

Council Tax Debt Recovery Policy

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This document sets out the process of the Council's statutory duties in collecting Council Tax.

Our aim is to:

- act fairly
- proportionately
- within the law
- make decisions properly
- comply with general statutory duties in relation to disabled people, including those with a mental impairment

We will demonstrate our commitment to offering a quality service working within the parameters of the legislation covering the collection and recovery of Council Tax, the Human Rights Act, the Data Protection Act, any other Act relevant to our business, or any Council Policy e.g. Valuing Diversity, Equal Opportunities, Social Inclusion and Equality Impact Assessment.

When considering appropriate recovery action the Council will consider all factors known and will use information from its partners and agents before reaching a decision.

We maintain a "firm but fair" approach to the collection and recovery of council tax always distinguishing between those customers who are unable to pay and those who deliberately won't pay.

We recognise that some people do not pay their Council Tax because of genuine financial or other difficulties. Although we take a 'firm but fair' approach to recovery and enforcement, it is our policy also to offer help and support to all customers who are experiencing difficulties paying at every stage of the collection and recovery process.

Although we have a duty to collect all Council Tax we also recognise that some customers will have financial and other difficulties that are not limited to paying Council Tax. Wherever possible, we will try to achieve a long term solution rather than just recovering money that is owed now, so that the customer is better able to manage their finances in the future, and meet their future liabilities.

Wherever possible we will promote sources of benefits and money advice. For example:

- Leaflets which accompany our recovery documents detail addresses and contact details for advice agencies.
- We will advise people about their possible entitlement to Council Tax Support and to any exemptions or discounts that they may be entitled to.
- Where we identify that a customer may not be receiving all their benefit entitlements we will refer them to the appropriate agency.
- Our Enforcement Agents are also required to signpost customers experiencing financial difficulties to an appropriate advice agency.

Vulnerable groups

We recognise that certain groups may be especially vulnerable. These include:

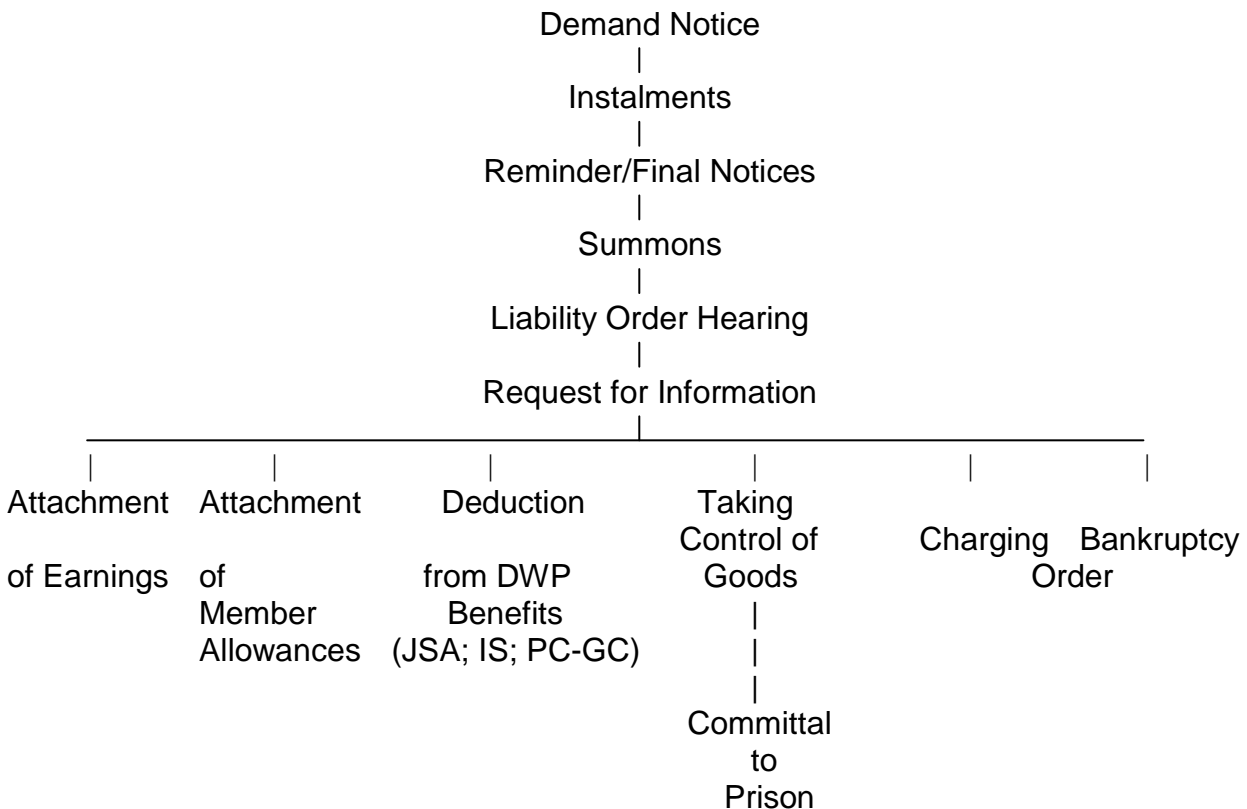
- Anyone incapable of entering into a legally enforceable agreement or of giving informed consent;
- Pregnant women or recent parent
- Long term sickness, serious illness or frailty;
- People with a mental or physical disability
- Recent bereavement;

- Severe financial difficulties and/or on Income Support ,Jobseeker's Allowance (IB), Pension Credit or ESA;
- If an Enforcement Agent identifies that a customer falls into a vulnerable group they are required to return the case to us.

This list is not exhaustive and we will consider each case on its merits.

1. Legal Framework

The legal framework for the enforcement of Council Tax is provided by Schedule 2 and Schedule 4 of Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992 (SI.1992/613).



2. Demand Notice

- 2.1 Annual bills are issued mid March prior to the financial period 1 April to 31 March.
- 2.2 When a customer tells us that he/she has occupied a property we will send a bill and give the statutory number of instalments.
- 2.3 When a customer tells us that he/she has vacated we will issue a closing account and process any refund as appropriate.
- 2.4 Where there is a change in circumstance or an amendment to the amount due or the instalment amounts we will issue an adjustment notice.
- 2.5 When a first bill is sent out later than 30 April, for example when someone moves in part way through the financial year, the payment period will be shorter and there will be fewer instalments.

3. Joint & Several Liability

- 3.1 Joint and several liability means in law that all, or both, the jointly liable parties are each responsible for the whole liability. As a result the billing authority can recover the whole amount due from any one of them and they are then left to

make arrangements in relation to their respective contributions between themselves

- 3.2** When Council tax is not being paid, the Council will take action for recovery of the debt against any or all of the liable parties.

4. Instalments

- 4.1** Council Tax can be paid by either 10 or 12 monthly instalments if the Demand Notice is issued on or before the 30th April of the relevant year. For a bill issued on or after the 1st May but before the 1st January, the number of instalments will be 1 less than the whole number of months remaining in the relevant year after the issue of the notice.
- 4.2** The Council can also make an agreement with the taxpayer to pay by fewer instalments. We therefore also offer quarterly, half yearly and annual schemes, in which case the Council receives its money faster than by the Statutory Scheme. We will allow any taxpayer to pay by any of these methods where applicable.

5. Methods of Payment

- 5.1** Direct Debit. This is our preferred method of payment. We are able to offer the following payment dates 1st, 8th, 15th or 22nd of the month. This can be set up by completing a direct debit mandate form or visiting https://www.ealing.gov.uk/info/201097/council_tax/2020/set_up_a_council_tax_direct_debit
- 5.2** Standing Order. The taxpayer sets this up at their bank by quoting the agreed instalments and Ealing's bank details. - sort code 30-00-00 and account number 02390140
- 5.3** Debit card by telephoning our automated telephone service on (020) 8825 9940
- 5.4** Credit card by telephoning our automated telephone service on (020) 8825 9940. This carries a fee for all transactions (1% wef 1/4/17).
- 5.5** Online payments can be made at https://www.ealing.gov.uk/info/201097/council_tax/2018/pay_your_council_tax
- 5.6** Pay via payment slips at a bank (Lloyd's Bank will not charge) or post office for cash and cheque payments
- 5.7** Paypoint at any store that displays Paypoint. To find out your nearest paypoint store, visit www.paypoint.com

6. Reminders/Final Notices

- 6.1** We follow a strict recovery programme, and reminders are timetabled monthly. We can amend this timetable, adding to or removing dates as required. This enables us to manage workloads, resources and collection requirements more effectively.
- 6.2** If a customer does not pay an instalment by the due date we will issue a reminder. We will ask the customer to pay the missed instalment within 7 days of the date on the reminder, and to ensure that future payments are made by the due dates.
- 6.3** If the missed instalment is received within 7 days we will not take any further action; but if it remains unpaid, we will cancel the instalments and issue a summons for the full year's tax.
- 6.4** If the instalment is received within 7 days, but another instalment is not paid, then we will send a second reminder. If the missed instalment is received within 7 days we will not take any further action; but if it remains unpaid then we will cancel the instalments and issue a summons for the full year's tax.

- 6.5 If the account is brought up to date but falls behind for a third time, we will send a final notice; at this point the full outstanding amount will become payable, as the right to instalments has been lost.
- 6.6 Therefore we will issue a maximum of 3 reminders during any financial year. Failure to pay the final notice will result in a summons, which will incur costs.

7. Summons

- 7.1 A summons will be sent to each person named on the bill and summons costs will be incurred.
- 7.2 If the customer pays the amount of the summons (i.e. the full amount outstanding for the year) plus costs prior to the Court Hearing, the Hearing will not proceed and we will not obtain a Liability Order.
- 7.3 If the customer does not pay the Summons amount plus costs prior to the Hearing, the Hearing will proceed and we will ask the Magistrates to grant a Liability Order plus additional costs.
- 7.4 At any time after the Summons has been issued we will agree to a repayment arrangement. If the payment arrangement is accepted and payments are received as agreed, no further recovery action will be taken. If a payment arrangement is not accepted, the Council will write to the customer with the reasons why.
- 7.5 Failure to pay in full or contact the Council to make an arrangement will result in further recovery action being taken.
- 7.6 At the Hearing we must show the Magistrates proof that we have set and attempted to collect the council tax in accordance with the law. We must also confirm that the customer named on the Summons is liable and that all or part of the debt remains unpaid. If the Magistrates accept our evidence they will grant the Liability Order.
- 7.7 To defend an application for a Liability Order, the customer must offer a valid defence against it. Valid defences are:
- We have not demanded Council Tax in accordance with the regulations
 - The amount has been paid in full with costs
 - The person named on the Summons is not the liable person
 - We have already commenced bankruptcy or winding up proceedings
- 7.8 It is not a valid defence if the customer:
- Is unable to pay
 - Has recently applied for Council Tax Support
 - A discount or exemption application has been refused
 - Has applied to the Valuation Office Agency against their Banding
 - Has appealed their liability to the Valuation Tribunal
- 7.9 Where customers are liable on a joint and several basis, recovery and enforcement procedures may be applied to one or more of the joint taxpayers.

8. Liability Order/Request for Information

- 8.1 Once a Liability Order has been granted, the account is passed to the Enforcement Agents who will send a letter to the taxpayer advising them that they have 14 days in which to pay in full or make an arrangement, otherwise further recovery action will be taken (unless an arrangement has already been agreed with the Council prior to the liability order hearing).
- 8.2 The letter will ask the taxpayer certain questions about their income and employment status. The information received is used to establish what appropriate recovery action to take next.

8.3 The liability order gives the Council the power to recover the debt using any of the following methods set out below. The authority will decide which method is most appropriate to follow depending on the information available on the customer at the time.

9. Attachment of Earnings

9.1 If the customer is in paid employment and the Council has the employer's details, we may ask the employer to make deductions from their salary. Where there are arrears due for more than 1 financial period the Order will be made on the oldest debt first.

9.2 The law allows the Council to make up to 2 Orders at a time and in some cases this will happen. The amount deducted is a percentage of the customer's salary, as set out in legislation. A table showing the percentage deductions will be sent to the customer.

10. Attachment of Members Allowances

10.1 This process is available in respect of an elected member of any billing authority or any major precepting authority (with the exception of the City of London and the Metropolitan Police) against whom a liability order has been granted.

10.2 It is not limited to members of the billing authority or major precepting authorities whose council tax is under collection.

10.3 An Attachment Order is directed to the local authority of which the debtor is a member and operates as an instruction to the authority to make deductions from attachable allowances payable to the debtor.

11. Attachment of DWP Benefits

11.1 Job Seekers Allowance, Pension Credit, Income Support and Employment Support Allowance can all be attached to pay Council Tax arrears.

11.2 If the customer is receiving one of these Benefits, the Council will ask The Department of Works and Pensions to make regular deductions from the benefit and make payments to the Council.

11.3 When deciding this option, the Council will take into consideration the level of arrears and the length of time it will take to recover the debt.

12. Taking Control of Goods – Enforcement Agents

12.1 Unless a payment arrangement has been agreed, in most instances, the account will be passed to the Enforcement Agents.

12.2 The Enforcement Agent will send a statutory Notice of Enforcement where a fee of £75.00 is charged and throughout a Compliance stage of 33 days the Enforcement Agent will encourage payment or at least engagement by sending two further notices and where possible make telephone contact.

12.3 Only if the whole payment is not made or an arrangement is not made will the Enforcement Agent visit the customer's home with the aim of Taking Control of Goods and gaining full payment. There will be only one charge of £235.00 (plus 7.5% where the debt is over £1,500.00) irrespective of the number of visits the Enforcement Agent makes to the property.

12.4 The Enforcement Agent may remove goods to be sold at auction or might return the case saying there are no goods to remove known as "nulla bona".

12.5 Where cases of financial difficulty are identified, the Enforcement Agent will suggest to the customer to contact the Citizens Advice Bureau for debt advice.

- 12.6** The Enforcement Companies authorised to act on the Council's behalf are certificated Enforcement Agents and are required to follow the Council's "Code of Conduct" and work within the Council's guidelines.
- 12.7** The Enforcement Agents are obliged to adhere strictly to the Council's terms and conditions of the contract
- 12.8** The Council will ensure as far as possible that the information the Enforcement Agent holds is up-to-date and accurate. The Enforcement Agent is expected to operate in a fair and consistent manner and any complaints we receive are treated very seriously and investigated thoroughly.

13. Charging Orders

- 13.1** The Council can apply to the County Court or High Court for a charge to be put on a property on which a council debt of more than £1,000.00 is owed, if it is owned by the debtor.
- 13.2** The Council can apply to the Court to force an order for sale of the property to pay the Council Tax arrears including all costs incurred.
- 13.3** The Council is likely to apply for a Charging Order against a property that is either fully or jointly owned by the customer if;
- The customer has a vulnerable person in their household, e.g. disability A third party has power of attorney
 - No contact can be made with the debtor

14. Bankruptcy

- 14.1** The Council can apply to the County Court or High Court for the customer to be made bankrupt if it has liability orders for a debt of more than £5,000..
- 14.2** The Council is likely to take bankruptcy action against the customer when;
- They have sufficient realisable assets e.g. equity in a property to pay the debt and all costs incurred
 - Have previously broken agreed payment arrangements
 - Are not considered to be vulnerable
 - All other enforcement remedies have been considered.

15. Committal To Prison

- 15.1** The Council can apply to the Magistrates Court to have the customer committed to prison for a maximum of 90 days. The Council is likely to take committal action against the customer when;
- Taking Control of Goods by the Enforcement Agent on goods has been attempted and failed
 - Has no property or assets
 - Has previously broken agreed payment arrangements
 - Has failed to provide employment or benefit details

16 Older Debts

We are committed to collecting all outstanding debts irrespective of age, where they can be legally and practically recovered.

- 16.1** Collecting all outstanding debts enables the Council to maximise its revenues in order to provide services to all its customers. It is also fair to all its customers who have already paid their Council Tax.**16.2** A liability order must have been applied for within six year of the bill being issued. Once the Council has obtained a Liability Order, the regulations and current case law indicates there is no time limit to pursuing the debt.

This was clarified by the Court of Appeal in the case of Bolsover and Another v Ashfield Nominees Ltd and Others [2010] EWCA Civ 1229 (19 October 2010).

- 16.3** We are recovering our old debts by using Enforcement Agents. The Enforcement Agents send out Enforcement Warning Notices asking the customer to contact them with regard to making a payment arrangement or to pay the outstanding debt in full. The Enforcement Agent will only commence recovery action if the customer does not respond to the letter, or if a repayment arrangement cannot be agreed.
- 16.4** Although a debt may be many years old there is usually a detailed record of substantial and sustained recovery action, plus a record of the debt owed, costs added and payments made. It is therefore the Council's position that the customer would have had opportunity to make any challenges regarding liability at the time, and would have been aware that the debt remained unpaid. It remains the customer's responsibility to pay any outstanding debts, and customers are not entitled to assume that any suspension of recovery action means that the Council has chosen to write off the debt.
- 16.5** However, the Council will reasonably consider any evidence provided in respect of liability for the debt, or that the customer was in receipt of means-tested benefits at the time the debt was owed. The Council may use its discretion to amend and reduce the debt.