

Vulnerable Person Protocol

This protocol sets out the Council's strategy to proactively help officers identified vulnerable or potentially vulnerable persons. It attempts to follow all legal and policy obligations that are the responsibility of Somerset West & Taunton Council as well as aligning to our new behaviours framework.

Definition

A vulnerable person is a person who, by characteristics and/or circumstances, is unable to act or respond appropriately to the normal collection procedures, or for the same reason is unreasonably affected by them. The Council recognises that vulnerability can come in many forms and it can also be multi layered. Vulnerability can also be temporary, permanent or come in a series of episodes and anyone at any time could potentially be deemed vulnerable. The characteristics or circumstances that **may** lead to identifying a person as vulnerable are as follows:

- Carers
- Cognitive Impairment
- Debt Management Agency involvement and overall debts need to be managed
- Disability
- Financial Impoverishment
- Learning Difficulty (including literacy difficulties)
- Language Difficulty
- Late Term Pregnancy
- Medication
- Mental Health (including personality disorders)
- Physical Health (including fragility due to advanced years)
- Possession Proceedings
- Probation Service Involvement
- Recent Bereavement
- SMI (Severely mentally Impaired)
- Substance Abuse
- Social Services Involvement
- Terminal Illness
- Victim of Abuse/Domestic Violence
- Victim of War
- Care Leavers (young adults leaving care)

- A **care leaver** is defined as a person aged 25 or under, who has been looked after by a local authority for at least 13 weeks since the age of 14; and who was looked after by the local authority at school-leaving age or after that date.

A vulnerable person according to paragraph 77 of the Taking Control of Goods: National Standards 2014, could be classed a vulnerable for the following reasons (not restricted to)

Relevant Legislation

Regulation 10(1) of the Taking Control of Goods Regulations 2013 states:-

- 10. (1) The enforcement agent may not take control of goods of the debtor where:
 - (a) the debtor is a child;
 - (b) a child or vulnerable person (whether more than one or a combination of both) is the only person present in the relevant or specified premises in which the goods are located; or
 - (c) the goods are also premises in which a child or vulnerable person (whether more than one or a combination of both) is the only person present.
- Paragraphs 16 and 30 of the Taking Control of Goods: National Standards 2014 states:
 - 16. Should a debtor be identified as vulnerable, creditors should be prepared to take control of the case, at any time, if necessary;
 - 30. Where enforcement agents have identified vulnerable debtors or situations, they should alert the creditor and ensure they act in accordance with all relevant legislation.
- Paragraph 39 of the Taking Control of Goods: National Standards 2014 states Enforcement agencies must ensure that legislation restricting the enforcement activity to enforcement agents is complied with and the corresponding legislation is The Tribunals, Courts and Enforcement Act 2007, Schedule 12
- Paragraph 42 of the Taking Control of Goods: National Standards 2014 also states that:
- Enforcement agents should be trained to recognise vulnerable debtors, to alert creditors where they have identified such debtors and when to withdraw from such a situation.
- Paragraphs 70 to 78 of the Taking Control of Goods: National Standards 2014 says enforcement agents must withdraw from the property.
- In accordance with paragraph 30 of the Taking Control of Goods: National Standards 2014 and Paragraph 16 says the creditor/council **MUST** be prepared to take control of the case. Where vulnerability is found.

This list of factors is not definitive and all the circumstances must be taken into account. These factors also follow those advised by the Ministry of Justice (MOJ)

Recovery for customers identified as vulnerable

Before instructing our Enforcement Agents each account will be checked by a case manager to establish any known vulnerability. Where this has been established or already known the case will be retained and owned by a 'case manager' or Lead Case Manager if required.

The Enforcement Agent contracted will abide by the Councils Protocol as well as the law around vulnerability. This will also be tested during any "**Tender**" process.

If we identify a customer as vulnerable before instructing our Enforcement Agent, we will not refer their account to them unless we consider their case demonstrates a "*Won't Pay*" attitude in contrast to "*Can't Pay*".

If we identify a customer as vulnerable after instructing our Enforcement Agent Service, we will recall their account unless we consider their case demonstrates a "*Won't Pay*" attitude in contrast to "*Can't Pay*".

In all cases where we consider a customer to be vulnerable, we will allocate the matter to a Case Manager who will attempt to agree a Special Arrangement to allow payment of the debt over a longer period. Where possible, all current year debts should be recovered within the financial year. Arrears from previous years may be paid at a lesser amount over an agreed period to allow payment of Council Tax or Business Rates for the current year to take priority and rent arrears where eviction is pending or likely.

All cases coded as vulnerable will be means tested by a Case Manager and/or the organisation assisting the customer using a consistent approach when completing a financial statement. To assist the customer, we can send the form by post or arrange a telephone call or face to face interview with the customer to go through the form. Further communication can be maintained through telephone calls, face to face meetings and by letter. In some exceptional cases, a visit to the customers' home may be required to help with debt management and form completion.

Debt Management Organisations

The supporting organisations (such as Citizens Advice and Step Change) will have in place a robust policy to enable them to identify when a person may be vulnerable. The factors, as set out below, will be used as the basis upon which a decision will be made but all the customers circumstances will have to be taken into account. The customer will need to give their consent before Somerset West & Taunton Council is notified that they have been identified as vulnerable. An Advice Session Supervisor or Manager will check the assessment and confirm that the customer is vulnerable

It is suggested that even if a means test is being carried out and for example the person does not have arrears of Council Tax or is in receipt of 100% Council Tax Support but the person is deemed vulnerable that Somerset West & Taunton Council are made aware of these cases so they may be flagged on their records.

The advice agency will e-mail a standard pro-forma containing all relevant information to Somerset West & Taunton Council to enable our records to be updated. This way should a change take place on the account/s then the vulnerable code will already be in place and this policy will apply.

Regular reviews for each case will be carried out by the advice agency i.e. step Change and Citizens Advice and by Somerset West & Taunton Council to ensure the vulnerable code is still applicable. It is acknowledged that some people may be vulnerable for only a short period whereas there are others who may be vulnerable for much longer periods or indeed indefinitely.

Sharing Identified Vulnerability

Where possible Somerset West & Taunton Council will seek the permission from the vulnerable person/s to enable us to share their information to make sure vulnerability is owned throughout our organisation, also adhering to data protection regulations. A 'case manager' will own each matter of vulnerability. There may be times where the 'Lead' Case Manager will be required to own a vulnerable case/s. Where regulations or policy advice is required a referral will be made to a 'specialist'.

Proactive Monitoring

Cases that are flagged as vulnerable will be owned by Case Managers .who will proactively monitor and keep in contact with person/s over their arrears. Monitoring will cover any monies owed to the Council. This could be but not restricted to, Council Tax, Rents, and Sundry Debts.

Council Tax Support and Housing Benefit

When a person claiming Council Tax Support and/or Housing Benefit is deemed to be vulnerable the person processing the claim can make the Council Tax Account as vulnerable they can will also look at the wider picture to make sure all arrears are managed as a 'case' by one officer known as a 'case manager' . This procedure should be consistently carried out across all the customers' accounts no matter what debt stream or other avenue identifies vulnerability.

Exceptional Financial Hardship (extract taken from full policy)

In accordance with Section 13A 1a of the Local Government Finance Act 1992, the Council has a Council Tax Support (CTS) Scheme, that provides support, through a discount, to those deemed to be in financial need. The CTS Scheme has been designed to take into account the financial and specific circumstances of individuals through the use of applicable amounts, premiums and income disregards.

Applications will be accepted under this part of the policy for people who have qualified for support under the CTS Scheme, but who are still experiencing severe financial hardship. Other customers may also apply, however the Council would normally expect the customer to apply for Council Tax Reduction in any case.

As part of the process for applying for additional support, all applicants must be willing to undertake all of the following:

- (a) Make a separate application for assistance;

- (b) The customer must satisfy the Council they are not able to meet their full Council Tax liability or part of their liability;
- (c) Provide full details of their income and expenditure;
- (d) The customer is able to demonstrate that all reasonable steps have been taken to meet their full Council Tax liability including applications for employment or additional employment, alternative lines of credit, and benefits, Council Tax Support, discounts and exemptions;
- (e) Accept assistance from either the Council or third parties such as the Citizens Advice Bureau (CAB) or similar organisation to enable them to manage their finances more effectively including the termination of non-essential expenditure; renegotiate priority and non-priority debts, provide an income and expenditure statement or Financial Statement and if needed allow the Authority to seek for the claimant by completing a Common Referral Statement
- (f) Assist the Council to minimise liability by ensuring that all discounts, exemptions and reductions are properly granted;
- (g) The customer has no access to assets that could be realised and used to pay the Council Tax;
- (h) Maximise their income through applying for other welfare benefits, cancellation of non-essential contract and outgoings and identifying the most economical tariffs for the supply of utilities and services generally.
- (i) Work with the Council in identifying potential changes in payment methods and arrangements to assist in alleviating their current circumstances.
The Council will be responsible for assessing applications against this policy and an officer will consider the following factors in applying this policy:
- (a) Current household composition and specific circumstances including disability or caring responsibilities;
- (b) Current financial circumstances
- (c) Determine what action(s) the applicant has taken to alleviate the situation;
- (d) Consider alternative means of support may be available to the applicant by:
- Re-profiling Council Tax debts or other debts;
 - Applying for a Discretionary Housing Payment for Housing Benefit (where applicable);
 - Maximising other benefits
 - Determining whether in the opinion of the decision maker, the spending priorities of the applicant should be re-arranged

Other Circumstances

The Council will consider requests from Council Customers for a reduction in their liability based on other circumstances, not specifically mentioned within this document. However, the Council must be of the opinion that the circumstances relating to the applications warrant further reduction in their liability for Council Tax having regard to the effect on other Council Customers. An example of this could be a person leaving care (see page 1)

No reduction in liability will be granted where any statutory exemption or discount could be granted.

No reduction in liability will be granted where it would conflict with any resolution, core priority or objective of the Council.

Procedure for determining individual one-off applications for reductions

The power to determine individual one-off applications (i.e. all applications other than those to create a specific class of reduction or for a reduction under a specific class) should be delegated to a Lead Case Manager or Lead Specialist. Referrals should be made from Case Managers.

****Referral should be made to the full policy at all times when making a determination.****

Direct Debit

Where arrangements are required then a direct debit should be set up where possible to pay the current year's charge. To help spread the payment this can be done over 12 months or the remaining months left within a year.

Should some cases of severe debt or other reasons where vulnerability has been identified and coded a DD can be set up at any stage under "Special Arrangements". This will hold further recovery action whilst it is being paid. Should, however, the DD fail then the recovery process will start again but the account being monitored by a Case Manager.

Penalties

Before one is placed upon an account increasing the amount owed vulnerability reasons must be considered. Whilst it would not be right to make a generic decision to say every vulnerable case should not have a penalty, in most cases one would not be applied.

Summary

Even though vulnerability has been agreed this should not stop them paying current year and/or arrears. These cases will be debt managed by Case Managers to help guide, those that need it, through the process to clear arrears. Working in partnership with debt councillors and supporting organisations should bring a global and consistent approach to vulnerability.

It is expected that this 'protocol' will evolve along with Somerset West & Taunton Council. Ownership and being supportive of Vulnerable People keeps the 'Customer' at the heart of our organisation.