

TONBRIDGE & MALLING BOROUGH COUNCIL
FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

13 January 2016

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 CORPORATE DEBT RECOVERY POLICY

A report advising members of minor revisions to the Council's Corporate Debt Recovery Policy.

1.1 Introduction

1.1.1 The Council's Corporate Debt Recovery Policy was adopted in July 2012 following a meeting of the Finance and Property Advisory Board (**Decision D120099MEM**) and was subsequently reviewed on 14 May 2014 (**Decision D140051MEM**).

1.2 Review of the Policy

1.2.1 I have reviewed the existing policy which can be found at http://www.tmbc.gov.uk/__data/assets/pdf_file/0005/71168/Corporate-debt-recovery-policy_1.pdf

There are no fundamental changes needed to the policy, however my staff have refined the legal considerations as follows:

1.2.2 Regulation 75 of the Social Security Administration Act 1992 gives the Council the power to recover housing benefit debts through the County Court. I have changed the policy to reflect the actions that may be taken using these powers. These can include:

- 1) A warrant of execution which gives court enforcement agents the authority to take goods from the debtor's home or business. The county court enforcement agents can only enforce a warrant for debts up to £5,000, and for any higher amounts the order will be transferred to the High Court;
- 2) Third party debt order which stops the debtor being able to access their bank accounts;

- 3) A charging order which prevents the debtor from selling their assets such as land and property;
- 4) An order to obtain information can be granted if the Council holds little or no information about the debtor;
- 5) A bankruptcy order where the debtor owes £5,000 or more and an arrangement to pay has not been agreed.

1.2.3 An updated version of the policy is attached at **[Annex 1]** reflecting the points above. For ease, the changes have been highlighted in yellow.

1.3 Legal Implications

1.3.1 There is no legal requirement to have a Corporate Debt Policy but the Local Government Ombudsman has previously advocated the publication of a Council Tax Debt Recovery policy which is included in the corporate policy.

1.3.2 Guidance from the Department for Work and Pensions in respect of Housing Benefit Overpayments advises that it is for authorities to decide how far to pursue recovery.

1.4 Financial and Value for Money Considerations

1.4.1 The Council retains all of the Housing Benefits Overpayments that it recovers so it is in the best interests of the Council to utilise all recovery options at our disposal.

1.5 Risk Assessment

1.6 Equality Impact Assessment

1.6.1 The policy will apply equally to all debtors and take into account any factors that may lead to different treatment of debtors because of personal circumstances.

1.7 Recommendations

1.7.1 Members are requested to **RECOMMEND** the revised Corporate Debt Policy to Cabinet for approval.

The Director of Finance and Transformation confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

Nil

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