



**Report to: Cabinet**

**Subject: A Fair Collection and Debt Recovery Policy**

**Date: 5 February 2009**

**Author: Revenues Services Manager**

**1. PURPOSE OF REPORT**

The report details the reasons for introducing a Fair Collection and Debt Recovery Policy for the collection of Council Tax, Business Rates, Housing Benefit Overpayments and Sundry Debtors accounts and seeks approval to implement the policy immediately.

**2. INTRODUCTION**

The reason for the introduction of this policy has come about as a direct result of the outcome of a recent Ombudsman case at Wolverhampton City Council. The Ombudsman criticised the Council for not having proper procedures in place when taking Bankruptcy action against defaulters or when selecting other methods of recovery available, in relation to the circumstances of each particular case.

**3. BACKGROUND**

The case highlighted the need for all Local Authorities engaged in the use of Bankruptcy proceedings to have regard for the need to approach the use of such proceedings in a measured, appropriate and professional manner. The Wolverhampton case concerned the appropriate and proportionate use of Bankruptcy as a recovery option and, in particular, the processes in place to support the justification for this particular type of action to be taken.

It also highlighted three key points that Local Authorities need to be aware of when considering which type of recovery action should be applied:

- i) The need to send an adequately worded letter to the debtor before the instigation of bankruptcy action commences detailing the consequences, effects and potential costs of bankruptcy,
- ii) An internal procedure or policy document available to staff to ensure that appropriate and measured enforcement decisions can be made in choosing the appropriate recovery action to be taken
- iii) To ensure all the relevant evidence is available in respect of any considerations that have been made in respect of the choice of recovery action taken.

#### **4. CURRENT POSITION**

The Council does not currently have a policy which enables the consistent consideration or application of either Bankruptcy applications, making an application for a debtor's Committal to Prison or the use of a Charging Order against the property for the recovery of unpaid monies.

As a result of the Wolverhampton case and in subsequent discussions with the Legal services department, it is evident that there is a need to develop a collection and debt recovery policy that is fair to everyone, especially people on low incomes.

The creation of the attached policy document aims to draw together Gedlings procedures and sets them out in clear language. It is designed to help ensure that people are treated fairly while still recovering the debt effectively.

It is intended that this policy will be a living document and subject to a yearly review.

#### **5. CONSULTATION**

As requested by Senior Management Team on 27 October 2008 the policy was sent for consultation to the following organisations: -

- Gedling Homes/New Charter
- The Department for Work and Pensions
- Age Concern
- Nottinghamshire County Council
- Nottingham and District Citizens Advice Bureau
- Nottingham Community Housing Association

- Framework Housing Association
- Demontfort Housing Association
- Leicester Housing Association
- Tun Tum Housing Association
- Places for People Housing Association
- East Midlands Housing Association
- Nene Housing Association
- Longhurst Housing Association
- Derwent Living Housing Association
- Spirita Housing association
- Guinness Trust Housing Association
- Northern Counties Housing association

Responses were received from the Department for Work and Pensions, which simply highlighted some grammatical errors, and the Nottingham and District Citizens Advice Bureau with seven suggestions for change, three of which have been included in the policy, the remaining four were deemed to be not relevant for the policy and are being dealt with under separate liaison with the Bureau.

## **6. EQUALITIES IMPACT ASSESSMENT**

A partial equalities impact assessment has been completed.

## **7. RECOMMENDATIONS**

That:

- i. The new Fair Collection and Debt Recovery Policy (as attached) be approved.