

Recovery Policy

Council Tax and National Non Domestic Rates

1 Introduction

- 1.1 The purpose of this policy is to provide the framework for the Revenue Service to work from to provide efficient and effective revenue collection (Council Tax and National Non Domestic Rates).
- 1.2 The Policy is intended primarily for staff and managers who are involved in this process but is also a public document and is available to members of the public on request as well as being available on the website.

2 Aims

- 2.1 The Recovery Policy will comply with current regulations and incorporate the Council's corporate policies where applicable.
- 2.2 The Recovery Policy and timetable for Revenue collection will be agreed in advance ensuring all taxpayers are treated fairly and objectively.
- 2.3 Instalments and balances will be collected as they become due and unpaid instalments/balances will be recovered in a timely and efficient manner.
- 2.4 Where instalments become overdue the Revenue Service will endeavour to be responsive to individual circumstances and attempt to make a reasonable and mutually acceptable arrangement for payment where possible.
- 2.5 All complaints will be dealt with in 10 days and depending on the nature of the complaint, recovery action may be suspended pending further investigation.

3 Demand Notices

- 3.1 The Revenue Service will issue Demand Notices in accordance with the regulations. Demand Notices resulting from a change in circumstances will be issued within 2 working days of the change being processed.
- 3.2 The Revenue Service aim to process all changes to accounts within 10 working days of them being notified.

4 The Recovery processes

- 4.1 The recovery process operated by the Revenue Service complies with current regulations and a recovery timetable is drawn up before the beginning of each financial year to ensure that all taxpayers are treated fairly and objectively.
- 4.2 The recovery timetable will take into account key areas such as:
 - Notices issued in accordance with the regulations
 - Notices issued in a timely manner to ensure efficient collection and recovery

- The issue of notices is timetabled to maximise resources available to assist customers over the telephone, reception desk and by correspondence.
- Monthly reports are compiled to monitor any accounts where unsummonsed arrears have accrued, to make sure the automated recovery process is working in all cases.

4.3 Customers are encouraged to contact us at each stage of the recovery process to discuss difficulties they are experiencing and to make a mutually acceptable arrangement for payment.

5. **Reminders**

5.1 Due to the number of accounts administered by the Revenue Service it has been decided that reminders will not be checked individually before they are issued. Parameters are agreed in advance by the Senior Managers and reminders are issued on this basis. The parameters consist of number of days behind and the monetary minimum value.

5.2 Generally reminders are issued between 14 days and 20 days after the instalment becomes due. However during certain times of the year this may be reduced to only 7 days – particularly in March as the end of the financial year approaches.

5.3 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 tax payer complies with the terms of payment contained in the first reminder and subsequently fails to pay a further instalment by the due date.

5.4 All reminder notices are issued with a leaflet 'What you need to know if you receive a reminder notice'. This leaflet is revised annually and contains details about:

- Online account checking
- Advice about reminders and the Authorities contact details
- How to obtain independent advice
- Complaints procedure
- Details of further recovery action and associated costs
- Council Tax Benefit

5.5 All reminders are issued with a direct debit to encourage take up of this more efficient method of collection.

5.6 Reminders are issued by second class post on the day they are printed.

6 **Final Notices**

- 6.1 If payment demanded on a closing account or an account with only one instalment, or other such scenario prescribed by regulation, is not received by the due date a final notice will be issued.
- 6.2 A final notice will be issued where two instalments Reminder notices have been issued for that financial year and the customer falls into arrears on a third occasion, the terms of the previous reminders having been complied with. This is a discretionary notice and the issue of this will be reviewed periodically.
- 6.3 A final notice confirms that the liable person has lost the right to pay by instalments, and informs them of the balance due to the end of the financial year.
- 6.4 With each final notice a leaflet is issued 'What you need to know if you receive a final notice'. This leaflet is revised annually and contains details about:
- Online account checking
 - Advice about final notices and the Authorities contact details
 - How to obtain independent advice including Citizens Advice, Consumer credit counselling and National Debtline
 - Complaints procedure
 - Details of further recovery action and associated costs
 - Council Tax Benefit
- 6.5 Final notices are issued by second class post on the same day as they are printed.

7 **Summons**

- 7.1 A summons will be issued if the liable person has not made payment in accordance with the notices previously issued.
- 7.2 Where an arrangement to pay has been agreed a summons may still be applied for and Liability Order sought to protect the Council's interest. This decision will be based on the history of the debtor and the amount outstanding.
- 7.3 A summons is issued as a result of Kingston Council applying to the Magistrate's court for a Liability Order against the liable person. The Council will make a complaint to the Justice of the Peace or Clerk to the Justices, requesting the issue of a summons, directed to the liable person to appear before the court to show why they have not paid the sum which is outstanding.
- 7.4 A summons will always be issued with a clear 14 days between issue and the court hearing date.

- 7.5 The summons will state the amount unpaid and the time and place at which the defendant is required to appear at Court.
- 7.6 The normal service of a summons will be by first class post and in accordance with the regulations.
- 7.7 All summons will be issued with a leaflet: 'What you need to know if you receive a Summons'. This leaflet is revised annually and contains details about:
- Online account checking
 - Advice about summonses and the Authorities contact details
 - How to obtain independent advice
 - Complaints procedure
 - Details of further recovery action and associated costs
 - Council Tax Benefit

7.8 The leaflet encourages customers to discuss any issues of dispute with the Council prior to the Court date to ensure all issues are resolved at the earliest possible opportunity.

7.9 If a liable person (defendant) disputes their liability or the amount of discount or exemption granted, they may appeal to the Revenue Service in the first instance and if further disagreement continues they have a right of appeal to the Tribunal Service. However the full amount as demanded remains due and payable until the appeal has been decided. If following the decision of the appeal the Liable Person is in credit then the amount of the credit will be refunded.

The Liable Person does not have to attend the Magistrates Court if they do not have a valid dispute. All Debtors are encouraged to contact the Revenue Service to discuss their arrears.

7.10 If the liable person has a benefit claim outstanding to be processed, a summons will be issued and Liability Order applied for. Recovery action may be held pending the outcome of the benefit claim- depending on the extent of the arrears and the likelihood of 100% being granted.

7.11 The costs charged to the liable person (defendant) by the Authority for a Summons, comprise of both the Authorities administration costs and court costs. The latter are paid to the court on the issue of a summons. The administration costs are agreed by the Department of Constitutional Affairs for the London Boroughs.

7.12 Costs are payable by the liable person once a summons has been issued and only in exceptional circumstances are these deemed not payable.

- 7.13 A summons is a legal document requiring the defendant to attend a court hearing. The defendant has the right to attend the hearing to give evidence as to why an order should not be made see 7.8 above, however if the defendant does not appear the hearing will proceed in their absence.
- 7.14 If the Magistrates are satisfied that the sum shown on the summons has become payable by the defendant they will issue a Liability Order to the Royal Borough of Kingston upon Thames. This order will carry further costs which have been previously agreed with the Courts.

8. **NNDR Recovery after Liability Order**

The regulations gives equal priority to all recovery and enforcement routes with the exception of Bailiff action being a prerequisite to Committal action.

The post Liability Order recovery process for NNDR operated by the Revenues Service complies with current regulations and a timetable is drawn up at the beginning of the financial year to ensure that all ratepayers are treated fairly and objectively. A Liability Order is a legal instrument allowing the Council to recover the outstanding sums by any of the following means:

- 8.1 **Distress:** the Council employs Certificated Bailiffs to collect the debt and/or remove goods to be sold at auction to settle the whole or part of the debt. The instruction of Bailiffs will incur the defaulter with significant additional costs- some of which are specified by Statute and other costs will be set at reasonable levels to cover the work undertaken.

There is a code of conduct and service level agreement between the Bailiffs and the Council and these are monitored regularly by the Revenue Service.

Instructions are sent to the bailiff every week and Liability Orders will be sent to the bailiff within one week from the date of issue. Monthly reports are received from the bailiff to monitor progress on all cases.

Before a case is referred to the Bailiff for action each case is checked. A pre-bailiff notice will be sent to the customer.

The Council will continually monitor the performance of the bailiff to ensure they are an efficient and effective collection mechanism.

- 8.2 **Arrangements:** the Council monitors all post Liability Order arrangements and prints reminders fortnightly. Where a reminder is issued and payments are not brought up-to-date those cases are referred to bailiff fourteen days later.
- 8.3 **Other methods of Recovery:** as for Council Tax (where distress and or arrangements have not been successful), bankruptcy and insolvency action will be considered (see paragraph 9.12), or charging orders (see paragraph 9.25) or committal proceedings (see section 11).

9 Council Tax Recovery after Liability Order

- 9.1 The regulations gives equal priority to all recovery and enforcement routes with the exception of Bailiff action being a prerequisite to Committal action.
- 9.2 Within 3 working days of a Liability Order being granted the Revenue Service will issue a notice to the liable person confirming that an Order has been granted. This notice will contain a request for further information in accordance with the regulations. In addition the notice will specify that recovery will continue without further notice to the liable person.
- 9.3 In addition to the notice issued a leaflet is issued to all council tax payers 'What you need to know if a Liability Order has been issued against you.' This leaflet sets out the Code of Practice for the Bailiffs and costs associated with bailiff action.

9.4 A Liability Order is a legal instrument allowing the Council to recover the outstanding sums by any of the following means:

- 9.5 **Attachment of Earnings Order:** this is an order instructing the liable person's employer to make deductions from the earnings of the employee and to pay the amounts deducted to the Council. The liable person must supply the Council with details of their employment, on request, and failure to do so could result in an additional fine of up to £500 for non-disclosure and £1,000 for supplying false information. Once the attachment is served on the employer deductions must be made as required by regulations, the actual amount varying with the income of the liable person.

The Council may select cases of non supply of information in order to prosecute.

The Council will select cases of non supply of information and search for employment details using external sources.

- 9.6 **Deductions from Income Support / Job Seekers Allowance:** if a liable person qualifies for income support or Job Seekers Allowance and a balance remains outstanding then this may be collected by way of direct deduction through the Benefits Agency.

- 9.7 **Distress:** the Council employs Certificated Bailiffs to collect the debt and/or remove goods to be sold at auction to settle the whole or part of the debt. The instruction of Bailiffs will incur the defaulter with significant additional costs- some of which are specified by Statute and other costs will be set at reasonable levels to cover the work undertaken.

There is a code of conduct and service level agreement between the Bailiffs and the Council and these are monitored regularly by the Revenue Service.

- 9.8 Before a case is referred to the Bailiff for action each case is checked to identify any employer details to allow attachment of earnings. In addition the case is checked for notes on possible vulnerability or earlier contact that would indicate exceptional circumstances.

- 9.9 For customers who reside in council properties the Housing Department will be contacted to clarify if there are rent arrears and how these are being collected and to ascertain if there are any issues the Revenue Team need to be aware of.
- 9.10 The Council will continually monitor the performance of the bailiff to ensure they are an efficient and effective collection mechanism.
- 9.11 Consideration will be given to cases on Income Support as to whether bailiff action would be appropriate. This will include the amount of time the customer has been on Income Support and the age of the debt. The fact that they are on Income Support is not in itself a reason not to refer to the bailiffs as the property may contain goods that were obtained previously that could be sold to pay off the debt.
- 9.12 **Bankruptcy / Liquidation:** will be considered if there are sufficient assets to realise and meet the outstanding debt and the debt exceeds that required by legislation. There will be significant costs associated with this method of recovery incurred by the liable person and they may lose their home therefore bankruptcy proceedings will be used with caution.
- 9.13 A customers account will only be referred for bankruptcy action where at least one other method of debt recovery (attachment of earnings, attachment of benefit, bailiff action, or arrangement to pay) has been attempted and failed and that the total debt owed including costs was £2,000 or more.
- 9.14 A risk assessment will be carried out using all the information the Recovery Team can reasonably gather including the information available from their records to determine if bankruptcy proceedings should be taken..
- 9.15 As far as possible the Recovery Team will consider all other options before deciding on bankruptcy and document why these would not be applicable*. The benefit records will be checked to ascertain if there are any disability benefits in payment which may indicate vulnerability.
- 9.16 It is recognised that taking bankruptcy proceedings is very serious and customers will be encouraged to make arrangements with the Council or its representatives at all stages.
- 9.17 Before a case is referred to the Councils solicitors the customer will be adequately warned of the consequences of bankruptcy. A letter will be hand delivered to the debtors current property (or recorded delivery if access is difficult or property out of Kingston area) informing the customer of its intention. The letter will be issued with the bankruptcy leaflet and Insolvency Service leaflet. If it is identified that no housing and council tax benefit is in payment the letter will also be issued with a benefit application form. The Bankruptcy leaflet explains briefly the process of bankruptcy and encourages the customer to contact the Council to make arrangements and inform them of any vulnerability.
- 9.18 Arrangement to pay will be considered when customers contact us – these arrangements will take into account the financial circumstances of the debtor. Providing the current year is being paid arrangements for arrears may be spread over several years if this removes the need for bankruptcy action. Defaulting on

such an arrangement however would be considered serious and would warrant bankruptcy action being reconsidered.

- 9.19 If a customer (or their representative) contacts the Council Tax Team informing them of vulnerability or extenuating circumstances the Council Tax Team will review the position in light of the evidence available. Where it is decided the customer is vulnerable due to physical or mental disabilities the case will not be referred for bankruptcy action. The decision on vulnerability and exceptional circumstances will be made by the Recovery Manager or senior officer.
- 9.20 Cases selected for bankruptcy will have a risk assessment completed at this point. If the risk assessment is acceptable the case will be passed to the Councils solicitors who will issue a statutory demand notice.
- 9.21 Customers will be encouraged to make arrangements to pay or clear the liability at this stage. Arrangements to pay will be made with the Councils solicitors who will receive and monitor payments.
- 9.22 All cases that progress to the next stage after statutory demand notice will be authorised by the Recovery Manager. If further information has come to light a new risk assessment will be undertaken.
- 9.23 Once a bankruptcy order has been made the Council Tax Recovery Manager and NNDR manager will liaise closely with the appointed Insolvency Practitioner** to identify any concerns either party have about the case. Each of the respective managers will ensure that the Trustees notice to creditors has capped fees noted on it. However the Revenue Service recognises that whilst it endeavours to ensure the fees are proportional to the debt outstanding it cannot determine how complex the case will eventually be and the final result of the costs bill. The aim is to identify at the earliest point if the case is more complex and the reasons for this. Once this is established there will be a further risk assessment to establish whether to proceed.
- 9.24 Individual Voluntary Arrangements will be considered if it is for 100% of the debt over a reasonable timescale.
- *Charging Orders will be considered but the delay in the Council receiving payment will be taken into account in assessing whether this would be a viable alternative to bankruptcy.
- ** The Insolvency Practitioner will be voted into office by the creditors at their meeting.
- 9.25 **Charging Orders and Sale Orders-** a Charging Order is a method of securing a debt which is in excess of £1000. It secures the debt but does not enforce payment of the debt until the property is sold which may be many years hence.
- 9.26 The Charging Order will remain on the property until it is sold. Other methods of recovery may still be sought whilst the Charging Order is on the property. Orders for properties to be sold will be considered in relevant circumstances. Sale Orders must be agreed by the Head of Revenue and Benefits following a full report by the Revenue Manager.

A deterring factor when considering whether a Charging Orders would be applicable is the length of time it will take for the Authority to receive the money which may run into many years in addition the life of a charging order is 12 years and would have to be renewed after that point.

10 **Method of Recovery/arrangements and benefits**

- 10.1 The method of recovery for individual cases will be determined by the Revenue Service based on the most efficient and effective means of securing the monies due to the Authority. Each case will be assessed individually based on the information available at each stage of the process.
- 10.2 At all stages of recovery the debtor will be encouraged to contact the Revenue Service to make an arrangement and not incur further costs. Where a case has been referred to the Bailiffs any arrangement for payment must be made direct with the Bailiff company.
- 10.3 The Revenue Service understands and is sympathetic to debtors who find themselves in difficult financial or personal circumstances and will encourage early contact with the Service so that mutually acceptable arrangements may be made and any issues regarding liability discussed with the aim of resolution.
- 10.4 The Revenue Service appreciates the benefit both to the customer and the Council of paying regular bills by direct debit and if a customer is prepared to use this method of payment for ongoing council tax and non domestic rates any costs incurred may be written off and an extended payment arrangement may be given. This applies to the first direct debit set up only.

11 **Committal**

- 11.1 The Council may, if it is unable to clear the debt by way of removal of goods and other methods, apply for a further summons to be issued for the debtor to appear before the Magistrates for an enquiry into his or her means. The 'means enquiry' will be for two periods:

- The period covered by the Liability Order
- The current period

- 11.2 If the debtor does not attend Court the Council will apply for an arrest warrant with bail initially and then without bail if the debtor again fails to attend.
- 11.3 The arrest warrant with bail will be hand delivered to the debtor and it will specify a time to appear at court.

The arrest warrant without bail will require the immediate arrest of the debtor who will be taken and detained at a relevant place (police station or prison cells) pending the hearing at court.

- 11.4 Such action could result in a maximum prison sentence of three months. Arrangements to pay at this stage are not a matter for the Council but for the Magistrates Court to consider.

12 **Equality**

- 12.1 Kingston has a comprehensive equal opportunities policy entitled 'Putting People First'. This policy states that 'Services offered should be relevant to the needs of the local community, reflecting (where appropriate) the diversity of its religious and cultural heritage, advertised in a readily understandable format avoiding jargon and wherever possible developed in partnership with local people. Services will be provided on the basis of fairness and openness. No one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation, age or disability'.
- 12.2 The Revenue Service will ensure that all reasonable effort is made to provide a suitable opportunity for minority groups to make their opinions known and to highlight any barriers experienced by some groups in accessing the service.
- 12.3 Annual customer consultation will be undertaken in accordance with the Corporate Consultation Strategy Good Practice Guide. The aim of the consultation is to ascertain customer satisfaction, ethnic makeup of our customers, and service accessibility. Consultation questions also ask for any improvements customers would like to see in the service. Consultation is carried out both by post and exit surveys of customers who use the enquiry desk.
- 12.4 The results from the consultations are taken into account when the Service Plans are drawn up for the following year.
- 12.5 All demand notices provide information on special needs requirements. These include: translation services, large print, Braille and deaf amplification. We have developed online account checks so that customers can view their account from their home pc desk top. We also communicate by email if the customer prefers – this is particularly useful for those customers who have hearing and sight difficulties.
- 12.6 Contractors who are used by the Authority are checked to ensure they meet the Authorities equal opportunities standards.

13 **Tracing of Debtors**

- 13.1 All amounts unpaid will be pursued in accordance with the above policy. In the event of the debtor leaving their last know address without providing a forwarding address, the Council will use various methods of tracing the individual which may include external tracing agents and companies.

14. **Write off**

- 14.1 The Council will only write off debts where they have been unable to trace the debtor. All other debts will be pursued in accordance with this policy.

The only exceptions to this are:

- If the debtor is declared bankrupt and a dividend is received that is less than the full liability the difference must be written off.

- If the debtor is committed to prison the debt relating to that offence must be written off.
- Where a debtor has died and there are no funds in the Estate the debt must be written off.
- Where the Magistrates during a committal hearing have agreed to remit all or part of the debt.
- Where the Council is subject and agreed to an Individual Voluntary Agreement that is less than the full liability the difference must be written off.

* The Council will use tools such as Experian database and tracing agencies to pursue absconders.

This Policy has been agreed under the Council's delegated powers by Strategic Director of Finance

V4 approved 111108