

Council Tax Recovery Policy (Annex A of the Corporate Debt Recovery Policy)

Foreword

The Council aims to ensure that all monies due to the Council are recovered economically, efficiently and effectively in order for it to continue to provide services and keep the council tax down for everyone who is liable to pay it. In pursuit of that aim, the Council will endeavour to treat all customers equally, and in-line with the Council's standards of customer-care, and differentiate between those who can pay, but do not, and those having genuine difficulty in paying. This policy specifically addresses issues relating to the recovery of council tax debts. However, it must be read in the context of the Council's Corporate Debt Recovery Policy.

The recovery process

- Reminder notices, final notices and summonses are issued in accordance with the recovery timetable approved each year by the Director of Finance and Transformation.
- Following the hearing of summonses by the Magistrates, information request letters will be issued within seven days, or as soon as practicable thereafter.
- Pre-bailiff/enforcement agent letters will be issued 21 days after the issue of information request letters, or as soon as practicable thereafter.
- **All cases not subject to either a payment arrangement (see below), or other certain types of recovery action, will be sent to the Council's bailiff/enforcement agent 14 days after the issue of pre-bailiff/enforcement agent letters.**

Payment arrangements

- Except in exceptional circumstances, all arrangements will require the debt to be paid within the current financial year.
- Arrangements for payment of a debt, where the debt will not be cleared by the end of the current financial year, will be agreed only where there is a proven inability to clear the debt by the end of the year. Unless agreed otherwise by a senior officer, such arrangements will be made only if the debtor completes and returns a financial statement form.
- All payment arrangements will be confirmed in writing to the debtor.
- If an information request letter has already been sent to the debtor, a payment arrangement will be made only on condition that the information request is completed by the debtor and returned to the Council (unless the arrangement is over a period of less than one month).
- Once a case has been passed to the bailiff/enforcement agent, it is not the Council's practice to intervene in discussions between the bailiff/enforcement agent and the debtor as to collection of the debt. The Council will intervene in exceptional circumstances, by, for example, coming to a payment arrangement direct with the debtor. However, such payment arrangements will not be made without the express agreement of a senior officer.

- The purpose of all arrangements is to achieve payment of the debt in the shortest possible time, at a rate that is realistically affordable by the debtor. Where possible, a lump sum payment “up front” will be sought from the debtor.
- Where more than one council tax account is involved (e.g. if the debtor has moved), priority will be given to keeping payments for the current year up-to-date. Debtors will be encouraged to set up a direct debit for the current year’s payments.
- **Where a debtor is on Income Support/JSA (IB)/ESA (IR)/Pension Credit/Universal Credit**, an arrangement will not be agreed to (unless there are exceptional circumstances) that allows the debtor to pay less than the current recovery amount that can be attached from their state benefit.
- If an arrangement is broken, the debtor will be contacted no later than one month after the default occurs. The debtor will be given the chance to bring the arrangement up-to-date before it is cancelled.
- Where a debtor has defaulted on one arrangement, a further arrangement will not be agreed unless there is a good reason why the original one was broken.

Reminders, final notices and summonses

- Once issued, a reminder, final notice or summons will be withdrawn only for one of the following reasons:
 1. It has been issued in error; or
 2. the issue of the notice has crossed with the taxpayer’s payment (a notice is unlikely to be withdrawn on more than one occasion for this reason); or
 3. a senior officer has agreed the withdrawal; or
 4. it appears that the person will not be liable to pay the amount of the debt shown on the notice, for example because they have moved or they have a pending benefit claim. The notice will be withdrawn only once it has been confirmed that there will be nothing left to pay.
- A final notice may be withdrawn if the taxpayer agrees to change to payment by direct debit (and sets up an instruction).
- Where appropriate, the withdrawal of summonses will be confirmed in writing.
- Debtors in receipt of reminders, final notices and summonses are encouraged to convert to direct debit.

Costs

- Costs may be cancelled where:
 1. the Magistrates’ Court has ordered their cancellation; or
 2. although the issue of the summons was legally correct, the Council has reason to believe that the taxpayer was genuinely unaware of the debt; or
 3. there is evidence of extreme hardship; or
 4. a senior officer of the Council has agreed to their withdrawal.
- The amount of the costs is not negotiable.

Bailiff/enforcement agent

- Once the Council has passed a debt to its bailiff/enforcement agent for collection, the bailiff/enforcement agent will generally be allowed to collect the debt with minimal interference from the Council. Any debtor wishing to make a payment arrangement against a debt that is with the bailiff/enforcement agent will be referred to the bailiff/enforcement agent.
- The Council wishes to ensure that its bailiff/enforcement agents are acting within the law and in accordance with the standards expected by the Council. Any evidence of malpractice by the bailiff/enforcement agent will be investigated by the Council.
- **The Council cannot interfere with the level of fees charged as they are prescribed by law.**
- The Council will withdraw a case from the bailiff/enforcement agent if:
 1. it was sent to the bailiff/enforcement agent in error; or
 2. **the Council is collecting another debt from the debtor by means of deductions from income support/JSA (IB)/ESA (IR)/pension credit/Universal Credit (but not in exceptional cases);** or
 3. it would be more effective to use a different recovery method, for example attachment of the debtor's earnings; or
 4. at a senior officer's discretion, the circumstances of the debtor are exceptional for any reason.

Attachment of Earnings Orders (AEOs)

- An AEO is the Council's preferred method of recovery.
- Once an AEO has been issued to an employer of the debtor, it will not be withdrawn without the express agreement of a senior officer.
- Generally employers will be instructed to implement orders strictly in accordance with the legislation.
- Where an employer fails to implement an AEO, the case will be referred to a senior officer who will pursue the matter with the Council's solicitor.

Deductions from Income Support/JSA (IB)/ESA (IR)/Pension Credit/Universal Credit

- **On account of the low income from these payment methods, they are generally used only when it is not possible to secure a higher level of payment from the debtor.**
- **Since April 2013, working age residents are required to make a contribution towards their council tax where they have previously been entitled to a full reduction.**
- **As the Council is restricted by law regarding the amount that can be deducted from these benefits, debts will increase if no additional payments are made by the debtor.**
- **Therefore, in exceptional cases, where multiple debts have accrued over a number of years, the Council may consider passing some debt that is not being recovered through deductions to the bailiff/enforcement agent.**

Debt Counselling

- **If someone has contacted a debt counselling agency (e.g. StepChange, CAB, West Kent Debt Advice), we will take a sympathetic line. Where a financial statement has been prepared, and the information supplied has**

been accepted, any reasonable offer of payment that is based on the statement will be considered and accepted if appropriate.

- If a case is already with the bailiff/enforcement agent by the time the debtor seeks advice, the case will be left with the bailiff/enforcement agent until he has been able to ascertain the debtor's circumstances. However, he will be requested to cease further action unless it is apparent that the debtor is able to pay the debt.

Bankruptcy

- The Council recognises that sometimes it might have no alternative other than to commence bankruptcy proceedings for the recovery of unpaid council tax. In order to establish whether bankruptcy is the most appropriate method of recovery, the officers of the Council will refer to the Council's document entitled "Guidelines for staff in respect of the use of bankruptcy".

Charging Orders

- A charging order may be made against a dwelling where the owner is subject to a liability order for unpaid council tax, subject to the amount of the liability order plus costs being at least £1,000.
- In deciding whether to apply for a charging order, each case will be considered, on its merits, by a senior officer of the Council. An application for an order is made to the County Court.
- In deciding whether to grant an order, the court must consider all aspects of the case, such as the personal circumstances of the debtor and whether any other person would be unduly prejudiced by the making of an order.
- If the making of a charging order by the Court does not produce payment from the debtor, then the Council will consider asking the Court for an Order for Sale.
- If the debtor's outstanding debts (mortgage, council tax etc.) might exceed the estimate of the likely sale price of the property at auction, we will still proceed in applying for a charging order if the difference between the two were marginal. If the difference were more than marginal, then we might still proceed if other factors were relevant, for example:
 1. the general good of the community, taking into account factors such as the appearance of the area; or
 2. the desire to bring an empty property onto the market and available for occupation; or
 3. the prevention of an ever-accumulating debt.

Committal

- Where all other methods of recovery have either failed or are considered inappropriate, the Council will apply to the Magistrates' Court for a warrant of commitment against the debtor.
- On account of the potentially serious consequences to the debtor of imprisonment, all of the debtor's personal circumstances will be fully considered by a senior officer before pursuing this course of action.

Irrecoverable Debts

- The council may write off the whole, or a proportion, of a debt depending on the circumstances of the particular case. The most common circumstances in which the council will write off a debt are where:
 1. It is uneconomical to pursue recovery; or
 2. There are humanitarian grounds for not pursuing recovery; or
 3. The debtor has died; or
 4. The debtor cannot be traced; or
 5. The debtor is subject to insolvency proceedings (Bankruptcy, Debt Relief Order, IVA)