

**REVENUES AND BENEFITS RECOVERY POLICY
INCLUDING SEVERE REMEDIES**

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Introduction

This policy covers the collection of debts owed to the Council although it is designed initially to cover Council Tax and Business Rates. The Council is committed to using the most effective recovery methods available to it. This policy will ensure the Council's use of recovery action is consistent and complies with relevant legislation and best practice. The Council has a legal duty to all council tax and rate payers to ensure cost effective billing, and recovery of all sums due to the Council.

The Council recognises that people do not pay their debts for a variety of reasons.

Some people may be able to pay but do not pay because of an oversight or personal difficulties and not because of a deliberate decision to avoid or delay payment. The Council will seek to help such people develop financial responsibility, good citizenship and a culture of payment by encouraging them to get in contact and discuss any difficulties.

Some people, because of living in or on the margins of poverty, will have difficulty in paying. The Council will use their best endeavours to help such people and to minimise the impact of debt on them.

Some people may deliberately set out to delay or not make payments and all methods of enforcement will be used to secure payment in these cases.

The council must act fairly, proportionately and within the law. The Council must consider the consequences for overall payment level if non-payers are allowed to evade their debts. The Council must comply with general statutory duties in relation to disabled people, including those with mental impairment.

The need to get in touch is central to the policy so the Council is able to consider the debtor's circumstances with a view to agreeing a reasonable payment arrangement, minimise recovery action and help alleviate hardship. Where people fail to make contact or maintain arrangements, recovery action will continue.

Principles

The Council has a legal duty to ensure the cost-effective billing, collection and recovery of debts due to the Council.

We understand that for the policy to be effective it is vital to ensure;

- That accurate and clear bills are produced promptly
- We respond quickly to changes in circumstances and applications for exemptions, discounts and reliefs
- The fast and accurate delivery of benefit entitlements
- We stick to the time scales we give people when outlining recovery action.

The Council believe that the policy will;

- Help identify/recognise deliberate non-payers or people who delay payment
- Enable people who fall into arrears to come to payment agreements appropriate to their circumstances

- Make sure that when we take recovery action it is appropriate and likely to be effective
- Mean that by being approachable people will be more willing to make contact when they first face difficulties
- Help reduce the effect of debt on the people on low income.

In this policy the Council aim to;

- take positive action to prevent arrears occurring, for example by maximising income and providing a range of payment methods
- take positive enforcement action against deliberate non-payers or those who delay payment
- ensure we bill promptly and remind people quickly if they do not pay
- encourage people to make early contact with us to avoid building up of debt.
- signpost people to advice agencies where appropriate.

The Council will;

- consider that people have a responsibility to pay.
- aim to identify those who can pay but won't or who delay payment, so that recovery action can be taken accordingly
- will actively encourage contact at every stage of the collection and recovery process
- aim to help people maximise their income
- acknowledge the need to provide a service that is effective but sensitive to individual's needs
- acknowledge our responsibility to collect revenue effectively.

When people get into arrears, we will;

- ensure that payment arrangements reflect the ability to pay as well as the level of debt owed
- acknowledge and respect a person's obligations to his/her dependants and recognise the need for a person to maintain a reasonable standard of living
- expect Priority Debts to be given priority over other non priority debts owed
- acknowledge the role of the recognised advice agencies and will work with such agencies whenever possible.

Responsibilities

The Council encloses information to all taxpayers with the annual Council Tax Bill which covers the following areas;

- Valuation Bands
- Discounts
- Reductions
- Exempt Dwellings
- Benefits
- Appeals
- How the money is spent in a joint leaflet with Essex County Council, Fire & Police

The Council encloses information to all Business Ratepayers with the annual demand which covers the following areas;

- Rateable Values
- Reliefs and Exemptions
- Appeals
- Small Business Rate Relief
- Information as supplied by the Department of Community and Local Government(DCLG)

The Council will provide a choice of convenient methods of payment for bills and demands and details of these options will be advised on each bill:-

- How payments are made.
 - Direct Debit
 - Debit Card
 - Cheque Payment
 - Cash Payment
 - Credit Card
 - Postal Order
 - Payment Card
 - Online Payments
 - Pay using our automated payment line

Debit and Credit card payments can be made by telephoning 01279 446600. This facility is available 24 hours a day, 7 days a week using the Council's automated debit and credit card payment line.

Whatever method of payment used individuals must ensure that payments made reach the Council by the due date. The instalment dates, where appropriate are shown on each bill.

The taxpayer should be aware of Priority Debts where serious action can be taken against individuals if they don't pay what they owe and include the follow as examples:

- Mortgages
- Rent
- Tax
- Utility bills
- Hire purchase debt
- Council Tax
- Court fines

- Maintenance and Child Support payments
- Business Rates

The Council must recognise that it has a role in ensuring that the vulnerable and socially excluded are protected and that the recovery process must be used giving appropriate discretion for those at risk. Those who might be potentially vulnerable include:

- The elderly,
- People with disability,
- The seriously ill,
- The recently bereaved,
- Single parent families,
- Pregnant women,
- The unemployed
- Those who have difficulty in reading, understanding and writing English.

Information should be recorded on the relevant account for the tax payer.

Statutory Enforcement

Where payments due have not been made the Council will take the following statutory actions:

- A reminder notice is issued which requires the account to be brought up to date within seven days.
- A final notice is issued advising that the right to pay by instalments has been lost and the full balance outstanding should be paid immediately. This notice further advises that failure to deal with the matter will result in the Council issuing a summons

At both the above stages staff can exercise their discretion by allowing a short period of time for payments to be brought up to date without progressing to the next stage of enforcement. Short-term holds may be placed on the account whilst queries regarding reductions are resolved.

- A summons is issued to all those people who have not responded to the final notice. Costs of £50.00 are added at this stage.
- A liability order is awarded at court and additional costs of £45.00 are added.
- Monitoring of payment arrangements where tax payers have already contacted the Council
- Make a deduction from benefit, Income Support, Job Seekers Allowance or Employment Support Allowance or Universal Credit
- Make an attachment to allowances if a Council Member
- Make an attachment to earnings
- A 14 day notice is sent together with an income & expenditure form advising that if there is no response the debt will be passed to the bailiffs and that extra costs will be incurred
- Where there is no response the case will be passed to enforcement agents to recover. They will adhere to the National Standards for Enforcement Agents

If all other enforcement options fail the Council will consider insolvency or charging orders. Insolvency action can be taken against any debtor who owes in excess of £5,000 to creditors and who, for whatever reason, is unable to satisfy his creditor's claims in full. The Council will consider using insolvency proceeding under the following circumstances (the list is not exhaustive):

- Where the debt exceeds £5,000 and the debtor has sufficient assets or equity to ensure the debt is recoverable by the Official Receiver or the Trustee
- Where the debtor is not making regular and mutually agreed payments that are sufficient to clear accruing debt and the arrears within an acceptable timescale
- Where insolvency action is considered most effective in recovering from a particular debtor
- Where specific assets cannot be identified but there are indicators that the debtor is one of high material worth for example has a high salaried profession
- Where bankruptcy action would encourage payment from specific groups of debtors where their credit rating is important to them for example self employed people.

If the aggregated balance on council tax Liability Orders for a property is over £1,000 then an application may be made for a Charge to be placed on the same property only, to secure the debt owed to the council. Charging Orders are not a method of enforcement in that the debt remains unpaid until the property is sold and the Charge

extinguished by the payment of the debt from the proceeds. If the debt is to be actively recovered then following a Charging Order being obtained, an application has to be made to the Court for an Order of Possession and Order for sale.

A Charge on a property may only be used for Business Rates debts with the agreement of the ratepayer and therefore such action will not be taken without the written consent of the ratepayer.

The Council will refer appropriate cases to the Legal Section of the Council to carry out work on Charging Orders.

Recovery Process

To try and prevent problems of debt occurring we want people to contact us as soon as they have difficulty paying. Many people are unaware of their rights and responsibilities and of the availability of a variety of payment arrangements. If people contact us early we will be able to discuss the situation and agree a payment plan. This will help to keep people out of debt.

When we are contacted we will;

- check whether they should be paying less or nothing at all
- check whether all the benefits, discounts, reliefs, exemptions and rebates are being claimed for
- advise on the most appropriate payment methods
- if appropriate, advise them to contact an independent advice agency.

We will make it easy for people to contact us. This will be achieved through e-communications, telephone help lines and offices open to the public at suitable hours.

Arrangements made by a recognised advice agency, with an income and expenditure form normally, will be treated in good faith. Where an individual appears to have complex benefit or money problems, staff will refer them to an appropriate advice agency.

The Council will try to get as much detail as possible of a person's circumstances to make the best assessment of their ability to pay. If a person refuses to divulge any information this could be used as a reason for refusing to make an arrangement.

In some cases it may be necessary to request documentary evidence to confirm particular details when arriving at a payment arrangement or reduction. Documentary evidence should not be asked for unless it is absolutely necessary. If it is necessary the individual should be told of the particular items that require confirmation and be given a specified reasonable time limit within which they are required. The individual should be advised that if the evidence is not produced the offer of payment may be rejected and further recovery action could be taken.

All information collected is governed by the Data Protection Act 1998.

When payment arrangements are not maintained it is important to ensure that prompt action is taken by the debtor to try and bring the arrangement back up to date. The Council will ideally require the arrangement to be brought up to date within a short timescale, if there has been a significant change in circumstances it may be possible to negotiate a new arrangement.

When negotiating arrangements the Council staff should ensure that current instalments are being maintained with the arrangement being in addition to clear arrears.

The Council is obliged to pursue all debts irrespective of a person's age, infirmity etc. However, the Council recognises its obligations under the Disability Discrimination Act 2005 and the Equality Act 2010 and recognises that some groups of people may have difficulty understanding or dealing with their financial problems.

If such a case is identified the Council will consider withdrawing proceedings in favour of alternative recovery action.

As part of the consideration as to whether continuing recovery action is appropriate in an individual case, officers will consider the overall debt position, the financial position including income and equity, personal circumstances and the level of engagement including previous payment history.

The more information held about the debtor the more efficient the decision making process will be in terms of selecting the most effective enforcement option.

Where Insolvency action is considered a Recovery Officer will make a recommendation to the Recovery Team Leader and the Revenues and Benefits Manager by completing a Consideration Form (attached). As part of the consideration as to whether bankruptcy action is appropriate in an individual case, the officer will consider the overall debt position, the financial position including income and equity, personal circumstances and the level of engagement including previous payment history.

The more information held about the debtor the more efficient the decision making process will be in terms of selecting the most effective enforcement option. As part of the decision making process the Council officer will seek to build a picture of the debtor and their circumstances and will achieve this in various ways, including some or all of the following activities. This list is not exhaustive.

- Demanding financial information in writing following a Liability Order being granted whilst stating bankruptcy is an option to be considered.
- Checking all Council Tax records and if possible any other records to see if there is any reason bankruptcy would not be appropriate.
- Check benefits records to ensure that all Council Tax Benefit due to the debtor has been paid and their records do not indicate that the debtor is not suitable for bankruptcy action.
- Checking H.M. Land Registry to confirm property assets.
- Checking with a credit reference agency for information on outgoings and status.
- Checking known or potential employment details.
- Checking Companies House records for business information.

In all cases the Council will send a pre-bankruptcy warning letter. This letter will give 28 days notice of the Council's intention to commence bankruptcy proceedings.

The Council will consider using a Charging Order in the following circumstances (the list is not exhaustive):

- Where the property is currently for sale voluntarily and a charging Order is used as a way of securing the debt by agreement with the Council.
- Where the property is owned by a debtor who resides outside UK jurisdiction.
- Where a debtor, as a result of age, severe mental illness or serious learning difficulties cannot deal with their affairs.
- Where the debtor's whereabouts are unknown making service to allow bankruptcy action difficult.
- Where a payment arrangement has been agreed on the basis that the debt is secured via a Charging Order.

Where a Charging Order is considered a Recovery Officer will make a recommendation to the Recovery Team Leader and the Revenues and Benefits Manager and will consider each case on its own merits being mindful of all the facts and the level of arrears. The recommendation will be made by completing a Consideration Form (attached).

Bankruptcy-Charging Order Consideration Form

Debtors name _____

Account number/s _____

Current address _____

Total debt _____

Tenure type _____

Date of birth _____

Contact details held

Contact with Council Tax history:

Evidence of health issues:

Employment status past and present:

Details of any joint liability:

Benefit history:

Current benefit entitlement:

Checked by _____
Position _____
Date _____

Council Tax account reference

Accumulated statement attached

Business Rates account reference

Accumulated statement attached

Other Information found

Land Registry dated _____

Experian check dated _____

Bankruptcy warning letter issued on _____

Details of assets:

Referred by _____
Position _____
Date _____

Approved by _____
Position _____
Date _____

H/Standing instructions