



## REVENUES DEBT RECOVERY POLICY

### Introduction

Wyre Forest District Council is responsible for the collection of council tax and national non-domestic rates (NNDR) on behalf of Worcestershire County Council, West Mercia Police Authority, Hereford & Worcester Fire and Rescue Authority and Parish/Town Councils in the district.

This policy has been developed in order to achieve an efficient and effective revenue collection and sets out the recovery process that will be followed by the Revenues recovery team.

### Aims

The aims of the recovery policy are to:

- Comply with current regulations and incorporate the Council's corporate policies where applicable.
- Use cost effective and fair recovery practices so that all balances and instalments due are paid and ensure those that can pay, do pay.
- Ensure there is a professional, consistent and timely approach to recovery action.
- Encourage debtors to engage with the Council as soon as possible if they have difficulty in meeting their liability.
- Be responsive to individual circumstances including ability to pay in order to differentiate between those who can't pay and those who won't pay.
- Maximise the levels of income collected and minimise the level of arrears.
- Ensure that debts are managed in accordance with legislative provisions and best practice.
- Provide individuals in financial hardship with support and advice to claim all relevant benefits, exemptions, relief and discounts and ensure they are referred to specialist debt advisors if necessary.
- Treat individuals fairly and consistently regardless of age, sex, race, gender, disability and sexual orientation and to ensure that individuals' rights are protected under Data Protection and Human Rights legislation.
- Where the resident is defined as vulnerable under the Councils vulnerability criteria and this is known to the Council, to take action according to individual circumstance and enter into sustainable payment arrangements wherever possible.

### Debts covered by this policy

**Local Taxation** – Council Tax recovery processes are laid down by statute in The Council Tax (Administration and Enforcement) Regulation 1992 and subsequent amendments.

**National Non Domestic Rates** – Business Rates recovery processes are laid down by statute in the Non-domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments.

Details of the recovery of housing benefit overpayments can be found in the [Housing Benefit Overpayment Policy](#)

### **Annual billing**

Annual council tax and business rates bills (demand notices) are issued in March every year which set out the total amount of liability due. Amended bills are issued daily when changes of circumstances are reported and actioned.

All bills include a monthly payment instalment arrangement over 10 months and if paying by instalments, the amount payable is due on the 1<sup>st</sup> of each month. There is the option to pay over 12 instalments as long as the first payment is made by the end of April.

The most cost efficient payment method is direct debit which will be actively promoted. The methods of payments accepted are:

- Direct debit
- Automated phone payments by debit/credit card
- Website payments
- Internet banking/bank transfers/BACS payments
- PayPoint and Post Office outlets by cash or card
- Cheques by post only
- Standing order

### **Reminders**

A recovery timetable is drawn up at the start of every financial year to ensure fairness and consistency. Balances must be paid by the due date stated on the bill.

If an instalment has not been paid, a reminder notice will be issued.

The reminder notice will state the deadline the payment must be made by and if paid by that date and the account kept up to date, no further action will be taken.

A maximum of 2 reminders will be issued in any one financial year in accordance with the regulations. A second reminder will only be issued if the customer pays the first reminder on time and then fails to pay a further instalment by the due date.

Failure to pay after a reminder is sent may result in a cancellation notice. This means the full balance becomes due and the right to pay by instalments are lost for the rest of the financial year.

### **Final Notices – Council Tax**

Once two reminder notices have been issued during the financial year and a further instalment is not paid, a final notice will be issued. The final notice gives 7 days only to pay the remaining balance due for the year in full. Final notices are also issued on closing accounts or where only one instalment is due.

### **Final Notices – Business Rates**

Once one reminder notice has been sent then the full balance will become due if the payment has not been made and a further reminder letter is required

### **Summons**

If payment is not made as instructed on the notices previously issued, a summons is requested from the Magistrates Court. The summons issued will be for the total balance and not just for missed instalments.

If the customer has a Council Tax Reduction Scheme claim waiting to be processed, recovery action may be held pending the decision. This will depend on the amount outstanding but the Council reserves the right to proceed with issuing a summons and subsequent recovery action.

This involves the Council making a complaint to the court requesting the issue of a summons which directs the customer/s to appear before the court to show why they have not paid the debt.

A summons may be issued to 2 or more tax payers jointly liable for the debt and each liable person may be served with an individual summons.

The cost of raising the summons is added to the outstanding debt. The summons costs are £50.00 and is made up of both the Council's administration costs and court costs.

The summons will be issued with at least 14 days between issue and the court date and will state when the liable person/s must attend court.

If the amount due plus costs are paid before the court hearing, the tax payer will not have to attend court and the Council will not proceed to obtain a liability order.

If arrangements to pay are made, the Council will still proceed to obtain a liability order but as long as payments are made in accordance with the arrangement no further recovery action will take place.

If the liable person/s does not pay or does not attend court, the hearing will proceed in their absence.

## **Liability Orders**

At the hearing, the magistrates must be satisfied that the Council has followed the correct procedures which are sending a bill, reminders and summons to the property or last known address. The Council must confirm who is liable for council tax and that the debt is outstanding. If the magistrates agree that the amount shown on the summons is payable by the customer they will issue a Liability Order. A liability order is a legal instrument that allows the Council to collect the outstanding debt.

The cost of the liability order is added to the outstanding debt. The liability costs are £30.00 and is made up of both the Council's administration costs and court costs.

The liability order is a decision by the court confirming that the person listed is liable to pay the sum due and that the balance has not been paid in accordance with the law. This order gives the Council powers to recover the debt using other methods such as:

- Requesting financial information including employment status and employer details;
- Taking money directly from wages using an Attachment of Earnings Order;
- Taking money directly from DWP benefits;
- Instructing an Enforcement Agent to collect the debt;
- Starting winding up proceedings against limited companies;
- Starting bankruptcy proceedings against individuals;
- Seeking a Charging Order against the property;
- Starting committal proceedings for imprisonment for up to 90 days.

## **Recovery following liability orders**

After the hearing notices are issued confirming that an Order has been granted. This notice contains a requirement to supply certain information. If the liable person does not provide the requested information this could lead to prosecution and a fine.

The notice issued warns the debtor that unless they pay or make arrangements to pay, further recovery action will be taken.

The information obtained will then help the recovery team to decide the next course of action to recover the money owing.

## **Hardship**

The recovery team welcomes and encourages contact to be made during all stages of recovery in order to make arrangements to clear the balance owing. The Council is committed to reducing poverty and hardship and the team will review each case on its own merit.

Extended payment arrangements may be agreed and the recovery team will expect the current year's council tax to be paid first together with an agreed amount to pay off any previous years debt.

Where the customer is in receipt of Council Tax Reduction Scheme, arrangements must be in place to pay any outstanding balance by the end of the financial year. Council Tax Reduction Scheme claimant debts will only be passed to Enforcement Agents as a last resort after careful consideration by the recovery team.

The recovery team will consider applications for a discretionary reduction in liability which is a scheme the council operate for those in significant hardship. For more information see the [Discretionary Reduction in Liability Policy](#).

Before pursuing any of the following methods of recovery, consideration will be given to looking at any other debts that the tax payer may owe to the Council and all outstanding debts will be pursued as a whole. This will be carried out in conjunction with the corporate debt recovery officer.

### **Vulnerability**

The Council recognises that certain groups of people may be particularly vulnerable and require additional help with their financial affairs. The vulnerability criteria is included at Appendix A to this policy which sets out the type of groups who the Council consider may be vulnerable and how recovery of the debts will be approached.

### **Methods of recovery**

**Attachment of Earnings Order** – The Council can tell an employer to make deductions from earnings of their employee and to pay the deducted amount to the Council.

Failure to provide employment details when requested could result in an additional fine of up to £500 for non-disclosure and £1,000 for supplying false information.

Failure to comply with the order may result in the employer being fined. The amount deducted will be in line with regulations and will depend on earnings.

Employers can deduct £1 per order for every time a deduction is made to cover administration costs and deductions will continue until the debt is paid. Changes in employment must be reported to the recovery team within two weeks.

**Deductions from DWP benefits** – The Council can ask the Department for Work and Pensions (DWP) to make deductions from Universal Credit, Income Support, Jobseekers Allowance, Pension Credit or Employment Support Allowance.

The amount deducted will be in line with regulations and will depend on the amount of benefit in payment.

Changes to benefit entitlement must be reported to the recovery team within two weeks.

**Enforcement agents** – the Council will instruct their Enforcement Agents to collect the balance owing when a customer has failed to provide income details, failed to agree an acceptable payment plan and/or make the agreed payments.

Enforcement fees are fixed and the letter will explain what happens if the account is referred and the costs that will be added to the debt.

In most cases if a debtor owes less than £1,500 the enforcement agents fees are:

- £75 when the case is referred
- £235 if no response is received following contact attempts by phone/email/text and they have to visit the property
- £110 if they have to take goods and sell them at auction

If the debt is over £1,500 the enforcement agents will charge an additional fee of 7.5% of the amount over £1,500.

The recovery team will check each case to identify if any employer details are available, for any notes that indicate the customer is vulnerable or that there are exceptional circumstances.

The revenues team will continually monitor the performance of the Enforcement Agents to ensure they are an efficient and effective collection method.

If the Enforcement Agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to the property, they will advise the council accordingly. The recovery team will then consider further recovery action as listed below.

**Bankruptcy/Insolvency** – The Council will consider taking bankruptcy proceedings where at least one other method of recovery listed above has been attempted and failed and the debt owed is more than £5,000.

There are significant costs associated with this method of recovery that are incurred by the customer and their home may be lost so these proceedings will be used with caution.

A full risk assessment will be undertaken by the recovery team using all the information available from the council's records including Land Registry checks, credit reference reports and Companies House records where applicable.

The team will liaise with Social Care and other relevant partners to check for vulnerability before proceeding. All cases referred for bankruptcy proceedings will be authorised by the Revenues, Benefits & Customer Services Manager.

Once authorisation to proceed is agreed a letter will be delivered to the debtors property in person or first class post, outlining the intention to start bankruptcy proceedings and the implications of this course of action.

Arrangements to pay will be considered if a customer makes contact and a hold will be placed on further proceedings at this stage. Failure to adhere to the arrangement would warrant bankruptcy action being reconsidered.

If a customer or their representative contacts the recovery team at this stage highlighting extenuating circumstances or vulnerability the matter will be referred to the Revenues Service Manager and the Revenues, Benefits & Customer Service Manager to make a decision on the information received.

If the Council does not receive payment or contact to make arrangements to pay within 14 days, a Statutory Demand will be served which is the first formal stage that may lead to bankruptcy.

The Council will allow at least 14 days from the issue of the Statutory Demand before passing the case to the Council's bankruptcy practitioners.

Once a case is referred to the bankruptcy practitioner, all further contact will not be dealt with by the Council and will be referred to the practitioner. The documents issued will recommend the debtor seek their own independent legal advice.

**Charging Orders** – When a customer owns property and the Council holds information suggesting that payment is unlikely through bankruptcy or where the current address of the debtor is unknown or overseas, a Charging Order may be appropriate. A Charging Order secures the debt but payment will be delayed until the property is sold.

A full risk assessment will be undertaken by the recovery team using all the information available from the Council's records including Land Registry checks, credit reference reports and Companies House records where applicable.

The team will liaise with Social Care and other relevant partners to check for vulnerability before proceeding. All cases referred for Charging Orders will be authorised by the Revenues, Benefits & Customer Services Manager.

A factor to consider when deciding to proceed with a Charging Order would be the length of time it will take for the Council to receive the money which may run into years in addition to the life of a Charging Order which is 12 years.

Once a Charging Order has been granted against a property, the Council can apply to the court for an order to evict and force the property to be sold and the debt recovered from the proceeds of the sale.

The Council may still look to recover any debt that remains not covered by the Charging Order, by other methods.

**Committal proceedings** – Where a debt remains unpaid by way of sale of goods or through other methods previously listed, the Council will consider an application for a Warrant of Commitment.

The Council will apply to the Magistrates Court for a further summons to be issued for the debtor to appear before the court to enquire into their means. The 'means enquiry' will be to establish whether the failure to pay was due to 'wilful refusal' or 'culpable neglect'.

If the debtor refuses to attend court, the hearing cannot take place and the Council will apply for an arrest warrant with bail.

The arrest warrant with bail will be hand delivered to the debtor and will state the date and time to appear in court.

If the debtor does not then appear in court after being bailed, the Council will ask the Magistrates Court to issue a warrant for arrest without bail. This will require immediate arrest of the debtor who will be detained pending the hearing at court.

Committal action could result in a prison sentence of up to 90 days. If any arrangement to pay is offered at this stage, it will be up to the Magistrates Court to consider and not the Council.

If the court agrees to an arrangement to pay, payments must be made direct to the Council. Failure to adhere to the court order will result in the debtor appearing before the court to seek an immediate committal to prison.

**Tracing debts** – All debts owed to the council will be pursued in accordance with this policy. If the debtor leaves their last known address without a forwarding address, the Council will use various means of tracing the debtor which may involve external tracing agents.

**Write offs** – Every effort is made to protect the public purse and collect debts owed to the Council and recovery is rigorously pursued in accordance with this policy. Debts will only be considered for write off when:



- The recovery team have been unable to trace the debtor using all available methods.
- Where the debtor is deceased, there is no joint liability and the executor reports there are insufficient funds to clear the debt.
- Where the debtor has been declared bankrupt and there is no prospect of recovery.
- Where the Magistrates remit all/part of a debt during committal proceedings.
- In the case of a debt of a company, if that company ceases to exist.
- If a debt is barred by statute (unsummonsed and over 6 years old).
- Where the Council is subject to an Individual Voluntary Agreement that is less than the full liability.

Any debt that is written off must be approved by the Director of Resources if under £5,000.

Debts between £5,000 and £10,000 must be approved for write off by the Director of Resources and Cabinet Member for Resources.

Requests to write off debts in excess of £10,000 must be authorised by the Cabinet.

The Council may still recover the debt if circumstances change and it becomes recoverable.

**Winding up (Business Rates)** – If the rate payer is a limited company, the Council can apply to ‘wind up’ the business. The Council will consider winding up proceedings where at least one other method of recovery listed above has been attempted and failed.

There are significant costs associated with this method of recovery that are incurred by the rate payer so these proceedings will be used with caution.

After agreeing this method of recovery against a business, the Council will send a formal request for payment advising of the intended action and subsequent consequences if the debt is not paid.

If no response is received within 14 days the Council will consider whether a petition for the winding up of the company should be issued.

If the Council seeks a petition from the High Court, the petition will be served on the rate payer telling them of a date and time of the hearing. At this stage, significant costs are added to the debt.

If the rate payer refuses to attend court to make representation to the judge, this generally results in the company being wound up.

Once the company has been wound up, the matter is then referred to the Official Receiver.

**Review**

This policy will be reviewed periodically and any amendments authorised by the Revenues, Benefits & Customer Services Manager in conjunction with the Corporate Leadership Team as required.

## VULNERABILITY CRITERIA

There is no council tax regulation that sets out a clear definition of a vulnerable person. This policy provides guidance as to what groups of people **may** be considered vulnerable and what actions may be taken to deal with debts owed by vulnerable people.

Not all people in the groups listed below will be vulnerable. The Council may agree someone is vulnerable in terms of council tax debt if the liable person falls into one of the following categories and that vulnerability means they are unable to manage their financial affairs, understand the recovery process or the consequences if the debt remains unpaid. The cause of vulnerability may be permanent or temporary and the degree of vulnerability will vary widely.

A vulnerable person may include, but is not restricted to the following groups:

### ***People with a physical and/or sensory impairment***

A person who has a physical disability is not necessarily vulnerable for the purposes of debt collection, however they will be considered vulnerable if their disability prevents them from managing their financial affairs effectively and need support.

### ***People with a mental health problem***

A person who has a mental health need will be considered vulnerable if they are unable to protect themselves from harm or abuse and/or it prevents them from managing their financial affairs effectively without support.

### ***People with a learning disability***

A person who has a learning disability will be considered vulnerable if they are unable to protect themselves from harm or abuse and/or it prevents them from managing their financial affairs effectively without support.

### ***Pregnant women or recent parents***

A woman who is pregnant or recently given birth may be considered vulnerable if they are unable to manage their financial affairs effectively without any support.

### ***Elderly, confused or frail***

An elderly person may be considered vulnerable for the purposes of debt collection. This will be in cases where they are frail, ill and living on a limited income or where they have recently suffered the death of a partner who has previously managed their family finance.

### ***Families with children***

A family with children may be vulnerable if they have complex needs and are unable to manage their financial affairs effectively without support. Where the family's needs are so complex that they are allocated a Social Worker or lead professional, the family would be considered as vulnerable

### ***Recently bereaved***

A person who has suffered a recent bereavement of a close relative could be considered vulnerable if they are unable to manage their financial affairs effectively without support.

### ***Communication difficulties***

A person who does not understand either written or spoken English, especially where they do not have the support from family who can speak/read English.

### ***Serious Illness***

A person who has a long term serious illness or who is terminally ill, or a member of their close family, may be considered vulnerable if this affects their ability to manage their financial affairs effectively and they require support.

### ***Victims of domestic abuse***

A person who has recently been the victim of domestic abuse could be considered vulnerable if they are unable to manage their financial affairs effectively without support.

This list is not a definitive list. If somebody is highlighted to the Council as vulnerable, either from an internal or external source their individual circumstances will be considered.

### **Adjusting procedures**

Identifying a debtor as vulnerable does not mean that they will not be required to pay their debt. Each case will be looked at individually and the appropriate action will be taken based on their circumstances. The Council will adapt the debt recovery and collection procedure accordingly when a debtor is identified as vulnerable in order to minimise any hardship or distress.

Where a case is with Enforcement Agents and they are made aware of a vulnerable person, they will be required to return the case to the Council who will make further enquiries before deciding what action is to be taken.

When the Council is satisfied that the debtor is vulnerable, alternative affordable and sustainable payment arrangements will be made with the debtor or their representative. Other examples of adjustments to the normal recovery procedures may include:

- Assisting the debtor to claim benefits, discounts or other available financial support
- Agreeing for the debt to be paid over a longer period to clear the arrears
- Making referrals to specialist independent debt advisors
- Providing information in accessible formats

### **Reviewing accounts**

Debtors deemed to be vulnerable will have their accounts or claims flagged as 'vulnerable' on the Council Tax system so that officers can easily identify established cases.

Where the vulnerability is not permanent or long term, the circumstances will be reviewed at an appropriate time.

Debtors who are not considered vulnerable, but are experiencing serious financial difficulties, e.g. multiple debts, will also have their accounts or claims reviewed. Debtors financial, personal and household circumstances will be reviewed at an appropriate interval to determine whether arrangements in place can be modified.