



## **REVENUES & BENEFITS (SHARED SERVICE)**

## **PRESTON CITY COUNCIL & LANCASTER CITY COUNCIL**

## **Council Tax and Business Rates – Recovery Policy**

## **Policy**

### **Recovery of Council Tax and National Non-Domestic Rates**

<b>Contents</b>	<b>Item</b>
Introduction	1
Customer Care	2
Help and Advice	3
Payment Methods	4
Council Tax Recovery Procedure	5
Addition of Costs to a Council Tax Account	6
Withdrawal of Costs and Recovery Action	7
Payment Arrangements for Council Tax Debts	8
Offers of Payment through Advice Agencies	9
National Non-Domestic Rates Recovery Procedures	10
Monitoring	11
Equality Impact Assessment	12
Working with Stakeholders	13

## 1. Introduction

This Recovery Policy (Policy) has been written in response to the Council's need to ensure that its debts collected by Revenue Services are done so in a fair and consistent manner. It includes the collection of Council Tax and National Non Domestic Rates.

The Policy aims to:

- Provide consistency in the way that people with debts are dealt with.
- Take into account customers' circumstances and ability to pay; thereby attempting to alleviate financial hardship as far as is possible in the circumstances.
- Be a guide to all staff with responsibility for collecting debts in Revenue Services. The guidelines are not intended to slow down recovery procedures or make them less effective. All staff should be aware of the policy and new staff should be acquainted with it as part of their training.
- Be a source of information for councillors, local advice agencies and all those responsible for the payment of Council Tax and National Non-Domestic Rates
- Be a source of guidance for each Council's enforcement agents.

## 2. Customer Care

As part of its commitment to excellent customer service, Revenue Services will:

- Ensure that debts are collected in an efficient and effective way whilst taking account of the debtor's circumstances.
- Consider the financial circumstances of the customer when recovering debts.
- Encourage constructive comments from customers about how we can improve our services.
- Make services physically accessible to people with disabilities.
- Ensure that services are delivered in line with each Council's equal opportunities policies.

## 3. Help & Advice

Information on Housing Benefit and Council Tax Support will be included with bills and reminders for Council Tax. Information on other ways of reducing Council Tax bills will also be widely available.

Information regarding reliefs for National Non-Domestic Rates (NNDR) will be provided with bills and reminders for NNDR. Potential qualifiers for small business rate relief will be issued with an application form with their opening bill as standard.

Where appropriate, documentation (e.g. bills, reminders) will advise customers where to get help and advice about benefits and debt problems. This will normally include information about the Welfare Benefit Information Centre and Citizen's Advice Bureau.

The Service will also:

- Ensure customers are aware of where help and advice is available.
- Invite and encourage customers to make contact with the Council in person or by telephone, as soon as they experience difficulties paying their accounts.
- Ensure that all written communications use 'Plain Language'.
- Assist people with language and sensory communication difficulty, by offering a translation service where appropriate.
- Ensure that advice and information given to customers by members of staff is consistent and that customers are treated fairly and equally.

#### 4. Payment Methods

The Council's preferred method of payment for Council Tax and National Non-Domestic Rates is by ten monthly instalments by direct debit.

Both Council Tax payers and National Non Domestic Rate payers have the right to request payment by twelve monthly instalments.

Payment by direct debit is recognised as being the most cost effective means of collection for both the Council and the customer. Every effort will be made to guide customers to pay by this method.

Other methods of payment include, postal remittance, standing order, payment at any Post Office or Pay Point outlet (such as a local supermarket), by credit or debit card using the automated telephone service or the internet, which is available at any time.

#### 5. Council Tax Recovery Procedure

Before a Liability Order is obtained:

- Reminder letters and, where appropriate, final notices will be issued to the debtor in accordance with the legislation.
- All such reminders and notices will encourage the debtor to contact the Council if they are unable to make payment as requested and alert debtors to the fact that additional costs may be incurred if recovery proceedings are necessary.
- A summons for the debtor to attend the Magistrates' Court to explain why he/she has not paid will be issued where instalment arrangements (statutory or otherwise) have not been kept to and the relevant notices have been sent.
- The summons will be accompanied by a leaflet that explains the procedure, the potential defences that a debtor may have, and the options that the granting of a Liability Order will give the Council in recovering the amount due. The leaflet will also encourage the debtor to make an arrangement or offer to repay the debt and provide contact details for advice/information.

- Where a Council Tax Support claim is waiting to be processed, the customer will need to contact the Council and discuss their account. If the customer has been asked to make payments based on a support calculation they will be expected to ensure that these payments are made. Recovery on the account may then be withheld whilst the claim is waiting to be assessed.
- If a Council Tax Benefit/Support appeal is pending, legal action will only be suspended by agreement with the Senior Appeals Officer, Appeals Officer and the Council Tax Manager. However, an arrangement must be made to cover any ongoing bills if the customer is not appealing against the current Council Tax Support assessment.
- If a summons is issued, and then an arrangement to pay is agreed before the Court hearing, the Court will still be asked to grant a Liability Order to protect the Council's interest. The costs incurred in obtaining the Liability Order will be due in full but may be waived or reduced as detailed in Section 7 below.

A Liability Order will be requested in all other cases.

After a Liability Order is obtained:

- If an arrangement to pay has not been agreed after a Liability Order is granted, an attachment of benefit will normally be considered if the customer is in receipt of a relevant benefit. If the debtor is in employment an Attachment of Earnings Order will usually be the preferred method of collection.
- In the absence of the ability to enforce payment via an Attachment of Earnings Order, Attachment of Members' Allowance or an Attachment of Benefit, the Council will normally use the Council's appointed enforcement agents to enforce payment via taking control of goods proceedings for outstanding balances of £200 or more. Lower amounts may only be referred by prior authorisation from the Council Tax Manager or Revenues Manager. The enforcement agents must act in accordance with the National Standards for Enforcement Agents 2012 issued by the Ministry of Justice.
- Use of the remaining recovery options ie. charging order, insolvency proceedings or committal to prison proceedings will only be used if the other methods referred to above have either been unsuccessful or information/intelligence suggests that an alternative remedy is more appropriate in the particular circumstances.
- A charging order will usually only be used where the debtor owns the property and there is equity in it. Specifically, charging orders will also be considered for second homes and empty properties, and once obtained will be followed up by an application for an order for sale.
- Bankruptcy proceedings will usually only be used where the debtor owns the property with equity in it and the debt is greater than £5,000.
- Committal to prison proceedings will normally be an option that is contemplated after all other options have been considered.
- A pre-committal appointment will be offered to the taxpayer prior to a committal summons being issued. Failure to attend this appointment will be used as part of the prosecution evidence at the committal hearing.

**In the interests of the Council Tax payers of the district, the Council reserves the right to vary from this Policy in exceptional circumstances. The decision will be made by a senior officer and the reasons for the decision will be fully documented.**

## **6. Addition of costs to a Council Tax account**

Costs are added to a taxpayer's account when a summons is issued and again when a liability order has been obtained from the Magistrates' Court. Where two or more people are jointly and severally liable to pay Council tax at a property, only one set of costs will be added to that account.

The costs include £0.50 to cover the charge made by the Magistrates Court, together with charges to cover reasonable costs incurred at summons and liability order stage, towards the total cost of all recovery action taken by the Council. Recovery costs will be reviewed and approved on an annual basis.

The collection of costs is important for the Council, as it pays for the costs and overheads of recovery action.

Once costs have been added to a taxpayer's account they are normally payable in full along with any outstanding Council Tax. This could be by payment in full or as part of an arrangement to pay by instalments.

## **7. Withdrawal of Costs and Recovery Action**

Recovery action and the associated costs will normally only be withdrawn for one of the following reasons:

- Where payment can be shown to have been made on or before the date of issue of a summons;
- Where the summons has been issued in error;
- Where exceptional circumstances have been identified and it is in the Council's interests that costs are waived and recovery action is withdrawn;
- At the discretion of a senior officer, where other exceptional circumstances exist, or where in their view, the individual circumstances in any case justify the withdrawal of costs;
- Where costs are written off in line with the Council's write off policy.

The Council is committed to maximising the collection of all Council Tax due to it, but recognises that some people will struggle to pay their Council Tax in line with the instalment plan that they are given. All customers who are struggling to keep to their instalments are encouraged to make contact with the Council as soon as possible so that advice and assistance can be given.

The Revenues Section will exercise its discretion with regard to those in receipt of council tax support, and providing that the taxpayer has engaged with the Council and it is receiving regular payments either directly from the taxpayer or via the Department of Work and Pensions (DWP) it will consider waiving the liability order costs. Each case will

be considered on its own merits and there is no legal obligation or requirement on the Council to do this.

Where an Attachment of Benefit is cancelled or an arrangement defaults, the Council will consider re-instating the waived liability order costs. This decision will depend on contact from the taxpayer and their subsequent efforts to clear their outstanding Council Tax.

## **8. Payment Arrangements for Council Tax Debts**

Staff will always seek to make realistic arrangements with a debtor for them to clear outstanding amounts by regular payments.

Reminders will always convey a willingness to discuss matters with customers and encourage them to make contact if they cannot pay as requested. They will also make the customer aware of the consequences of failing to make payments or keep to arrangements.

The initial intention of arrangements to pay will be to clear the debt as soon as possible and within the financial year to which the debt relates. Payment arrangements can be extended beyond this date if the customer's circumstances necessitate this. However, a financial statement of the debtor's income and expenditure can be requested to support a request for an arrangement running into the next financial year. Such income and expenditure statements must always be validated by the debtor producing documentary evidence to support its content.

The customer will be warned that additional costs will be incurred if court action is taken. This will normally be in the correspondence sent out before a summons is issued i.e. reminder or final notice.

Both current income and expenditure (and other debt repayments) will be taken into account when considering making a payment arrangement.

Where there are non-priority debts being repaid or the customer is experiencing multiple debt problems and is unable to make an acceptable offer of repayment they will be advised about the debt advice services available either at the Welfare Benefit Information Centre or the local Citizen's Advice Bureau offices.

Payment arrangements should firstly aim to clear the debt by the end of the current financial year. If this is not financially possible then arrangements made should be to cover the current year's instalments and an amount off the arrears. The customer will be advised that they will need to contact the Council when they receive a bill for the new financial year, in order to reset a payment arrangement to include the new bill and the arrears.

It is good practice to regularly review payment arrangements that are going to take a number of years to clear the debt. The Council will endeavour to do so.

A financial statement can be requested at any point in the recovery process if a customer is stating that they are experiencing payment difficulties and cannot pay what is being asked. It should be emphasised that this is in the customer's interest as well as the Council's because it should ensure any arrangements made are sustainable. The officer dealing with the financial statement should also ensure that benefit entitlements are maximised, by referral to the Benefits team, Welfare Rights, Welfare Benefits Team

(Preston) or Citizens Advice Bureau where appropriate and the customer advised to seek help from debt advisors.

A financial statement will usually be requested if a large overpayment of Council Tax Benefit/Support is posted back onto a customer's Council Tax account, unless they are able to clear the debt in full or clear the debt by the end of the financial year.

The Council reserves the right not to enter in to payment arrangements with those customers who have a history of defaulting in such arrangements.

## 9. Offers of Payment through Advice Agencies

It is important to distinguish between customers who won't pay and customers who can't pay. This is not straightforward as people's circumstances can change rapidly and judgement is needed in the process of assessment.

Experience suggests that many people in arrears do not seek assistance early on in recovery processes and they may receive advice from other agencies. The Council will respond to evidence of hardship at all stages of the recovery process, from whatever source

The Citizen's Advice Bureau, Welfare Rights Service and Welfare Benefits Team and other advice agencies will provide advice to customers about their repayments, linked to their ability to pay and likelihood of the offer of payment being accepted. Liaison between the officer acting on behalf of the customer and the creditor service is a strongly recommended practice. The aim being, to ensure that the repayment arrangement is acceptable to all parties involved and that all known circumstances relating to that customer are shared and taken into account:

- A customer's ability to pay can be assessed by the advice agencies through a financial statement drawn up by the adviser. This will take account of the standards and guidelines available nationally; for example those produced by the Child Poverty Action Group, Money Advice Association and Money Advice Trust.
- Evidence of the accuracy of the assessment should be made available to the Council if requested.
- Where the customer's ability to pay has been assessed on the basis of a financial statement prepared by one of the advice agencies, the Council will usually accept the agreed repayments and suspend further recovery action.
- If an offer to pay is refused the agency will be provided with the reasons for the decision.
- Any adviser making an arrangement to repay on behalf of a customer must take responsibility for emphasising to the client the need to repay and to keep to the arrangement/offer made - illustrating the possible consequences if the terms are not kept to.
- All such arrangements will be in writing and will include acknowledgement of the debts outstanding by the customer (including costs borne directly by the Council).
- In all contact that follows, the customer will be encouraged to seek further money advice.

- Where a subsequent default can be shown to have occurred as a result of a change in the customer's circumstances, beyond his or her reasonable control, then a revised financial statement will be prepared.

Additional debts to the Council may be incurred during the course of repayments in accordance with a financial statement. The customer must be encouraged to contact a money advice agency to rearrange the repayment agreement and given a fixed time to do so before further action is taken.

## 10. National Non-Domestic Rates Recovery Procedures

Before a Liability Order is obtained:

- Reminder letters and, where appropriate, final notices will be issued to the debtor in accordance with the legislation.
- A summons for the debtor to attend the Magistrates' Court to explain why he/she has not paid will be issued where instalment arrangements (statutory or otherwise) have not been kept to and the relevant notices have been sent.
- The summons will be accompanied by a leaflet that explains the procedure, the potential defences that a debtor may have and the enforcement options the granting of a Liability Order will give the Council in recovering the amount due. The leaflet will also encourage the debtor to make an arrangement or offer to repay the debt and provide contact details for advice/information.
- A summons will not be issued where an application for Hardship Relief or Mandatory/Discretionary Rate Relief is pending.
- Where a ratepayer is summonsed for more than one property on the same hearing date, only one amount of costs will be applied.
- Customers will be advised about the National Debtline if it becomes apparent that their business is experiencing difficulties because of business debts.

Costs will include £0.50 to cover the charge made by the Magistrates Court, together with charges to cover reasonable costs incurred at summons and liability order stage, towards the total cost of all recovery action taken by the Council. Recovery costs will be reviewed and approved on an annual basis.

If a summons is issued, and then an arrangement to pay is agreed before the Court hearing, the Court will still be asked to grant a Liability Order to protect the Council's interest. The costs incurred will be due in full but these may be waived or reduced in the following circumstances:

- Where payment can be shown to have been made on or before the date of issue of a summons;
- Where the summons has been issued in error;
- Where a subsequent award of discretionary rate relief or hardship relief is applied;
- Where exceptional circumstances have been identified and it is in the Council's interests that the costs are waived and recovery action is withdrawn;

- At the discretion of a senior officer, where other exceptional circumstances exist, or where in their view, the individual circumstances in any case justify the withdrawal of costs;
- Where costs are written off in line with the Council's write off policy.

After a Liability Order is obtained:

- From the list of available powers afforded by the issue of the Liability Order, officers of the Council will have full discretion to determine the course of action that is most likely to produce payment within the shortest timescale.
- In doing so, officers will have regard to the debtor's circumstances as far as they are known. The wishes of the debtor will be considered but will not be binding on the officer's decision which will be documented.
- In the absence of any other intelligence or information about the debtor, a notice will be sent to the debtor at his last known address or registered office informing him/her that a Liability Order has been obtained and that the Order will be passed to the Council's appointed enforcement agents for collection unless payment is made within fourteen days. The enforcement agents must act in accordance with the National Standards for Enforcement Agents 2012 issued by the Ministry of Justice.
- Use of the remaining recovery options ie, Insolvency proceedings or committal to prison proceedings will only be used if other methods referred to above have either been unsuccessful or information/intelligence suggests that an alternative remedy is more appropriate in the particular circumstances.
- A pre-committal appointment will be offered to the ratepayer prior to a committal summons being issued. Failure to attend this appointment will be used as part of the prosecution evidence at the committal hearing.

**In the interests of the Council Tax payers of the district, the Council reserves the right to vary from this Policy in exceptional circumstances. The decision will be made by a senior officer and the reasons for the decision will be fully documented.**

## 11. Monitoring

This Policy and its effectiveness will be monitored by the Head of Service. Complaints will also be used to inform and shape working practices to improve service objectives.

Collection statistics will be reported quarterly via each Council's performance reporting process.

This Policy will be reviewed annually or sooner if deemed appropriate. This will enable it to be updated where necessary and to take into account changes in legislation. New approaches and ways of working will inevitably be introduced and this Policy will need to be adapted to take these into account.

## 12. Equality Impact Assessment

Each authority will complete a separate equality impact assessment in relation to Council Tax and National Non Domestic Rates and it will therefore not form part of this policy.

## 13. Working with Stakeholders

The Service will seek opportunities to work in partnership with its stakeholders to improve service delivery. In particular, close-working arrangements will be maintained with the Welfare Benefits Information team and the local Citizen's Advice Bureau with significant emphasis on the provision of debt advice.

Benchmarking performance with other comparable local authorities and other Lancashire authorities will be undertaken.

Close working relationships will be maintained and developed with all other stakeholders associated with the recovery process, for example: Benefits & Customer Services Team, Magistrates' Court, Enforcement Agents etc.

User consultation/satisfaction surveys of stakeholders will be undertaken periodically to identify areas for improvement.

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