Council Tax and Business Rates Recovery Policy

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1. Purpose of the policy

This policy covers council tax and business rates.
The council is committed to using the most effective recovery methods available to it. This policy will ensure that recovery action is consistent and complies with the legislation and best practice.

2. Bills to final notices

2.1 Bills

Annual bills are issued in March each year with instalments starting in April. Instalment due dates vary depending on the payment type and what the customer has requested. During the year if circumstances change amended bills are issued and instalments revised. New occupiers are issued with bills as soon as possible and instalments are given for the remaining months in the year with at least 14 days before the first instalment is due.

2.2 Instalment reminder notice

Reminder notices are produced where customers are late paying their instalments. If instalments are not brought up to date, they are automatically cancelled and the remaining balance for the year becomes due in full. Details of this are included in the reminder.

2.3 Second instalment reminder notices

These are issued where customers have previously had a reminder, brought their instalments up to date, then have fallen behind again later in the year. Again, if instalments are not brought up to date, they are automatically cancelled and the remaining balance for the year becomes due in full. If they then fall behind a third time their instalments are automatically cancelled and a summons will be issued without further warning.

2.4 Final notices

Final notices are issued for overdue arrears from previous years and for cases where people have moved out and not paid their remaining balance. These are issued at least 14 days after the final bill.

3. Summonses to information notices

3.1 Summonses

These are issued 14 days or more after instalments have been cancelled or a final notice has been sent. Summonses are issued at least 17 days before the court hearing. Costs of £98 for council tax and £150 for business rates are added to the account when a summons is issued. Council Tax Summonses will include an arrangement offer for customers to pay the outstanding balance over monthly instalments if they wish.

3.2 Liability orders

At the court hearing an application will be made for a liability order where the balance has not been paid in full or the summons has not been cancelled. This order then gives the council further options to recover the balance

outstanding. See below.

3.3 Further information notices
For Council Tax:
These are issued where a council tax arrangement is not paid.
The notice requests that a form is completed with details of income and expenditure and any proposals for payment. This form must be returned within 14 days of it being issued. If this is not returned further recovery action will be taken. See below.
For Business Rates:
These are issued where the summons has not been paid and no arrangement has been made or an arrangement has been cancelled.

4. Actions following liability orders

A liability order gives the council the right to recover the debt by any of the following:

4.1 Attachment of earnings – council tax only
An order can be sent to the employer to ask them to deduct amounts regularly from a person's pay until the debt is cleared. Legislation sets out a sliding scale for the amount that is deducted dependent on earnings. The employer is allowed to charge the person £1 for every deduction they make.

4.2 Attachment of benefits – council tax only
Attachments can be made from income support, guarantee pension credit, jobseekers' allowance, employment support allowance or universal credit.

4.3 Enforcement agents (Bailiffs)
Enforcement agents (bailiffs) are only used as a last resort where customers have not paid, made arrangements or provided employment or benefit details. They can make arrangements with customers; however, in some cases they may remove goods that cover the value of the debt.

The council has agreed a code of practice with the enforcement agents which give guidelines on how to proceed with cases where removal of goods would be inappropriate because of the customer's circumstances.

Enforcement agents incur fees that are set by legislation (see below), and these are included in the further information notice.

Enforcement Agent Fees for both Council Tax and Business Rate

Fee Stage	Fixed Fee	Additional Fees (for debts exceeding £1,900)
Compliance (Administration)	**£79.00**	
Enforcement	**£247.00**	7.5% of any amount over £1,900

Removal/Disposal of Goods	**£116.00**	7.5% of any amount over £1,900

5. Committal to prison (Individuals only)

Where the enforcement agent is unable to collect the outstanding balance, a letter is sent warning that committal action will be taken. This gives the customer an opportunity to make an arrangement or clear the balance before a committal summons is issued. If no agreement is reached and the balance remains unpaid a committal summons may be sent. This orders the customer to appear before the Magistrates for an enquiry into their means. This can result in an adjournment, a suspended committal order or a commitment to prison for up to 90 days.

Before a warrant of commitment is granted, the Magistrates will consider if the person responsible for either (a) refusing to pay when they could have done, known as “wilful refusal” or (b) not taking appropriate action when they were billed and recovery letters were sent, known as “culpable neglect.”

If the council makes an application for a warrant of commitment at the hearing, the court will charge £215.00, which is added to the account.

If the person summonsed does not attend the hearing or contact the council or the court, then an arrest warrant can be issued. For each arrest warrant there is a charge of £94.00 which is added to the account.

In addition, at the hearing, the Magistrates have the discretion to write off or reduce the debt depending on the individual’s circumstances.

6. Charging orders

6.1 What is a charging order

This is an order that places a charge on a property ensure that a debt is paid from the proceeds when it is sold.

The council will only use this option where alternative methods of recovering arrears have been explored and have either failed or are inappropriate. An application will only be made where the balance of arrears at liability order stage is more than £1,500.

Before a charging order is sought a letter will be sent with details of the debts and what the consequences of this action are.

If the council does seek a charging order the court will charge a £110 fee. In addition to this the council’s legal team will charge up to £53 per hour for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the charging order.

6.2 When this action may be used

- Where a property is currently up for sale and the potential value, less any outstanding payments (e.g., any mortgage), would leave enough to cover the arrears

- Where overall arrears exceed £1,500
- Where the property is owned by a person who resides outside UK
- Where a person's whereabouts are unknown
- Where a payment arrangement has been agreed on the basis that the debt is secured via a charging order.

6.3 Authorisation
The decision to refer a case for an application for a charging order will be made by either the Senior Recovery Officer, Revenues Recovery Team Leader or the Revenues Manager.

6.4 Forcing a sale of a property
This option is rarely used and will only be considered where the property is a person's second home or an additional one that they own.

6.5 Use of partners/external companies to undertake this work
The council will refer appropriate cases to its own legal services team or in some cases a suitable law firm.

7. County court judgements (CCJs)

7.1 What is a county court judgement
A county court judgement (CCJ) is a type of court order that may be registered against a person who fails to repay money they owe.

Before a county court judgement is sought a letter will be sent with details of the debts and what the consequences of this action are.

Where a CCJ is obtained the judgement will be posted to the person by the court and will explain:

- how much they owe
- how to pay (in full or in instalments)
- the deadline for paying
- who to pay

If the council does seek a CCJ the court will charge £22 for debts up to £5,000 and £30 for debts of £5,000 or more. In addition to this the council's legal team will charge up to £53 per hour for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the CCJ.

7.2 When this action may be used

- Where all or any of the above actions are either inappropriate or have failed to collect the arrears.
- Where overall arrears are £1,000 or more

7.3 Authorisation
The decision to refer a case for an application for a charging order will be made by the Revenues Recovery Team Leader or their manager.

7.4 Actions that can be taken where a county court judgement is not paid

- Orders for questioning – this is where the council orders the customer to go back to court to be questioned about their financial circumstances. The court can ask about things like income and outgoings, employment and any property that a person owns.

If the council does seek an order for questioning the court will charge a £50 fee. In addition to this the council's legal team will charge up to £53 per hour for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the charging order.

- Third party debt orders – this is where another court order is applied for which allows the council to take the money owed directly from whoever has the person's money. Usually this is their bank or building society. However, if a person is due to get a lump sum such as a redundancy settlement or an inheritance, the council could ask the employer or solicitor to pay the money.

If the council does seek a third-party debt order the court will charge a £100 fee. In addition to this the council's legal team will charge up to £53 per hour for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the third-party debt order.

8. Insolvency (Bankruptcy and Winding Up proceedings)

8.1 When insolvency action may be used

The council will only use this option as a last resort where all other attempts to recover the arrears have been exhausted.

Bankruptcy action is used for individuals and winding up proceedings for limited companies. In either case it would only be in cases where arrears are in excess of £5000.

Before insolvency is taken a letter will be sent with details of the debts and what the consequences of this action are.

If the council commences bankruptcy action or winding up proceedings, court charges will apply, and further legal costs will be charged for preparing the case and attending court. These additional costs could be quite substantial and will be added to the debt outstanding and included in the application.

8.2 Checks prior to action

The following information will be gathered about the individual or company to clarify their circumstances. This will be achieved in various ways, including some or all of the following:

- Asking for financial information in writing.
- Warning of bankruptcy action and encouraging contact by the issue of a letter.

- Checking all council records to see if there is any reason bankruptcy would not be appropriate
- Checking with HM Land Registry to confirm property assets
- Checking financial information with a credit reference agency
- Checking for known or potential employment details
- Checking Companies House records for business information
- Checking with any external agent working with the council who has previously visited the property

- A further check will be carried out by an external insolvency practitioner where appropriate
- If there is any evidence that a customer might be vulnerable, council officers will make a visit.

8.3 Authorisation
The decision to refer a case for insolvency action will be made by the Revenues Manager or their manager.

8.4 Special circumstances.
Insolvency proceedings may be withdrawn in the following circumstances:

- Where someone cannot deal with their affairs because of age, mental illness or learning disabilities
- Where someone's only income is welfare benefits
- Where someone is a client with the council's adult services or the community mental health team
- Other exceptional individual circumstances may also be taken into account

8.5 Publicity
When an insolvency order is granted it is published in the London Gazette and in a local newspaper. The Official Receiver or an Insolvency Practitioner will also notify other organisations that the individual or company might owe money to. This is to give them the opportunity to submit claims of their own and to prevent illegal disposal of assets.

8.6 Use of partners/external companies
The council will refer appropriate cases to its own legal services team or in some cases a suitable law firm.

9. Policy review

This policy will be reviewed whenever there is a change to procedures, legislation or costs to ensure it remains valid, effective and relevant.

10. Other information

- There is further information and advice on the council's website: http://www.bolton.gov.uk/website/Pages/Problemspayingcounciltax.aspx
- For more detailed information about insolvency, visit: https://www.gov.uk/government/organisations/insolvency-service