually in the future, subject to there being no issues highlighted from monitoring.

2. Recommendations

The Committee is asked to RESOLVE that

- 1) **the Annual Monitoring Report 2008/09 (as attached at Appendix A to the report) be approved for submission to the Government Office for the West Midlands and for subsequent publication; and**
- 2) **from the 2009/10 Annual Monitoring Report period onwards, Officers submit the Annual Monitoring Report subject to there being no indications that policies need to be reviewed.**

3. Financial, Legal, Policy, Risk and Sustainability Implications

Financial

- 3.1 The cost of producing the AMR 2008/09 has been met from within existing budgets and its publication can also be met from within existing budgets.

Legal

- 3.2 Section 18 of the Planning and Compulsory Purchase Act (2004) requires all local authorities to prepare an AMR annually. This AMR must therefore be submitted to GOWM by the 31st December 2009. The requirements of the AMR are set out in Regulation 48 of the Town and Country Planning (Local Development) (England) Regulations 2004.

Policy

- 3.3 Once adopted, the AMR 2008 - 2009 (in Appendix A of this document) will form part of the Local Development Framework.

Risk

- 3.4 If policies in Local Development Documents are not monitored effectively in the AMR, there could be a risk that potential problems with the implementation of policies which would not be picked up.

Sustainability / Environmental

- 3.5 The AMR contributes to sustainability by monitoring those policies which are designed to contribute to sustainability, where the AMR identifies this is not the case, analysis of the monitoring can be undertaken to ensure that in the future policy development is more effective.

Report**4. Background**

- 4.1 Section 35 of the Planning and Compulsory Purchase Act (2004) requires each local planning authority to submit an AMR to the Secretary of State. This AMR is the fifth AMR to be prepared by Redditch Borough Council under the 2004 Act. The AMR monitors the period the 1st of April 2008 to the 31st of March 2009. The AMR must contain information on the implementation of the Local Development Scheme (LDS) and the extent to which the policies set out in Local Development Documents are being achieved.
- 4.2 The AMR is a crucial part of the “feedback loop” within the cyclical process of policy-making. The AMR provides information on the performance of policy and its surrounding environment, taking a future-orientated approach by identifying the key challenges and opportunities and enabling adjustments and revisions to be made if necessary. The planning system has a focus on delivering sustainable development and sustainable communities. The AMR provides a check on whether those aims are being achieved.
- 4.3 An important aspect of the planning system is the flexibility to update components of the Local Development Framework to reflect changing circumstances. The ability to produce various Local Development Documents, as opposed to one Local Plan document, allows the Council to respond quickly to changing priorities for development and to react to the findings of the AMR expediently. The AMR plays a critical role in identifying whether policies are working and if they need replacing. If the AMR identifies that a policy

is not performing the Council should consider whether the policy needs replacing through a new Development Plan Document.

5. Key Issues

5.1 The AMR is a report of the monitoring of policies in Redditch's existing Local Development Documents. The AMR does not suggest new policies therefore it is suggested that it would be appropriate for officers to submit the AMR without Member endorsement, allowing more time for officers to prepare the AMR. If however the outcomes of annual monitoring suggest that alterations to policies may be necessary, the AMR and potential implications will be reported to Members.

5.2 This section of the report outlines the context of the AMR (Appendix A).

Introduction

5.3 The purpose of this fifth AMR is to meet a number of interrelated tasks, set out in Regulation 48 of the Town and Country Planning (local development) (England) Regulations 2004 and in Planning Policy Statement 12 Local Development Frameworks.

Local Development Scheme Implementation

5.4 This section analyses whether the timetable for the preparation of documents set out in the LDS has been met or progress is being made towards them within the monitoring period. The progression of the Core Strategy was delayed due to an extended consultation period as part of the Core Strategy's development. As a consequence, the subsequent phase of Core Strategy development was not achieved, however this was accepted by Government Office.

Monitoring Policy Performance

5.5 A key element of the AMR is the monitoring of the implementation and performance of policy against its objectives. The Local Plan No.3 objectives have been the basis for developing Local Output Indicators, therefore this section should be read in conjunction with section 4.2 (main report – Appendix A) of the AMR.

Policy Implementation – The Main effects

5.6 This section of the AMR addresses the final requirements of an AMR by providing the Core Output Indicators and Local Indicators and setting out whether policies are to be amended or replaced.

Core Output Indicators

- 5.7 Core Output Indicators measure the quantifiable events directly related to planning policy implementation, they are set nationally. Core Output Indicators (COI) provide information on the following:-
- a) Business Development and town centres;
 - b) Housing; and
 - c) Environmental Quality.

Local Indicators

- 5.8 Local Indicators address the outputs of policies not covered by the Core Output Indicators. Local Plan policies are implemented through the Development Control process.
- 5.9 In measuring the extent to which objectives are being met, Local Indicators will serve to identify where policies need to be strengthened, maintained, changed in some way or, if necessary, removed from the plan.

6. Other Implications

- | | | |
|------------------|---|--|
| Asset Management | - | None. |
| Community Safety | - | The AMR contributes towards community safety by monitoring the effectiveness of related planning policies. If the policies fail to work towards community safety the AMR will demonstrate this and relevant policies can be reviewed. |
| Human Resources | - | None. |
| Social Exclusion | - | The AMR contributes towards social exclusion by monitoring the effectiveness of related planning policies. If the policies fail to work towards Social Exclusion, the AMR will demonstrate this and relevant policies can be reviewed. |

7. Lessons Learnt

Not applicable.

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Committee

9th December 2009

8. Background Papers

None.

9. Consultation

The AMR is not subject to public consultation as it is a factual document. Relevant Redditch Borough Council Officers have been consulted in the formation of this Committee report.

10. Author of Report

The author of this report is Ashley Baldwin (Planning Assistant), who can be contacted on extension 3376 (e-mail ashley.baldwin@redditchbc.gov.uk) for more information.

11. Appendices

Appendix A - Annual Monitoring Report 1st April 2008 – 31st March 2009.

Executive Committee

No Direct Ward Relevance

9th December 2009

COUNCIL TAX AND NON-DOMESTIC RECOVERY POLICY AND PROCEDURES

(Report of the Head of Financial, Revenue and Benefits Services)

1. Summary of Proposals

The report outlines the requirement for an approved policy and procedures for the recovery of Council Tax and Non-Domestic Rates.

The Executive is asked to approve a policy and procedures and to approve the use of "second referral" bailiffs in appropriate cases.

2. Recommendations

The Committee is asked to RECOMMEND that

- 1) the Council Tax and Non-Domestic Rates Recovery policy attached to this report at appendix 1 be approved; and**

RESOLVE that

- 2) Members approve the use of a second referral bailiff company to take action in the cases determined in accordance with the Council Tax and Non-Domestic Rates Recovery Policy**

3. Financial, Legal, Policy, Risk and Sustainability Implications

Financial

- 3.1 The Council has determined a bad debt provision and it is not anticipated that the adoption of the Recovery Policy will have any financial implications.

Legal

- 3.2 The adoption of the Council Tax and Non-Domestic Rates Recovery Policy will provide them framework within which the Council carries out its duty, under the Local Government Finance Acts 1988 and 1992, to collect Non-Domestic Rates and Council Tax.

Policy

- 3.3 The determination of the appropriate recovery actions for Council Tax and Non-Domestic Rates are controlled by existing debt management and write off policies.
- 3.4 Approval of the Council Tax and Non-Domestic Rates Revenue Services Recovery policy will supersede these earlier policies in regards to action for the recovery of Council Tax and Business Rates.

Risk

- 3.5 The maintenance of collection rates has been identified as a key risk within the Revenue Services Section. The approval of a recovery policy and recovery procedures, to provide a framework within which officers can make decisions for the recovery of outstanding balances, has been identified as a key action mitigating the risk of failing to maintain collection rates.
- 3.6 The Local Government Ombudsman has an expectation that councils will have an approved policy and procedures for the recovery of Council Tax and Non-Domestic rates. Failure to review and approve the Recovery Procedures could lead to finding of mal-administration against the Council. The approval of the policy will reduce the likelihood of this outcome

3.7 Sustainability / Environmental

None.

Report**4. Background**

- 4.1 The authority has a general duty to ensure economy, efficiency and effectiveness in the billing and collection of Council Tax and Non-Domestic Rates. In addition to this duty recent decisions of the Local Government Ombudsman (LGO) and his annual report published in July have made it clear that there is an expectation that Councils will have clear and easily understood policies and procedures for the collection of Council Tax and Non-Domestic Rates.

Executive Committee

9th December 2009

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- 4.2 The approval of a Recovery Policy and Recovery procedures will provide a structure within which we can demonstrate economy, efficiency and effectiveness and will satisfy the requirements of the LGO for approved procedures to be in place.
5. **Key Issues**
- 5.1 The existing framework within which decisions relating to the recovery of Non-Domestic Rates and Council Tax does not provide detailed considerations to assist in the selection of the appropriate recovery action.
- 5.2 The LGO has been openly critical of Council's with policies which do not provide officers a framework within which the appropriate recovery options, including bankruptcy can be considered.
- 5.3 The LGO has gone as far as to state that they consider it maladministration where bankruptcy action is being taken in the absence of such a policy.
6. **Other Implications**
- | | | |
|------------------|---|-------|
| Asset Management | - | None. |
| Community Safety | - | None. |
| Human Resources | - | None. |
| Social Exclusion | - | None. |
7. **Lessons Learnt**
- None.
8. **Background Papers**
- None.
9. **Consultation**
- This report has been prepared in consultation with relevant Borough Council Officers.
10. **Author of Report**

Executive Committee

9th December 2009

The author of this report is David Riley (Revenue Services Manager) who can be contacted on extension 3382 (e-mail: david.riley@redditchbc.gov.uk) for more information.

11. **Appendices**

Appendix 1 - Draft Council Tax and Non-Domestic Rates Recovery Policy.

APPENDIX 1

**Redditch Borough Council
Revenue Services Section
Council Tax and Non-Domestic Rates Recovery Policy**



www.redditchbc.gov.uk

Contents

- 1. Introduction and the Policy**
- 2. General Principles**
- 3. Information and Advice**
- 4. Equality**
- 5. Partnership with advice agencies**
- 6. Council Tax Procedures**
- 7. Non- Domestic Rates Procedures**
- 8. Payment Arrangements**
- 9. Maximisation of Income**
- 10. Holistic View of the Debtor**
- 11. Vulnerability and Mental Health**
- 12. Write offs**
- 13. Monitoring the Policy**

Appendices

Bailiffs Code of Practice

Introduction and the Policy

- 1.1. The purpose of this policy is to set out a framework within which employees of Redditch Borough Council will make decisions on the appropriate courses of recovery action.
- 1.2. The policy, while primarily aimed at staff, will also provide information to advice agencies on the processes applied by Redditch Borough Council when dealing with the recovery of Council Tax and Non-Domestic Rates.

1.3. Policy Statement

- 1.4. Redditch Borough Council has a legal duty to ensure cost effective billing, collection and recovery of all sums due to the council.
- 1.5. The recovery policy will comply with current legislation and corporate policies.
- 1.6. The policy will ensure all tax and ratepayers are treated fairly and objectively.

1.7. Policy Objectives

- To be firm, fair and sympathetic when assessing an individual's ability to pay.
- To correctly follow all appropriate legislative requirements and procedures in an efficient and effective way.
- To maximise recovery of debts using all methods available
- To ensure that there is clarity in the enforcement action process.
- To identify and assist, at an early stage, those who face difficulties in paying and to encourage them to contact us.
- To help identify customers who face barriers in understanding what is expected of them – because of age, language, culture or disability.
- To enable customers with multiple council debts who are unable to make their payments to make a consolidated arrangement in respect of their total debt.
- To maximise the income of debtors by ensuring that they are in receipt of all appropriate help.

1.8. The Policy will:

- Help identify deliberate non-payers or people who delay payment.
- Enable people who fall into arrears to come to payment arrangements that are both acceptable to the council and appropriate to their circumstances.
- Ensure that when we take enforcement action it is appropriate and likely to be effective.
- To ensure that all charge and ratepayers are treated fairly.

2. General Principles

- 2.1. We will provide clear and prompt information about liabilities. The information we provide will show;
 - Which property the demand is for.
 - The amount due.
 - How to make payment.
 - A contact point for all enquiries.
- 2.2. All correspondence will be clearly written. We will avoid the use of jargon and where appropriate we will include information about your rights of appeal or where to get independent help and advice.
- 2.3. Where possible we will advise people about how they can reduce their liabilities by;
 - Informing people of the available discounts, reductions, exemptions or benefits.
 - Promoting maximum take-up of benefits and discounts and ensuring that demands are issued which include any entitlements.
 - Inform people of the general availability of income related benefits such as Jobseeker's Allowance, Income Support, Tax Credits and Disability Allowances.
 - Inform people of the availability of independent advice for people with financial problems.
 - We will provide clear information about the recovery process and the steps that will be taken if people do not pay.
 - We will encourage people to contact us or to seek help at the earliest possible stage.
- 2.4. When people contact us to make an arrangement we will;
 - Request details on their employment status and income.
 - Try to agree to a payment arrangement which is acceptable to the council and appropriate for the person's circumstances.
 - Expect priority debts to be treated as such.
 - Request documentary evidence of income and expenditure where it is appropriate.
- 2.5. Timely recovery action can prevent arrears becoming unmanageable and in general we will ensure that recovery action up to and including the issue of a summons for non-payment is taken within one month of an amount falling due.
- 2.6. Where there are delays in taking action we will, if requested, provide an explanation of the reason for the delay. Any delay in taking action will not remove or inhibit our rights in seeking payment of the arrears.
- 2.7. We will only take recovery action where it is appropriate and likely to be effective.

3. Information and Advice

- 3.1. We will provide information and advice to people throughout the whole recovery process. The advice will vary dependant on the stage in the recovery process but in general the aim will be to ensure that people are;
- Fully informed as to how the liability has accrued.
 - Aware of the discounts, reductions and benefits that may be available.
 - Aware of the action that will be taken if they do not pay.
 - Aware of the independent advice that is available if they are experiencing financial difficulties.

3.2. Information and Advice to Council Tax payers

- 3.3. The Council encloses information with the annual Council Tax Demand which covers;
- Valuation Bands
 - Discounts
 - Reductions for people with disabilities
 - Exempt Dwellings
 - Council Tax Benefit
 - Appeals
 - How the Council Tax is spent
- 3.4. Where we have issued a reminder or final notice we will enclose information which will explain what will happen if the notice is not paid.
- 3.5. When a summons for non-payment of Council Tax is issued we will provide general advice on;
- why the summons has been issued,
 - what happens at court,
 - what defences are available at court
 - what will happen if the debt is not paid
 - We will also provide advice on the availability of independent financial advice for people who have financial difficulties.
- 3.6. When a liability order has been granted we will write to the customer advising them of this and requesting information on their employment status. We will provide information on what will happen if they don't pay and the powers that liability order provides to the council.

3.7. Information and Advice to Ratepayers

- 3.8. The Council encloses information with the Non-Domestic Rate demand which covers;
- The rateable value
 - The Non-Domestic Rate Multipliers
 - Charitable and Discretionary Rate Relief
 - Hardship Relief
 - Small Business Rate Relief
 - Rural Rate Relief
 - Information on Council Budgets.
- 3.9. Where we have issued a further or reminder notice we will provide information which will explain what will happen if the notice is not paid.
- 3.10. When a summons for non-payment of Non-Domestic Rates is issued we will provide general advice on why the summons has been issued, what happens at court, the defences that are available at court and what will happen if the customer does not pay. We will also provide advice on the availability of independent financial advice for people who have financial difficulties.

4. Equality

- 4.1. The Council is required to pursue all debts irrespective of a person's age, disability, ethnic origin or language. However, the council recognizes that some groups of people may have difficulty in understanding or dealing with their financial problems.
- 4.2. Redditch Borough Council has a comprehensive race equality scheme. The scheme states "The Council is committed to equality of opportunity in the provision of service and aims to ensure that within the resources available, services are accessible and appropriate to the differing needs of the general public".
- 4.3. The race equality scheme states that we will aim to;
 - Provide appropriate, accessible and effective services and facilities to the general public without prejudice or bias.
 - Provide clear information about our service in a variety of formats, on request.
 - Identify appropriate representative groups and strive to work in partnership through consultation with and involvement of these representatives in decisions we make.
 - Ensure that action is taken to identify groups who have specific needs in relation to the council's services.
 - Ensure that all employees understand what equality in service provision means.
- 4.4. We believe that the principles of the race equality scheme should be applied across all groups to ensure that no-one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation, disability or age.
- 4.5. We will ensure that all reasonable effort is made to provide a suitable opportunity for groups to make their opinions known and to highlight any barriers experienced in using the service.
- 4.6. Contractors engaged in the collection of Council Tax and Non-Domestic Rates on behalf of the council will be assessed to ensure that they meet the Council's equal opportunity standards.
- 4.7. Documentation issued by or on behalf of the council will be reviewed to ensure that it is clear and provides information on special needs requirements. These include: translation services, large print and Braille.

5. Partnership with advice agencies

- 5.1. We will work with advice agencies and the voluntary sector to ensure that our procedures are fair and are applied in a consistent manner. The partnership with the advice sector will include consultation on the content of our recovery policy and procedures, and the content of our recovery notices.
- 5.2. Where appropriate we will enter into agreements with advice agencies which will provide for the standards of service which can be expected between both organisations and to the external customer.
- 5.3. Agreements with advice agencies will include;
 - Agreement for effective liaison between the agency and the council.
 - Processes by which recovery procedures can be held in abeyance whilst an assessment is made of the customer's financial situation.
 - Process by which we can refer cases to the advice agency for debt advice.
 - An agreement on the circumstances in which a repayment proposal determined by the advice agency will be accepted without the need for further evidence from the customer.
 - A commitment to provide training, advice and information on a reciprocal basis.
 - A method by which informal complaints can be captured by advice agencies and used to review recovery processes.
 - Agreement as to the progression of cases where a debtor has been identified as vulnerable.

6. Council Tax Procedures

- 6.1. The recovery process operated by Redditch Borough Council complies with existing regulations. A recovery timetable is drawn up at the beginning of each calendar year. The timetable ensures that all taxpayers are treated fairly and objectively.
- 6.2. The timetable will provide that;
- All notices are issued in a timely manner in accordance with regulations.
 - That the issue of recovery notices is planned to ensure that the maximum number of staff will be available to assist taxpayers.
- 6.3. The actions to minimise arrears and the enforcement considerations which will apply at each stage of the Council Tax recovery process are summarised in the following sections.

6.4. Demand and Adjustment Notices

- 6.5. We will issue annual Council Tax demands in the March prior to the commencement of the Charge Year.
- 6.6. If a Council Tax payer is making their payments by a method other than Direct Debit then we will promote the availability of Direct Debit. We believe that Direct Debit is the most efficient payment method and that it helps the council to assist taxpayers in managing their account because;
- Direct Debit offers taxpayers a number of different payment dates.
 - The collection of the instalments is automatic and this helps to prevent unnecessary recovery action.
 - The prevention of unnecessary recovery action helps the council to concentrate on the people who don't pay and to help people in genuine financial difficulty.
- 6.7. Where there are changes in liability or discount entitlement demand and adjustment notices will be issued on a daily basis.
- 6.8. In order to reduce the number of accounts that become recovery cases before we issue a notice we will ensure that;
- The notice is issued as soon as practicable, providing the council tax payer with the maximum number of instalments.
 - We have the correct correspondence address.
 - That the correct people are shown as liable and that all Jointly and Severally liable parties are shown on the demand.
 - That any discount, reduction or period of exemption that the taxpayer is entitled to has been correctly applied.
 - That any benefit entitlement has been awarded correctly.

- We have promoted the benefits of paying by Direct Debit.

6.9. Reminders

- 6.10. Reminders will be issued between 10 to 18 days of the instalment becoming due. However, during certain times of the year this may be reduced to 7 days particularly in February and March as the end of the charge year approaches.
- 6.11. The reminder will inform the taxpayer of the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.
- 6.12. All reminders will be accompanied by information explaining why reminders are issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.
- 6.13. Reminders will be issued by second class post on the day that they are printed. Prior to the posting of the reminder notices we will ensure that the number of notices to be posted corresponds to the number produced by the Council's revenues software. This will ensure that in the event of a dispute over the issue of a reminder we can be sure that all notices produced by the council have been posted to the taxpayer.
- 6.14. The reminder will allow seven days for the overdue amount to be paid. If the amount is not paid then, after a further seven days, a complaint will be made to the Magistrates' court and a summons for non-payment of Council Tax will be issued.
- 6.15. In accordance with the regulations only two reminders will be issued to a taxpayer in any charge year.

6.16. Final Notice

- 6.17. Where the amount due is payable by one instalment, all instalments have fallen due or the taxpayer has defaulted on an instalment for the third time in a charge year a Final Notice will be issued.
- 6.18. The Final Notice will inform the taxpayer that they have lost the right to pay by instalments, that the whole balance of Council Tax for the charge year is payable, the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.
- 6.19. Final Notices will be accompanied by information explaining why the notice has been issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.

- 6.20. Final Notices will be issued by second class post on the day that they are printed. Prior to the posting of the notices we will ensure that the number of notices to be posted corresponds to the number produced by the Council's revenues software. This will ensure that in the event of a dispute over the issue of a reminder we can be sure that all notices produced by the council have been posted to the taxpayer.
- 6.21. The Final Notice will allow seven days for the overdue amount to be paid. If the amount is not paid then a complaint will be made to the Magistrates' court and a summons for non-payment of Council Tax will be issued.
- 6.22. Summons and Liability Order Application**
- 6.23. A summons will be issued if the taxpayer has not made payment in accordance with a reminder of final notice or has not made contact to discuss a suitable payment arrangement.
- 6.24. In some circumstances if a taxpayer has agreed to make payments under a special arrangement then a summons may still be applied for to protect the Council's interests.
- 6.25. A summons is issued as a result of the Council commencing the application for a liability order. A complaint will be made to the magistrates' court requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.
- 6.26. The summons will be served in the manner directed with the regulations and will provide a minimum of 14 days between service and the hearing date.
- 6.27. Notes explaining the reasons why summonses are issued, the defences against the issue of a liability order, the matters that can not be raised in defence, the enforcement action that may be taken if the amount is not paid, and information on discounts, benefits and reductions will accompany the summons.
- 6.28. If the debtor has a claim for Council Tax Benefit outstanding then a summons maybe issued and a liability order applied for but no further action will be taken pending the outcome of the benefit application.
- 6.29. If the benefit application is successful then consideration will be given to utilising the council's powers to request that the liability order be quashed. In most cases this power will only be exercised where the subsequent benefit award reduces the balance of the liability order to the level of the costs debited to the account.
- 6.30. The issue of the summons and the application for a Liability Order will incur costs which are debited to the debtor's Council Tax account.
- 6.31. Only in exceptional circumstances are the costs deemed not to be payable, these circumstances may include cases where the summons has been issued solely to

protect the council's interests or where the Council Tax outstanding is below the level of the council's costs.

- 6.32. In cases where the costs are removed the debtor will still be expected to pay the administration costs charged by the magistrates' court for the issue of the summons.
- 6.33. The Revenue Services Manager, The Senior Revenues Officers, The Enforcement Officers or the Revenues Officers may withdraw a summons. They will use their own discretion and show justification for their decision. As a general rule a summons will only be withdrawn if it has not been served, it is incorrect of there are other exceptional circumstances.
- 6.34. The Liability Order will provide the council with further powers to recover the Council Tax, these powers are
- The request for financial information
 - Attachment of Earnings Orders
 - Deductions from Benefit
 - Attachment of Allowances
 - Distress
 - Insolvency
 - Charging Orders
 - Committal to Prison.
- 6.35. The method of the recovery for individual cases will be made based on the most appropriate and effective remedy available. The matters which will influence the decisions of the council are detailed below.
- 6.36. Request for Financial Information**
- 6.37. Within five days of the Liability Order being granted we will write to the debtor requesting that they provide details of their employment, earnings or benefits. Information must be provided within fourteen days.
- 6.38. If the information is not provided, or if information provided is shown to be false then we may take action against the debtor. The debtor will be prosecuted in the Magistrates' court and a punitive fine may be issued and costs awarded. These financial penalties are distinct and separate to the Council Tax and are collected by the court.
- 6.39. Attachment of Earnings Order**
- 6.40. Where a debtor is employed an Attachment of Earnings order will be the preferred method of recovery. If it is shown that the debtor will suffer undue hardship then a payment arrangement may be agreed in preference to the Attachment of Earnings.

6.41. Any payment arrangement will need to be made before the issue of the attachment of earnings order; once the order is issued we will not vary the terms of the order.

6.42. If an alternative arrangement is made and the debtor defaults then the attachment of earnings order will be issued without prior notification.

6.43. Deductions from Benefits

6.44. Applications for deductions to be made from a debtor's Jobseeker's Allowance, Income Support, Pension Credits or Employment Support Allowance will be made in preference to any other recovery method.

6.45. An exception to 6.44 will be made where it appears that the debtor may have other means with which to pay the outstanding amount. This may be:

- Cases where the debtor has other people resident in the property who are not liable for Council Tax but contribute towards household expenses.
- The debtor owns property and a charging order or bankruptcy petition may be appropriate.
- The debtor has savings or capital which could be used to discharge the debt.

6.46. The Council Tax regulations dictate that where deductions from benefit are in force or an application for deductions from benefit has been made then no other action may be taken against the debtor. This precludes any action under any other liability orders and therefore if deductions from benefit are made all action under other liability orders must be stopped.

6.47. Where a liability order is made against two or more joint taxpayers and deductions from income support are made then action against any of the other joint taxpayers who are part of the same family may not be taken under any other liability order. Where there are joint taxpayers care will be taken to ensure that any other action is stopped while the deductions are in force.

6.48. Attachment of Allowances

6.49. Attachments of Allowances may be made against an elected member of a billing authority or a precepting authority.

6.50. Where a liability order has been granted against an elected member of the authority the provisions of Section 106 (restrictions on voting) of the Local Government Finance Act 1992 will apply.

6.51. These cases will be referred to the Revenue Services Manager who, in liaison with the appropriate monitoring officer, will make the application for attachment of allowances and take the appropriate action to ensure the provisions of section 106 are applied.

6.52. Distress

- 6.53. Where the debtor does not make an offer of payment, or the debtor fails to maintain an existing payment arrangement. The council's appointed enforcement agents will be instructed to recover the balance outstanding by the levy of distress.
- 6.54. Consideration as to the appropriateness of Attachment of Earnings and Deductions from benefit will be made prior to the instruction of bailiffs. Attachment of Earnings or Deductions from benefit will be made in preference to the levy of distress except where;
- It appears that the debtor may have self employed earnings in addition to their earnings from employment.
 - The debtor has other means with which to pay the debt: Savings or capital.
 - The debtor's wages include tax credits, which are not attachable, and financial statements indicate that disposable income is above the level of deductions under an attachment of earnings order.
- 6.55. The council's enforcement agents will comply with the code of practice detailed in the appendices of this document.
- 6.56. The enforcement agents will be authorised to enter into payment arrangements with the debtor. The council will not intervene in the actions of the enforcement agent except in exceptional circumstances.

6.57. Second referral bailiff action

- 6.58. If distress is unsuccessful and the debtor is not employed nor in receipt of benefits then the available recovery actions will be limited to insolvency, charging orders or committal to prison.
- 6.59. Insolvency action and charging orders are remedies which will only be utilised where the debtor has realisable assets and it appears that there is likelihood that the debt will be discharged.
- 6.60. If the debtor has no realisable assets then committal action will be the only available option. The costs of obtaining a committal order are substantial and therefore in preference to this action the council will consider secondary distress.
- 6.61. The secondary distress will be executed by a separate set of enforcement agents.
- 6.62. Care must be taken to ensure that the debtor is not subjected to conflicting demands from the separate enforcement agents and therefore the following principles will be applied;
- The second referral bailiff will contact the debtor prior to visit and provide a final opportunity for them to pay the outstanding balance.

- Only one set of enforcement agents will be instructed to take action against a debtor at any one time.

6.63. Insolvency

6.64. Where the balance outstanding under a Liability Order or a number of Liability Orders is greater than £750.00 the council may apply for a bankruptcy order or in the case of a company an order for the winding up the company.

6.65. In most cases the commencement of bankruptcy proceedings will not be undertaken if the debt can be recovered by way of an attachment of earnings, deductions from benefit or by distress.

6.66. Bankruptcy action may be undertaken, in preference to attachment of earnings, deductions from benefits or distress if it is considered to be more appropriate. Examples of where bankruptcy action may be more appropriate are;

- The debtor is self employed and an attachment of earnings is unavailable.
- The debtor is self employed and an attempt to levy in respect of earlier Liability Orders has shown that there are insufficient goods or all distrainable goods are protected as tools of the trade.
- Distraint has been attempted in respect of earlier Liability Orders and recovery by this method has proved to be unsuccessful.
- Bankruptcy proceedings have proved to be successful in respect of earlier Liability Orders.
- Information is held that indicates that the debtor may have realizable funds that are sufficient to discharge the debt in full. This may be the case following a benefit investigation which has revealed undeclared capital.

6.67. In considering the use of Bankruptcy as an enforcement tool the Council will have regard to the likelihood of alternative methods being successful within an appropriate period. If the alternative methods will discharge the debt in an acceptable period then they will be taken in preference to the Bankruptcy action.

6.68. In some cases a charging order may be more appropriate than bankruptcy proceedings and the council may consider this action in preference to bankruptcy.

6.69. Cases where charging orders may be more appropriate may include;

- Where the debtor's home is being marketed for sale and it appears likely that a sale will be successful. This offers advantages to the debtor as the significant costs of bankruptcy can be avoided.
- The debtor is elderly or vulnerable.
- The council is unable to instigate bankruptcy proceedings because the service of the statutory demand is impracticable. The conditions for service in respect of a charging order are less onerous and therefore recovery by this method may be more appropriate.

- 6.70. In considering whether a charging order is more appropriate regard shall be made to the Council Tax collection good practice report produced 29 April 2004. The report at paragraph 9.7.3 considers the use of charging orders and bankruptcy and states that bankruptcy can be more effective than charging orders. Effectiveness of recovery procedures will be a consideration in determining the appropriate action. The council will consider whether the effectiveness of bankruptcy action outweighs the benefits to the debtor in applying for a charging order
- 6.71. The decisions as to whether a case is suitable for bankruptcy action will be made by The Revenue Services Manager or The Senior Revenue Officers.
- 6.72. Evidence of the reasons that bankruptcy action was chosen will be held within the Council's EDMS.
- 6.73. Where bankruptcy action is taken the council will send a letter to the debtor advising that this action is being considered and inform the debtor of the effects of bankruptcy.
- 6.74. If the debtor makes contact then the council will consider entering into a payment arrangement. Any arrangement must clear the debt within a reasonable period. This period will usually be no more than four months.
- 6.75. If no contact is made or if a payment arrangement is defaulted then the Council will commence bankruptcy proceedings by issuing a statutory demand.
- 6.76. In selecting a case for bankruptcy proceedings regard will be made to the level of the costs which will be incurred if a bankruptcy order is made and to the fact that the action may result in a debtor losing their home.
- 6.77. Other factors which will be considered prior to the commencement of bankruptcy action are;
- Whether the debtor is vulnerable. Enquiries will be made with other council departments including Housing Services and Benefits Services, information will also be sought from the County Council Adult Services teams.
 - Whether contact has been made with the debtor. Where there is no history of contact with the debtor we will attempt personal visit.
 - The debtor's payment history. Where there is a lengthy history of non-payment or of failing to adhere to payment arrangements then we may consider it inappropriate to enter into further arrangements and pursue the bankruptcy action.
- 6.78. Charging Orders**
- 6.79. Where the balance outstanding from a debtor under a Liability Order or a number of Liability Orders is greater than £1000.00 we may attempt recovery of the debt by application for a charging order.

- 6.80. An application for a charging order will usually only be made where recovery by way of attachment of earnings, deductions from benefits or distress has been unsuccessful.
- 6.81. Charging Orders can only be made against the property for which the debtor was liable for Council Tax at the time the liability order was made.
- 6.82. In considering the application for a charging order the council will consider whether bankruptcy proceedings are more appropriate.
- 6.83. Committal to Prison**
- 6.84. Where a levy of distress has been unsuccessful the council will have the option to apply for a warrant committing the debtor to prison.
- 6.85. Before committal action is taken the Council will consider whether other methods of recovery are more appropriate. In general an attachment of earnings order or deductions from benefit will be preferred to committal action.
- 6.86. Where it appears that the debtor may have additional means with which to pay the amount due, and the means enquiry would identify these means, then committal action could be taken in preference to an attachment of earnings order. These cases would include;
- Where the debtor has savings which could be used to discharge the sum outstanding
 - The debtor's wages include tax credits which are not attachable and financial statements indicate that disposable income is above the level of deductions under an attachment of earnings
 - Cases where the debtor has other people resident in the property who are not liable for Council Tax but contribute towards household expenses
- 6.87. If the debtor has capital assets such as a property which would be available in other civil proceedings such as bankruptcy or the application for a charging order and there is sufficient equity to discharge the debt then these actions may be taken in preference to committal.
- 6.88. Where the debtor is under the age of 21 the Magistrates' power to commit to prison will only be available where there are no other appropriate methods available against the debtor. If alternative recovery methods are available against a debtor under the age of 21 then they will be taken in preference to committal action.
- 6.89. The application for committal to prison is intended to coerce payment and is not taken as a punitive measure. Where there is no possibility of payment being made then the authority will consider whether it is more appropriate to write off the outstanding sum.

6.90. Restrictions on Voting – Members of Local Authorities

- 6.91. Section 106 of the Local Government Finance Act 1992 provides that where an elected member of a Local Authority fails to pay an amount of Council Tax within 2 months of the due date there ability to vote on financial matters will be restricted.
- 6.92. The Council Tax accounts of elected members will be monitored on a monthly basis and where the accounts are in arrears the Revenue Services Manager or The Senior Revenues Officer will inform the monitoring officer of the appropriate authority. The monitoring officer should then inform the member of their responsibilities under section 106

7. Non Domestic Rates Procedures

- 7.1. The recovery process operated by Redditch Borough Council complies with existing regulations. A recovery timetable is drawn up at the beginning of each calendar year. The timetable ensures that ratepayers are treated fair and objectively.
- 7.2. The timetable will provide that;
- All notices are issued in a timely manner in accordance with regulations.
 - That the issue of recovery notices is planned to ensure that the maximum number of staff will be available to assist taxpayers.
- 7.3. The actions to minimise arrears and the enforcement considerations which will apply at each stage of the business rates recovery process are summarised in the following sections.
- 7.4. Demand Notices**
- 7.5. We will issue annual Business Rates demands in the March prior to the commencement of the charge year. Where there are changes in liability we will issue demand and adjustment notices on a daily basis.
- 7.6. In order to reduce the number of accounts that become recovery cases before we issue demand notice we will ensure that;
- The notice is issued as soon as practicable and provides the ratepayer with the maximum number of instalments.
 - We have the correct correspondence address
 - That the demand notice is issued in the correct trading style of the liable person.
 - That the liability periods are correct.
 - Promote the availability of Direct Debit and the choice of payment dates that this method provides.
 - Promote the availability of Small Business Rate Relief to ratepayers occupying qualifying premises.
- 7.7. Further notice**
- 7.8. Further notices will be issued between 10 to 18 days of the instalment becoming due. However during certain times of the year this may be reduced to seven days particularly in February and March as the end of the charge year approaches.
- 7.9. The Further notice will inform the ratepayer of the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.

- 7.10. Further notices will be issued by second class post on the day that they are printed. Prior to the posting of the reminder notices we will ensure that the number of notices to be posted corresponds to the number produced by the Council's revenues software. This will ensure that in the event of a dispute over the issue of a notice we can be sure that all notices produced by the council have been posted to the ratepayer.
- 7.11. The further notice will provide seven days for the overdue amount to be paid. If the amount is not paid within seven days a complaint will be made to the magistrates' court and a summons for non payment of Council Tax will be issued.
- 7.12. Further notices will be accompanied by information explaining why reminders are issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.
- 7.13. In accordance the regulations only one further notice will be issued to a ratepayer in any rates year.
- 7.14. Reminder notice**
- 7.15. Where the ratepayer has defaulted on an instalment for the second time in the rate year a reminder notice will be served.
- 7.16. The reminder notice will inform the ratepayer that the full balance of their rates liability has become payable, the amount due for payment, the property for which the payment is due the ways in which payment can be made and the action that will be taken if the amount is not paid.
- 7.17. Reminder notices will be issued by second class post on the day that they are printed. Prior to the posting of the reminder notices we will ensure that the number of notices to be posted corresponds to the number produced by the Council's revenues software. This will ensure that in the event of a dispute over the issue of a notice we can be sure that all notices produced by the council have been posted to the ratepayer.
- 7.18. The Reminder will allow seven days for the overdue amount to be paid. If the amount is not paid then a complaint will be made to the magistrates' court and a summons for non-payment of Council Tax will be issued.
- 7.19. Reminder notices will be accompanied by information explaining why reminders are issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.
- 7.20. Summons and Liability Order Application**

- 7.21. A summons will be issued if the ratepayer has not made payment in accordance with a reminder or final notice or has not made contact to discuss a suitable payment arrangement.
- 7.22. In some circumstances if a taxpayer has agreed to make payments under a special arrangement then a Liability Order may still be applied for to protect the Council's interests.
- 7.23. A summons is issued as a result of the council commencing the application for a liability order. A complaint will be made to the magistrates' court requesting the issue of a summons directing that person to appear before the court to show why he has not paid the sum which is outstanding.
- 7.24. The summons will be issued with information explaining the reasons why summonses are issued, the defences against the issue of a liability order, the matters that can not be raised in defence and the enforcement actions that may be taken if the amount is not paid.
- 7.25. The issue of the summons and the application for the liability order will incur costs which are debited to the debtor's rates account.
- 7.26. Only in exceptional circumstances are the costs deemed not to be payable, the circumstances may include cases where the application for the liability order has been made solely to protect the council's interest or where the rates outstanding are below the level of the council's costs.
- 7.27. In cases where the costs are removed the debtor will still be expected to pay the administration costs charged by the magistrates' court for the issue of the summons.
- 7.28. The Revenues Services Manager, The Senior Revenues Officers, Enforcement Officers or the Revenue Officers may withdraw a summons. They will use their own discretion and show justification for their decision. As a general rule a summons will only be withdrawn if it has not been served, it is incorrect or there are other exceptional circumstances.
- 7.29. The Liability Order will provide the council with further powers to recover the business rates. These powers are
- The levy of distress
 - Insolvency Proceedings
 - Security for unpaid rates
 - Committal to prison.
- 7.30. The method of recovery for individual cases will be based on the most appropriate and effective remedy available. The matters which will influence the decision of the council are detailed below.

7.31. The Levy of Distress

- 7.32. Where the debtor does not make an offer of payment, or the debtor fails to maintain an existing payment arrangement. The council's appointed enforcement agents will be instructed to recover the balance outstanding by levy of distress.
- 7.33. There is no requirement for the council to notify the debtor that this action is being taken. Case will be referred to the council's enforcement agents without prior notification to the debtor.
- 7.34. In some circumstances we may choose to issue a pre-bailiff warning letter. This is discretionary and may be done where the debt is deemed to be at a low level and warning of bailiff action may prompt payment or the debtor is making payments but the payments are made late which has resulted in the account progressing through the recovery stages.
- 7.35. The Council's enforcement agents will comply with the code of practice detailed in the appendices of this document.
- 7.36. The enforcement agents will be authorised to enter into payment arrangements with the debtor. The council will not intervene in the actions of the enforcement agents except in exceptional circumstances.

7.37. Insolvency

- 7.38. Where the balance outstanding under a liability order or a number of liability orders is greater than £750.00 the council may apply for a bankruptcy order or in the case of a company an order winding up the company.
- 7.39. In considering the use of Insolvency as an enforcement tool the council will have regard to the likelihood of alternative methods of recovery being successful within an appropriate period.
- 7.40. On occasions insolvency action for the recovery of business rates may be taken to prevent a continuing accrual of debts and not necessarily as a method to ensure collection of the outstanding sum.
- 7.41. The decision as to whether a case is suitable for insolvency proceedings will be taken by The Revenue Services Manager or The Senior Revenues Officers.
- 7.42. Evidence of the reasons that insolvency action was chosen will be held within the council's EDMS.

7.43. Security for Unpaid Rates

- 7.44. On agreement between the ratepayer and the council a charge may be placed on the debtor's interest in the property for which the liability has accrued.

- 7.45. In consideration of the agreement the council would not take steps to enforce the amount. The agreement can last for no longer than three years.
- 7.46. The agreement can include future liabilities for the property and interest.
- 7.47. The council would only seek to recover rates by this method where the arrangement would ensure payment of the arrears within a short period usually of one year or where there was a certainty that the property would be sold within the period of the agreement.
- 7.48. Committal to prison**
- 7.49. Where a levy of distress has been unsuccessful and the debtor is an individual the council may apply for a warrant committing them to prison.
- 7.50. Where the debtor is under 21 year's of age the Magistrates' power to commit to prison will only be available where there are no other appropriate methods available against the debtor. If alternative recovery methods are available then they will be taken in preference to committal action.
- 7.51. The application for committal to prison is intended to coerce payment and is not taken as a punitive measure. Where there is no possibility of payment being made then the authority will consider whether it is more appropriate to write off the outstanding sum.
- 7.52. Recovery in a court of competent jurisdiction**
- 7.53. The Non-Domestic Rates regulations allow that in preference to the application for a liability order the council may recover unpaid non-domestic rates in a court of competent jurisdiction. This would be the county court by way of a county court judgement.
- 7.54. Recovery by this method would allow the council to apply for either a charging order or a third party debt order.
- 7.55. Where the property is not for sale, and therefore security for unpaid rates would unlikely be successful or in circumstances where the debtor has property other than the hereditament for which the rates have accrued, then recovery in the county court and the application for a charging order may be used in preference to recovery under a liability order.
- 7.56. Where the debtor is known to have assets within a bank account, and the costs of applying for a third party debt order are less than that of recovery by insolvency then the council may recover in the county court.
- 7.57. The choice between recovery under a liability order or recovery in the County Court is a strict dichotomy, either we use obtain a liability order or we recover in the County Court. A decision in each case on which recovery route to use would need

to be made following the issue of a reminder notice but before the application for a liability order is made.

8. Payment Arrangements

- 8.1. Where a customer is experiencing difficulties in making payments we will consider entering into an arrangement for payment of the debt.
- 8.2. As a general principle the debt should be discharged by the end of the charge or rate year in which it accrued and it is for this reason that we encourage debtors to contact at the earliest possible stage.
- 8.3. When making an arrangement we will attempt to ensure that the amount that we ask someone to pay is realistic. This means that the payments are sufficient to discharge on-going liabilities and prevent further arrears but are not so high that they are unmanageable.
- 8.4. If unmanageable arrangements are made then it is likely that the customer will default and this will lead to avoidable costs and recovery action.
- 8.5. Where it is suspected that an offer of payment is too high or too low the customer will be asked to complete a financial circumstances form.
- 8.6. When a customer completes a financial circumstances form we will ask them to provide details of all of the debts which are due to the council. This will allow us to take an holistic view of the customer's indebtedness and where appropriate to enter into a consolidated arrangement.
- 8.7. When we receive details of a person's financial circumstances we will ensure that we attempt to maximise their available income. Details on how we will do this are summarised in section 9.
- 8.8. When negotiating an arrangement we will expect, as a minimum, current year's instalments to be paid on time. When an arrangement is made on account with multiple years debt any arrangement made in respect of arrears will be conditional on the maintenance of payments towards the current year's liability.
- 8.9. Arrangements from advice agencies**
- 8.10. We will work closely with local advice agencies and it is our aim to enter into agreements with advice agencies which will allow debt payment plans constructed by those agencies to be accepted without need for further evidence to be provided to us.
- 8.11. The circumstances in which advice agencies can formulate debt payment plans will be agreed between each individual agency and the local authority.
- 8.12. Monitoring Payment Arrangements**

- 8.13. All payment arrangements will be closely monitored if an arrangement falls into arrears the arrangement will be removed. This action will be taken where arrangements are in arrears by seven or more days.
- 8.14. Where an arrangement fails further recovery action will be taken and where a liability order has been obtained this action may be taken without further notice being issued to the customer.

9. Maximisation of Income

- 9.1. Maximisation of income is increasing income to a level at which it can not be increased any more. Officers of the Revenue Services Section are not able to fully maximise an individual's income as the knowledge of the full range of welfare benefits, grants and schemes of support will not be available.
- 9.2. We will assist the customer in maximising their income by:
- Training all staff on the availability of welfare benefits, grants and other schemes of financial support.
 - Ensuring that our financial circumstances forms indicate whether a customer is receiving all of the available support.
 - Ensuring that all customers are receiving their full entitlement to Council Tax discounts, disregards and reductions.
 - Ensuring that the arrangement that we make with customers are affordable, that they can be maintained and that the customer is aware of who to contact if their circumstances change.
 - Developing procedures for identifying customers who may be entitled to additional help and referring them to advice agencies, welfare advisors or appropriate officers and organisations.
 - Where appropriate taking a complete view of the customer's indebtedness to the council and agreeing a consolidated payment arrangement.
 - Promoting the availability of welfare benefits, grants and other schemes of financial support in information provided with recovery notices.

10. Holistic View of the Debtor

- 10.1. As a general principle the collection of debts owed to the council will be more successful if individual debt streams are monitored and recovered on a separate basis. The existence of distinct recovery mechanisms for the collection of Housing Rents, Sundry Income, Council Tax, Non-Domestic Rates and Housing Benefit overpayments supports this non-generic approach.
- 10.2. Where a customer has multiple debts and they are experiencing difficulties in making payments then it is not effective, either for the customer or the council, for separate sections and departments in isolation to pursue the debtor and negotiate payment of their individual debt stream.
- 10.3. Where a customer makes contact regarding Council Tax or Non-Domestic Rates arrears and has been asked to complete a financial circumstances form they will be asked to declare all debts owed to the council.
- 10.4. A single arrangement will be made in respect of the overall indebtedness. The intention of the arrangement will be to ensure that individual's overall indebtedness to the council does not worsen.
- 10.5. In practice this will mean that on-going liabilities will be prioritised and the minimum payment that can be accepted will clear all on-going liabilities as they accrue. Payment towards arrears will be prioritised according to principles agreed between departments.
- 10.6. This approach will ensure that the customer is not subjected to conflicting demands from different Council departments and that priority debts are tackled on an individual basis.
- 10.7. The Revenue Services Section will accept arrangements negotiated by other council departments and on a reciprocal basis arrangements will be made in respect of other council debts.

11. Vulnerability and Mental Health

11.1. Action against vulnerable groups

- 11.2. We recognise that our recovery procedures must protect vulnerable people and people with mental health problems. The OFT research paper *vulnerable consumer groups: quantification and analysis* identified seven categories of the population which might be considered vulnerable. The categories are;
- Those on a low income
 - The unemployed
 - Those suffering from a long term illness or disability
 - Those with a low level of educational attainment
 - Members of ethnic minorities
 - Older people
 - Younger people
- 11.3. The paper found that in total 70% of the UK population were represented within the seven groups.
- 11.4. It is clearly not practicable to avoid taking recovery action against all customers who may fall into one of these groups. However, we will work to minimise the adverse impact that recovery action may have on people within these groups. We will do this by;
- Ensuring that information on the recovery process is available and can be easily understood.
 - Explaining to individuals why we have taken a specific action and explaining how they can prevent further recovery action being taken.
 - Where we are aware that a person is vulnerable the impact of the action on the customer and the impact on the customer of a failure to take action will be assessed and a balanced decision on whether to proceed will be taken.
 - Agreeing with our enforcement agents when they will stop action against vulnerable people.
- 11.5. When deciding on the appropriateness of commencing recovery action against a vulnerable person we will consider the potential harm that the action may have on the individual and the possibility that it may be appropriate to write off all or part of a debt rather than to continue with the action.
- 11.6. Write off will only be considered in line with the council's write off policy.
- ### 11.7. Mental Health
- 11.8. As every household within the Redditch Borough has a potential liability for Council Tax it is evident that from time to time we will be required to deal with customers who have mental health problems.

- 11.9. We will take particular care when dealing with individuals with mental health difficulties where we are made aware of them.

We will do this by;

- Working closely with any advice agencies acting on behalf of the debtor
- Promptly carrying out any agreed actions and being flexible in responding to offers of payment.
- Managing communications in a sensitive way by aiming to prevent unnecessary mailings.
- Sharing information with other departments to ensure that they are aware of any mental health issues and prevent unnecessary action.
- Ensure that organisations acting on our behalf comply with codes of conduct and are sensitive to any mental health issues.
- Record relevant information on accounts so that debts are managed appropriately.
- Ensure that appropriate time is provided for relevant evidence of the effects of any mental health problems to be collated and forwarded to us.
- Where we are aware of mental health problems enforcement action will be taken as a last resort and when it is appropriate and fair to do so. We will seek to prevent;
- Unnecessary action that might further harm vulnerable people in debt.
- Action that exacerbates problems arising from temporary financial difficulties.
- Action where other alternatives have not been considered.

In order to carry out these actions we will require:

- Evidence to confirm a customers mental health status and the effects that their mental health problems have on their ability to manage money and debt. Evidence will be obtained using the Money Advice Liaison Group's debt and mental health evidence form.
- Consent from the customer to process data relevant to their mental health.
- Evidence of mental health status and the effects of mental health problems will be accepted from appropriate practitioners including
- Care co-ordinators
- Clinical Psychologists
- General Practitioners
- Mental Health Nurses
- Occupational Therapists
- Psychiatrists
- Social Workers

12. Write offs

- 12.1. We will exercise our discretion when deciding whether to write off debts, in general write off is only considered as a final option.
- 12.2. It is acknowledged that there will be some circumstances in which vulnerable people or those with mental health problems who are in debt should not proceed through all of the recovery options available. In these circumstances we will consider whether it is appropriate to write off some or all of the debt
- 12.3. The council's write off policy contains full details of the circumstances in which debts may be written off.

13. Monitoring the policy

- 13.1. It is the responsibility of the Revenue Services Section to ensure that the policy is effective. This will be achieved through monitoring of the complaints procedure and through monitoring of a number of indicators;
- Rate of in-year collection for Council Tax and Non-Domestic Rates
 - Number of cases held at each recovery stage
 - The comparative success rates of each recovery method
 - The level of arrears outstanding.