

Revenue Services Business Rates Recovery Policy

1. Introduction

The Council is committed to using the most appropriate, efficient and cost effective recovery methods available to it in order to collect outstanding Business Rates. This policy will ensure that the use of recovery methods is consistent and complies with relevant legislation, best practice and government guidance.

A flowchart is included at the end of this document to depict the process.

2. Demand Notices

- 2.1 Demand notices (bills) will be issued during March each year detailing the full charge and instalments payable for the impending financial year. Adjustment bills will also be issued regularly throughout the year in circumstances where the liability has changed, and new instalments will be given where appropriate.

3. Reminder (Further) Notices

- 3.1 Should payment not be made in line with the demand notice Reminders will be issued no less than 7 calendar days after the instalment falls due.
- 3.2 At whatever time in the month Reminders are run, they shall not include any instalments, which may fall due within 7 calendar days of the Reminder.
- 3.3 Reminders will be issued for £30.00 or more for the majority of the year, however this amount may be lowered as the end of the financial year approaches in order to ensure that even small balances are paid before the end of the financial year.

4. Subsequent Reminder Notices

- 4.1 If an instalment is paid after the issue of a first Reminder, a further Reminder will be issued if a subsequent instalment is missed.
- 4.2 If an account is brought up to date and subsequently a third reminder is required, a Final Notice will be issued. These will clearly state no further reminders will be issued and should a further instalment become overdue a court summons will be issued for the full balance.
- 4.3 Subsequent reminders will be issued for £30.00 or more for the majority of the year; however this amount may be lowered as the end of the financial approaches in order to ensure that even small balances are paid before the end of the financial year.

5. Summons

- 5.1 Complaint will be laid at the relevant Magistrates Court and a Summons for non-payment of Business Rates issued if the amount detailed on a Reminder has not been paid, or if the account falls into default after three reminders have already been issued within that year. The summons will be issued by Revenue Services.
- 5.2 Summonses shall routinely be issued for amounts of £100.00 or more given the level of costs that will be added to the account at Liability Order stage (6.1). However this threshold may be decreased to £75.00 should a debt remain outstanding for 6 months or longer despite repeated attempts to make contact and obtain payment.
- 5.3 At least 16 calendar days shall be allowed between Reminders and the issue of a Summons. At least 16 calendar days shall be allowed between the issue of a Summons and the Court Hearing.
- 5.4 Accounts listed for Summons will be checked by a Revenue Services senior officer before they are dispatched to ensure that they are being issued correctly and appropriately.

6. Liability Orders

- 6.1 On the day of the Liability Order hearing an authorised officer of the Council will attend the court session to request a Liability Order and reasonable costs incurred in respect of each case where a summons has been issued and a balance remains outstanding.
- 5.3 The amount of costs to be requested at the hearing shall be determined at the start of each year.
- 6.2 The Officers from Revenue Services authorised to represent the Council at Magistrates Court will be contained within a register held within Legal Services.

7. Seven Day Notices

- 7.1 Following the court hearing 7 day notices shall be sent to ratepayers who have not made a satisfactory payment arrangement prior to the court date. The Notice warns that should payment not be made or an arrangement not be agreed within the specified 7 calendar days, the account could be passed to the Council's Enforcement Agent for collection (as per para 10) or subject to another recovery method as appropriate.

8. Arrangements

- 8.1 At every stage of the recovery process the ratepayer shall be encouraged to make a satisfactory payment arrangement to clear the amount outstanding.
- 8.2 Payment by Direct debit shall be encouraged.

- 8.3 Details of the payment frequency and payment amounts shall be recorded and confirmed to the taxpayer in writing within 7 calendar days. The arrangement will be monitored by Revenue Services.

9. Broken Arrangement Letters.

- 9.1 Broken Arrangement letters will be sent each month to those ratepayers who have not adhered to their agreed payment arrangement requesting that they bring their arrangement up to date and make subsequent payments on time. The letter warns that further recovery action will be taken if the arrangement is not kept up to date. Only one broken arrangement letter will be sent per arrangement.
- 9.2 Broken Arrangement letters shall be issued for outstanding amounts of £50 or more.

10. Enforcement Agent Instructions

- 10.1 The debts of those ratepayers who have not made a satisfactory payment arrangement, or have not otherwise responded within 14 - 21 calendar days of the 7 Day Notice, shall be referred to the Council's Enforcement Agent (EA) for collection.
- 10.2 The debts of those ratepayers who have not brought their payment arrangement up to date within 21-28 calendar days of a Broken Arrangement Letter shall also be referred to the Council's EA.
- 10.3 The debts of those ratepayers who have brought their payment arrangement up to date within 21-28 calendar days of a Broken Arrangement Letter, but fail to make further payments when next due shall be referred to the Council's EA.
- 10.4 The EA will deal with cases in three stages, Compliance, Enforcement & Sale as detailed in the regulations. The agent will charge the fees associated with each of these stages as set out by the Taking Control of Goods Regulations 2013 and The Taking Control of Goods (Fees) Regulations 2014.
- 10.5 If a case should progress to the Enforcement Stage visits will normally be carried out between 6am and 9pm Monday to Saturday. However in certain cases the Council will authorise Sunday visits if the agent has repeatedly been unable to gain contact during the normal given hours.
- 10.6 The Council will have a Service Level Agreement in place with it's EA's to ensure that the appropriate regulations and codes of conduct are observed at all times and performance of the agents will be monitored on a regular basis by Revenue Services.
- 10.7 Cases returned by the Council's first Enforcement Agent, as unable to collect or make contact, may be referred to the Council's second agent. Any cases returned by the agents as unsuccessful will be reviewed by the Revenue Services Team to consider all available information and make an informed decision as to the next course of action.

11. Serious Action Pending Letters

- 11.1 Serious Action Pending Letters shall be sent within 21 calendar days to those ratepayers whose case is returned by the EA as “no effects” and have not made a mutually agreed payment arrangement. The letter will again encourage the ratepayer to make contact with the Revenue Services team to make payment or a satisfactory arrangement.
- 11.2 Should a response not be received within a further 14 calendar days a personalised letter shall be sent to the ratepayer explaining the seriousness of the situation, advising them that unless the amount is paid or a satisfactory payment arrangement is made that Insolvency proceedings could be initiated, or committal action may be commenced if the ratepayer is a sole trader.
- 11.3 If still no arrangement or contact is made within a further 14 calendar days, a further letter will be delivered by hand requesting the ratepayer/s attend an interview with the Recovery Team. They will be asked to bring information relating to the company’s or their own finances to the meeting.

12. Insolvency.

- 12.1 If the total debt equates to £1000 or above, the debtor is a company and no satisfactory payment arrangement is made, or an arrangement is subsequently not maintained. The Council will consider commencing Insolvency proceedings.
- 12.2 In making decisions with regards to commencing bankruptcy proceedings the Council will take the following factors into account, although this list is not exhaustive:
 - Cost, effectiveness and other implications of Insolvency
 - The individual circumstances of the debtor if they are a sole trader
 - General Equality Duties
 - The Regulators Code
 - Implications for overall payment levels if other ratepayers come to believe that the Council does not actively pursue Business Rates debt
 - Impact of non-payment on the Council’s finances and the ability to deliver services to the community
 - Equality between those who do pay and those who don’t.
- 12.3 A full evaluation of each case and its relevant facts will be undertaken by a Revenue Services senior officer at this stage in order to ascertain that Insolvency is the most appropriate method of recovery. Any checks carried out in the above list will be recorded by a Revenue Services senior officer and used as justification for any decision that they make.
- 12.4 The Council will refer appropriate cases to a Solicitor to carry out this work. The Solicitor may be a Council employee or may be an external body acting on the Council’s behalf and will be fully authorised to do so.

13. Security for Unpaid Rates

- 13.1 If the ratepayer is the owner of the premises to which the debt relates they may enter in agreement with the Council whereby the amount outstanding be secured against the property.
- 13.2 This agreement may not be made for a period of more than three years.
- 13.3 It may extend to further amounts becoming due.

14. Bankruptcy.

- 14.1 If the total debt equates to £5000 or above, the ratepayer is an individual and no satisfactory payment arrangement is made, or an arrangement is subsequently not maintained. The Revenues Team will consider commencing bankruptcy proceedings.
- 14.2 The primary duty of recovery is debt collection rather than debt securing, and bankruptcy should therefore be the preferred option where the debtor is an individual and is a homeowner.
- 14.3 In making decisions with regards to commencing bankruptcy proceedings the Council will take the following factors into account, although this list is not exhaustive:
 - Cost, effectiveness and other implications of bankruptcy
 - The individual circumstances of the debtor
 - General Equality Duties
 - Implications for overall payment levels if other taxpayers come to believe that the Council does not actively pursue Council Tax debt
 - Impact of non-payment on the Council's finances and the ability to deliver services to the community
 - Equality between those who do pay and those who don't.
- 14.4 The Council will consider using insolvency proceedings in the following circumstances, although this list is not exhaustive:
 - The debtor is over 21 years of age
 - The debtor is not making regular and mutually agreed payments that are sufficient to clear accruing debt and arrears within a reasonable timescale.
 - Where insolvency action is considered to be the most appropriate course of action.
 - Where the debt has arisen as a result of fraud
 - Where specific assets cannot be identified but there are indicators that the debtor is of high material worth
 - Where commencing bankruptcy proceedings is believed to encourage payment from the debtor i.e to prevent damage to their credit rating, where other recovery methods have failed to spark a reaction.
- 14.5 A full evaluation of each case and its relevant facts will be undertaken at this stage in order to ascertain that bankruptcy is the most appropriate method of recovery. As part of the decision making process the Council will carry out some or all of the following activities in order to build an accurate picture of a debtor's circumstances. The list is not exhaustive:

- Checking with adult social services to establish if the debtor is known to them, or whether they have any reason to believe that the debtor is unable to manage their financial affairs or of any potential adverse impact of such action on the debtor's wellbeing.
- Checking all Council Tax records held for any indication that bankruptcy may not be the most appropriate course of action
- Visiting the property in an attempt to make contact with the debtor
- Checking HM Land Registry to confirm property assets
- Checking credit reference data to build a picture of the debtor's financial circumstances
- Checking Benefit Overpayment and Business Rates records (and to include any of those debts into proceedings if necessary)
- Checking Companies House for any business information.

Any checks carried out in the above list will be recorded by a Revenue Services senior officer and used as justification for any decision that they make.

- 14.6 The Council will refer appropriate cases to a Solicitor to carry out this work. The Solicitor may be a Council employee or may be an external body acting on the Council's behalf and will be fully authorised to do so.

15. Committal Summons

- 15.1 Committal proceedings will be considered for debts of £1000 or more where the debtor is an individual.
- 15.2 Where bankruptcy proceedings are not deemed as appropriate, a committal summons shall be served for the debtor to appear in front of the Magistrates to show cause as to why they have not paid their Business Rates.
- 15.3 The following considerations will be used in reaching a decision as to whether this is the most appropriate course of action, although this list is not exhaustive.
- Ensuring the debtor is over 21 years of age
 - Checking that no regular payment has been made
 - Checking that the debtor has indeed failed to respond to letters, Enforcement Agents have been unable to gain legal access to the premises or has issued a nulla bona certificate, and the Council has been unable to make contact
 - Checking whether the debtor has any assets
 - Checking with Adult Social Services to establish if the debtor is known to them, or whether they have any reason to believe that the debtor is unable to manage their financial affairs or of any potential adverse impact of such action on the debtor's wellbeing.
 - Checking all Council Tax and Business Rates records held for any indication that the committal process may not be the most appropriate course of action
 - Checking credit reference data to build a picture of the debtor's financial circumstances

Any checks carried out in the above list will be recorded by a Revenue Services senior officer and used as justification for any decision that is made.

- 15.4 Each Summons shall be sent with an enclosure giving brief details of the committal process and requesting that the ratepayer takes with them to Court full documentary evidence to demonstrate their financial circumstances.
- 15.5 The cost to the Council of £240.00 for issuing a committal summons will be added to the customer's account and any related costs as necessary should the issue of warrants be required.
- 15.6 At the committal hearing the Magistrates will hear evidence from the debtor as to the reasons why they have not made payment and they will establish whether there has been wilful refusal to pay the debt or culpable neglect. The Magistrates will then have the option to impose a prison sentence of up to 90 days in the most serious of cases, or they may wish to impose a suspended sentence based on a payment arrangement, the Magistrates also have the power to remit all or part of the debt should they see fit.

16. The Regulators Code

- 16.1 The Government in April 2014 introduced the Regulators' code, which aims to promote an open and constructive relationship between regulators and those they regulate. The Code seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.
- 16.2 Regulators must have regard to the code when developing policies and operational procedures that guide their regulatory activities, as well as when setting standards and giving guidance.
- 16.3 Under the Code, regulators should:
- Carry out activities in a way that supports those they regulate to comply and grow
 - Provide simple ways to engage with those they regulate and hear their views
 - Base their regulatory activities on risk
 - Share information about compliance and risk
 - Ensure that their approach to their regulatory activities is transparent
 - Ensure clear guidance and advice is available to help those they regulate meet their responsibilities to comply
- 16.4 The Council will have regard to this code when carrying out Business Rates enforcement activity and ensure that any serious action taken is appropriately considered, is proportionate to the amount outstanding and the decision making process is clearly documented.