



Telford & Wrekin
Co-operative Council

Protect, care and invest
to create a better borough

Corporate Debt Recovery Policy

Table of Contents

1. Introduction	2
2. Policy Objectives	2
3. Scope of the Policy	2
4. Policies applied to all debts	3
5. Debt Recovery Principles	5
6. Vulnerable Individuals	6
7. Use of External Enforcement Agents/Recovery Agents	7
8. Council Tax and Non-Domestic Rates Recovery Policy	7
9. Housing Benefit Overpayment Recovery Policy	10
10. Invoicing Debt Recovery Policy (Sales Ledger)	12
11. Civil Parking	14
12. Insolvency Policy	15
13. Charging Orders	18

1. Introduction

In response to ongoing financial challenges, the Council places significant emphasis on the efficient collection of income and the responsible recovery of outstanding debts. Whether regulated by legislation or guided by local procedures, this policy reflects the Council's commitment to managing income in a cost-effective and transparent manner.

We acknowledge that most residents fulfil their payment obligations on time. However, when recovery becomes necessary, the Council will act swiftly, fairly, and impartially. This policy outlines our proactive approach to debt recovery, with consideration given to vulnerable customers or those facing financial difficulties due to current economic conditions.

Our goal is to provide a clear, fair, and consistent process for debt recovery. To maintain accountability and ensure best practices, this policy is supported by robust management controls, regular performance monitoring, and independent oversight to ensure compliance with all relevant procedures.

2. Policy Objectives

The objectives of the Council's Corporate Debt Recovery Policy are as follows:

- To ensure the efficient collection of income and minimise outstanding debts, thereby supporting the delivery of essential Council services for the residents of the Borough.
- To apply a fair, consistent, and timely approach to debt recovery, while considering individual circumstances whenever the Council is made aware of them.
- To take into account the needs of vulnerable individuals and, where appropriate, direct them to relevant support services within the Council or partner organisations.
- To foster a coordinated approach to debt management by sharing information across collection teams and addressing multiple debts owed to the Council.
- To adopt a "reasonable" approach to debt recovery, in line with current legislation, local procedures, and best practice guidelines.

3. Scope of the Policy

This Policy details the principles that the Council will apply in relation to debt management across the following types of income:

- Council Tax
- National Non-Domestic Rates (NNDR)
- Housing Benefit Overpayments
- Sales Ledger Debts (for Council services)
- Parking fines

Each type of debt is subject to specific regulations governing its collection and recovery, which are detailed in this document.

4. Policies applied to all debts

The Council is committed to ensuring that:

4.1 Notices issued

- Every demand notice, invoice, or recovery notice will be accurately addressed to the individual or organisation responsible for payment.
- All documents will be issued in accordance with statutory timescales and within an appropriate timeframe.
- Notices will include clear information about the debt, contact details for the Council, and an outline of the potential actions in the event of non-payment.
- Notices will be easily recognisable as official Council communications. Upon request, all communications will be made available in alternative languages or formats for individuals with sensory impairments.
- To maintain cost efficiency, most notices will be sent via second-class, economy postage, or email unless regulations or legislation dictate otherwise.

4.2 External Partners

The Council values the efforts of external agencies in offering advice and advocacy to debtors and will collaborate with them, where authorised by the debtor, in matters related to debts owed to the Council.

If it is determined that support is required, the debtor will be directed to appropriate resources such as Citizens Advice, StepChange, Money Wellness, or the National Debt Line.

4.3 External Agencies

The Council collaborates with a number of specialist firms to facilitate the recovery of unpaid Council Tax, Business Rates, Sales Ledger debts, and Housing Benefit overpayments. These firms bring expertise in their respective areas of debt recovery and provide additional support in key areas such as debt collection, tracing absconders, enforcement actions, and insolvency proceedings.

The use of external agencies is employed only after internal recovery efforts have been exhausted. Any associated costs will be added to the outstanding debt.

4.4 Costs

The Council Tax (Administration and Enforcement) Regulations 1992 (as amended) and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended) enable the Council to recover reasonable costs from debtors where appropriate. Only in exceptional cases will such costs or fees be waived.

The Council will regularly review charges associated with the recovery of debts, including court costs, to ensure they are reasonable, proportionate and correlate to charges made by other Local Authorities for the same type of action. Any increase in costs will be agreed with the Magistrates Court.

4.5 Appeals and Complaints

When an appeal is submitted or additional information is requested, recovery actions will typically proceed. However, the Council may choose to suspend recovery efforts on a case-by-case basis.

All complaints will be handled in accordance with the Council's Corporate Complaints Policy.

4.6 Multiple Debts

There will be instances where a business or individual has multiple debts owed to the Council.

Where feasible, the Council will engage with customers to discuss all outstanding debts and seek to establish a mutually agreed repayment plan that covers multiple liabilities. To ensure a fair approach, we will assess the customer's income and expenditure to determine an appropriate and manageable level of repayment.

For customers experiencing financial hardship with multiple debts, the Council will implement a coordinated and consistent approach to recovery, while ensuring compliance with the relevant legislative requirements for each type of debt.

Priority will be given to debts where non-payment could result in significant consequences, such as the risk of losing a home or facing imprisonment. For example, since non-payment of Council Tax can lead to imprisonment, a repayment plan prioritising Council Tax will be established when the debtor is unable to settle all outstanding debts simultaneously.

4.7 Targets, Compliance and Monitoring

The Council acknowledges the importance of prompt and proactive recovery efforts in maximising income and is committed to pursuing debts in a responsible manner. To achieve this, the Council will:

- Establish clear, achievable recovery targets for each type of debt at the beginning of each financial year and closely monitor progress. Performance will be reported monthly to the relevant members of the Senior Management Team and Cabinet Members. Where targets are not met, corrective actions will be considered.
- Regularly monitor the amount and age of outstanding debt, ensuring that debts over six years old are reviewed and analysed at least annually.
- Periodically review irrecoverable debts for potential write-off, in accordance with the Council's Write-off Policy.
- Maintain clear, written recovery procedures to ensure fairness and consistency in recovery actions.

5. Debt Recovery Principles

The Council is committed to adhering to the following best practice principles in its debt recovery efforts:

- Bills, invoices, and notices will be issued promptly and accurately.
- Communications will be made accessible in various languages and formats to meet the needs of all customers.
- Customers will be encouraged to engage with the Council at every stage of the recovery process.
- Decisions regarding recovery or enforcement actions will be transparent, with clear explanations provided for any actions taken.
- Every individual will be treated fairly and consistently throughout the recovery process, whilst taking into account individual circumstances where known.
- Realistic payment arrangements will be negotiated based on the customer's financial circumstances.
- Early contact will be made with customers, with referrals to debt advice services where appropriate.
- A best practice approach will be applied when dealing with multiple debts.
- Customers will be encouraged to maximise their income from all available sources.
- Enforcement action will be proportionate, with consideration given to available recovery options, the level of debt, and the impact on the customer, balanced against the financial loss to the Council.

The Council will continue pursuing debt recovery, which may involve referral to an external Enforcement Agent, debt recovery company, or legal action, in cases where:

- The debtor fails to contact the Council to discuss non-payment;
- A reasonable payment arrangement cannot be agreed;
- The debtor repeatedly defaults on agreed payment arrangements.

6. Vulnerable Individuals

The Council recognises that certain individuals may have a specific vulnerability that could affect their ability to manage their financial affairs.

The Council is dedicated to supporting vulnerable customers throughout the debt recovery process. We will continue to collaborate with external agencies and internal departments to gather information and provide appropriate support to these individuals, including referrals to services that offer additional financial assistance and guidance. Signposting to other agencies for support will be given where appropriate, with access to benefits and discounts maximised for the individual. Realistic, flexible and affordable arrangements will be made.

If enforcement action is being pursued and an enforcement agent identifies that an individual may be vulnerable, the agent will immediately cease action and refer the case to their Welfare Team, in line with established procedures.

Our Insolvency Policy includes control measures to ensure that any potential vulnerabilities are assessed before proceeding with further actions. Additionally, Revenues Officers have been trained to handle cases involving vulnerability, and specific guidance has been distributed to all relevant staff.

6.1 Breathing Space

Breathing Space is a debt respite scheme designed to offer temporary legal protection for individuals experiencing debt difficulties. There are two types of Breathing Space:

- **Standard Breathing Space Moratorium:** Provides protection for 60 days.
- **Mental Health Crisis Breathing Space Moratorium:** Offers protection for the duration of an individual's mental health crisis treatment, plus an additional 30 days.

As creditors, the Council is required to halt all recovery actions on outstanding Council debts for the entire duration of the Breathing Space.

For a Standard Breathing Space, the individual must be actively receiving advice from a debt advisor. An application can only be submitted by the advisor if it is deemed appropriate for the debtor.

For a Mental Health Crisis Breathing Space, applications may be made by health professionals, social workers, or carers on behalf of the individual to a debt advisor.

Further information can be obtained from the Government's website.

7. Use of External Enforcement Agents/Recovery Agents

The Council may engage external enforcement companies or recovery agents to recover specific debts on its behalf. These Enforcement Agents are required to adhere to legal standards, the National Standards for Enforcement Agents, and established industry best practices.

In accordance with general enforcement principles, particularly concerning the proportionality of actions, the amount of the debt will be assessed prior to referral to an enforcement agent. For debts related to Council Tax or Non-Domestic Rates, referrals will not be made if the debt amount is less than the current Magistrates' Court costs for issuing a summons and Liability Order.

Debts may be reassigned among appointed Enforcement Agencies to enhance recovery prospects. Additionally, the Council may refer debts to an external organisation for tracing and collection if previous efforts through two Enforcement Agencies have been unsuccessful and all possible avenues for collection or contact with the debtor have been exhausted.

7.1 Enforcement Agent Fees

These fees are prescribed by law and may be updated by changes in national legislation. Current fees can be viewed by following this link:

[Taking Control of Goods \(Fees\) Regulations 2014](#)

8. Council Tax and Non-Domestic Rates Recovery Policy

8.1 Introduction

The Council and its officers have a statutory duty to collect outstanding debts in accordance with the Council Tax (Administration and Enforcement) Regulations 1992 and the Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended).

8.2 Payment of Council Tax and Non-Domestic Rates

Payment for Council Tax and Non-Domestic Rates is due on the earliest date permitted by legislation, unless alternative arrangements, such as Direct Debit plans, are agreed upon.

If a taxpayer or ratepayer requests a different payment date, authorised officers may exercise discretion to adjust the instalment dates accordingly. Cash payments can be scheduled for any day of the month, week, or fortnight. Direct Debit arrangements offer several options for monthly, weekly, or fortnightly repayment dates; however, the final instalment is typically required to be paid before March 31st of the relevant financial year.

8.3 Non-payment of Council Tax and Non-Domestic Rates

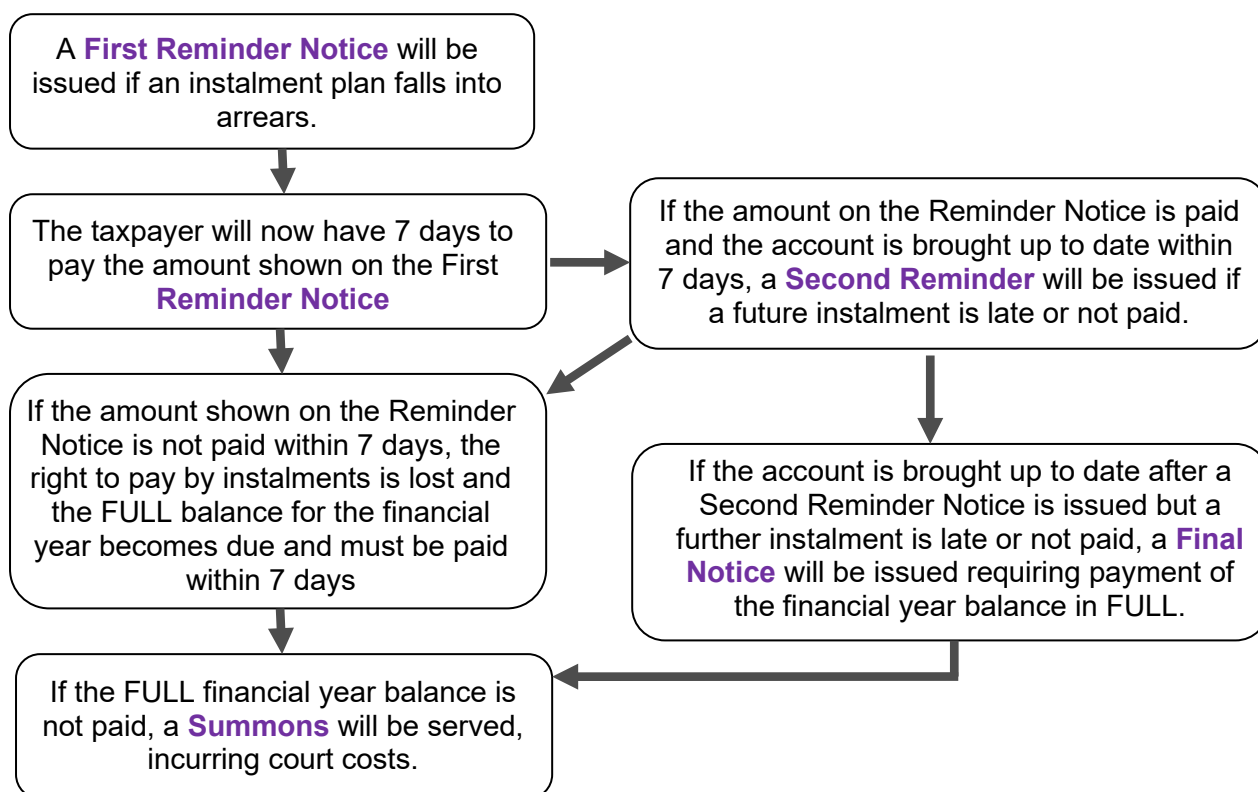
The following demand notices will be issued upon non-payment of an instalment:

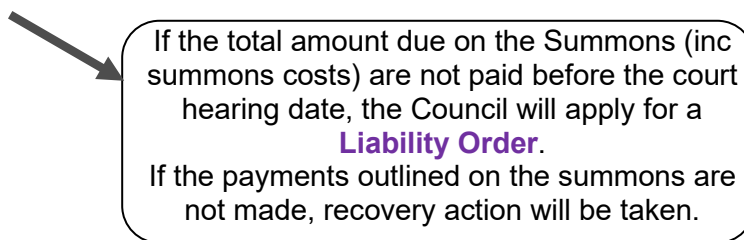
Recovery Notice	Council Tax	Business Rates
FIRST REMINDER fallen into arrear for the first time in the financial year	Yes	Yes
SECOND REMINDER fallen into arrears for the second time in the financial year	Yes	No
FINAL NOTICE Council Tax - fallen into arrears for the third time in the financial year Business Rates - fallen into arrears for the second time in the financial year The right to pay the remaining yearly charge by instalments is lost and the whole amount becomes due	Yes	Yes Yes

Reminders and final notices will be issued within 14 days of the payment default to which they relate, as far as is operationally practicable and in line with a recovery timetable which will be set at the commencement of each financial year.

Where full payment is not made in accordance with the latest notice sent, a Magistrates' Court Summons will be issued, advising the taxpayer of a hearing date on which the Council will apply to the Magistrates' Court for a Liability Order. The summons will be issued as soon as is reasonably practicable and an additional court cost will be added to the debt.

An overview of the Council Tax recovery process where late or no payment is made against an instalment plan:





8.4 Recovery Action Following Non-payment of a Summons

An automatic payment arrangement is included with the summons, dividing the remaining annual balance, including costs, into monthly payments. A liability order will be issued; however, no further action will be taken regarding the liability order, provided the payment arrangement is adhered to.

If the debtor fails to comply with this payment arrangement, the following recovery actions may be pursued:

- **Deductions from Benefits:** Deductions may be made from the debtor's Income Support, Jobseeker's Allowance, Employment Support Allowance, Universal Credit, or Pension Credit.
- **Attachment to Earnings:** Deductions may be made from the debtor's earnings at the rate specified by legislation.
- **Attachment of Members' Allowance:** Deductions may be made from allowances paid to Elected Members.

Note: These methods are applicable only to Council Tax debts.

If these recovery methods are deemed unsuitable, the debt will be referred to an external agent, who will offer another opportunity to establish a reasonable payment arrangement based on the debtor's income and expenditure. If no arrangement is reached or the debtor does not make contact, further enforcement action will be taken.

- **Taking Control of Goods:** Enforcement Agents, acting on behalf of the Council, will be authorised to seize and sell goods owned by the debtor to satisfy the debt, in accordance with the Taking Control of Goods (Fees) Regulations 2014.

If an enforcement agent returns a debt as uncollected, the Council may consider these following methods of recovery:

- **Charging Orders** – The Council may apply to the County Court to place a charge on property owned by the debtor where their aggregated debt exceeds £1000. In some cases, the County Court can force the sale of the charged dwelling.
- **Committal to Prison** (individuals only) – The Council may apply to the Magistrates' Court for an order to commit the debtor to prison.
- **Insolvency** – the Council can instigate bankruptcy or liquidation proceedings.

The method of recovery action used will be dependent on the individual circumstances of each case and will be used in consideration of the principles laid down in section 5.

County Court proceedings – as an alternative to Magistrates court for a Liability Order, the Council can apply to the County Court for Business Rates accounts where the debtor owns the property giving rise to the charge. This is to enable the Council to apply for a charging order.

8.5 Committal to Prison

In situations where all other recovery methods, including enforcement agent actions, have failed to recover a Council Tax or Non-Domestic Rates debt, the Council may consider pursuing committal to prison proceedings through the Magistrates' Court under the following conditions:

- The outstanding debt exceeds £1,000.
- Charging orders or bankruptcy are not viable options.
- The Council or its enforcement agents have been unable to seize goods equivalent in value to the debt.
- The failure to pay is due to the debtor's wilful refusal or culpable neglect.
- The debtor has been adequately warned about the need to seek legal advice and the implications of committal proceedings.

Cases will be evaluated for suitability for this recovery method, and the Council's Social Services team will be consulted to ensure that any vulnerability issues are considered before initiating committal action. A thorough assessment of the debtor's means and circumstances will be conducted, and a committal checklist will be completed prior to applying to the court.

The Magistrates' Court will conduct a committal hearing to examine the debtor's means and determine whether the failure to pay results from 'wilful refusal' or 'culpable neglect'. If the court finds in favour, it may impose a suspended sentence with a suitable payment arrangement, remit part or all of the debt based on the debtor's circumstances, or impose a prison sentence of up to three months.

9. Housing Benefit Overpayment Recovery Policy

9.1. Introduction

The Council and its officers have a statutory duty to collect outstanding debts in accordance with the Housing Benefit Regulations 1996.

9.2. Policy

Housing Benefit and Council Tax Reduction Overpayments

The Council will endeavour to prevent overpayments from occurring and minimise any overpayments that do occur wherever possible by:

- Identifying and calculating overpayments promptly – where possible, within 14 days of receiving all necessary information
- Inviting and encouraging claimants to apply for underlying entitlements to benefit
- Promptly and accurately determining recoverability of the overpayment.

Recovery of Housing Benefit Overpayments

The Council has a statutory duty to protect public funds and will endeavour to collect all recoverable overpayments in full.

Where it is established that an overpayment is recoverable, the Council will decide who the most appropriate party to recover the overpayment from is, depending on the circumstances of each case which may include:

- The claimant; or
- The claimant's partner, if that partner was living with the claimant at the time that the overpayment was made and at the point that the decision to recover was made; or
- The person who received the benefit payment, e.g. the landlord.

In cases where an overpayment has been caused by a proven fraud, the Council will attempt to recover the debt from the person who misrepresented or failed to disclose a material fact in the first instance.

9.3 Method of Overpayment Recovery

Overpayments of Council Tax Reduction (where recoverable) will generally be debited to the Council Tax account of the claimant and will be billed, collected and recovered as a normal Council Tax charge as detailed in the Council Tax & Non-Domestic Rates Recovery Policy above.

The method of recovery for Housing Benefit overpayments (where recoverable) may be by any of the following means:

- Offsetting against an award of underlying entitlement to Housing Benefit
- Deduction from ongoing entitlement to Housing Benefit – this will be at a recovery rate based on DWP guidelines and will be at the maximum rate permissible. An Authorised Officer may alter this rate where demonstrable hardship is proven.
- Deduction from earnings by a Direct Earnings Attachment under the Social Security (Overpayments and Recovery) Regulations 2013.
- Deduction from other DWP benefits such as Income Support, Jobseekers' Allowance, Employment & Support Allowance, Universal Credit and Pension Credit under Section 75(1) of the Social Security Administration Act 1992.
- By raising an invoice to the debtor.
- By deducting from the Housing Benefit received by a landlord or raising an invoice to the landlord (known as Blameless Tenant deductions)
- By referral to an external debt recovery agent.
- By application for a County Court Order or Judgement (for balances greater than the current court Liability Order value set for Council Tax and Business Rates and within reason) which enables the Council to use additional recovery methods such as, court bailiff recovery (who may serve a warrant of execution), or insolvency (allowing the Council to institute bankruptcy or liquidation).

The method of recovery used will always depend on the circumstances of each case but where the overpayment is recoverable from a claimant, the Council will always attempt to recover from arrears of underlying entitlement or ongoing entitlement to Housing Benefit in the first instance.

Failure to comply with a Direct Earnings Attachment Order will result promptly in further action being taken by the Council against the debtor's employer.

9.4 Non-payment of Housing Benefit Overpayment Invoices

For Housing Benefit overpayments where the customer is no longer receiving ongoing benefit entitlement, an invoice will be issued requesting payment. If payment is not received and a suitable payment arrangement is not established, the following steps will be taken:

- **Reminder Notice:** Issued 14 days after the invoice has been sent and remains unpaid.
- **Final Notice:** Issued 7 days after the Reminder Notice if payment has still not been received.

If the debt remains unpaid or a reasonable payment arrangement cannot be made, the Council will prepare the case for further recovery actions. This will involve investigating the debtor's current circumstances and taking appropriate action based on the information known. Where employment and benefit information is not known, a telephone call will be made to the debtor where a phone number is held in order to negotiate a suitable payment arrangement.

9.5 Non-recoverable Housing Benefit Overpayments

In the event that a Housing Benefit Overpayment is caused by an error or omission by an officer of the Council, Department for Work and Pensions, Pension Service or Inland Revenue, and the claimant, their appointee or the person to whom payment was made could not have realised they were being overpaid, the overpayment should be written-off by the relevant authorising officers - Benefits Assessment Group Manager and Benefits Team Leader.

10. Invoicing Debt Recovery Policy (Sales Ledger)

10.1 Introduction

The Council charge for a range of services, for example, use of leisure facilities, music lessons, or care provision. An invoice is raised for the service provided.

10.2 Invoicing

The Council will issue an invoice for any charges not collected in advance or on service provision. The balance is due immediately unless terms are altered expressly by contract, an invoice payable by instalments or there is a direct debit active on the account.

Non-payment of an Invoice

The following notices will be issued upon non-payment of an invoice:-

- **Reminder Notice** - issued 14 days after the issue date of the invoice.
- **Final Notice** – issued 14 days after the issue date of the Reminder Notice.

Where the debt remains unpaid or a reasonable arrangement for payment has not been made, the Council will prepare the case for further recovery action as detailed below.

Where permitted legally, the Council may suspend the provision of further services to the debtor until the outstanding debt is settled.

10.3 Recovery of Debts

If a Sales Ledger debt remains unpaid, and a reasonable arrangement cannot be reached after the steps outlined above, and if the debt exceeds the current Liability Order value for Council Tax and Business Rates, the Council will proceed with recovery by applying for a County Court Judgment. A final letter will be issued to the debtor detailing the intended action.

The Debt Protocol from Civil Justice mandates that the Council encourage early engagement and exchange of information to resolve any disputes before the case reaches court. This protocol also provides an opportunity to agree on a reasonable repayment plan outside of court. This practice applies to claims made by individuals, including sole traders, but not to businesses.

Once a Court Judgment is obtained, the Council can pursue recovery of the debt through various statutory enforcement methods, including:

- **Attachment of Earnings Order:** Deductions from the debtor's earnings.
- **Warrants of Execution:** Authorises a County Court bailiff to seize and sell the debtor's goods to repay the debt.
- **Garnishee Orders:** Enables the Council to recover debts from a third-party holding money on behalf of the debtor, such as a bank account.
- **Insolvency Orders:** Allows for bankruptcy or liquidation proceedings, as detailed in the Insolvency Policy.
- **Charging Orders:** The Council may place a charge on property owned by the debtor if the debt exceeds £1,000. In some cases, the County Court may order the sale of the charged property.
- **High Court Enforcement:** For debts over £1,000, a High Court Enforcement Officer may seize and sell the debtor's goods.
- **Order to Obtain Information:** Allows the Council to gather information from the debtor to make an informed decision on further recovery actions.

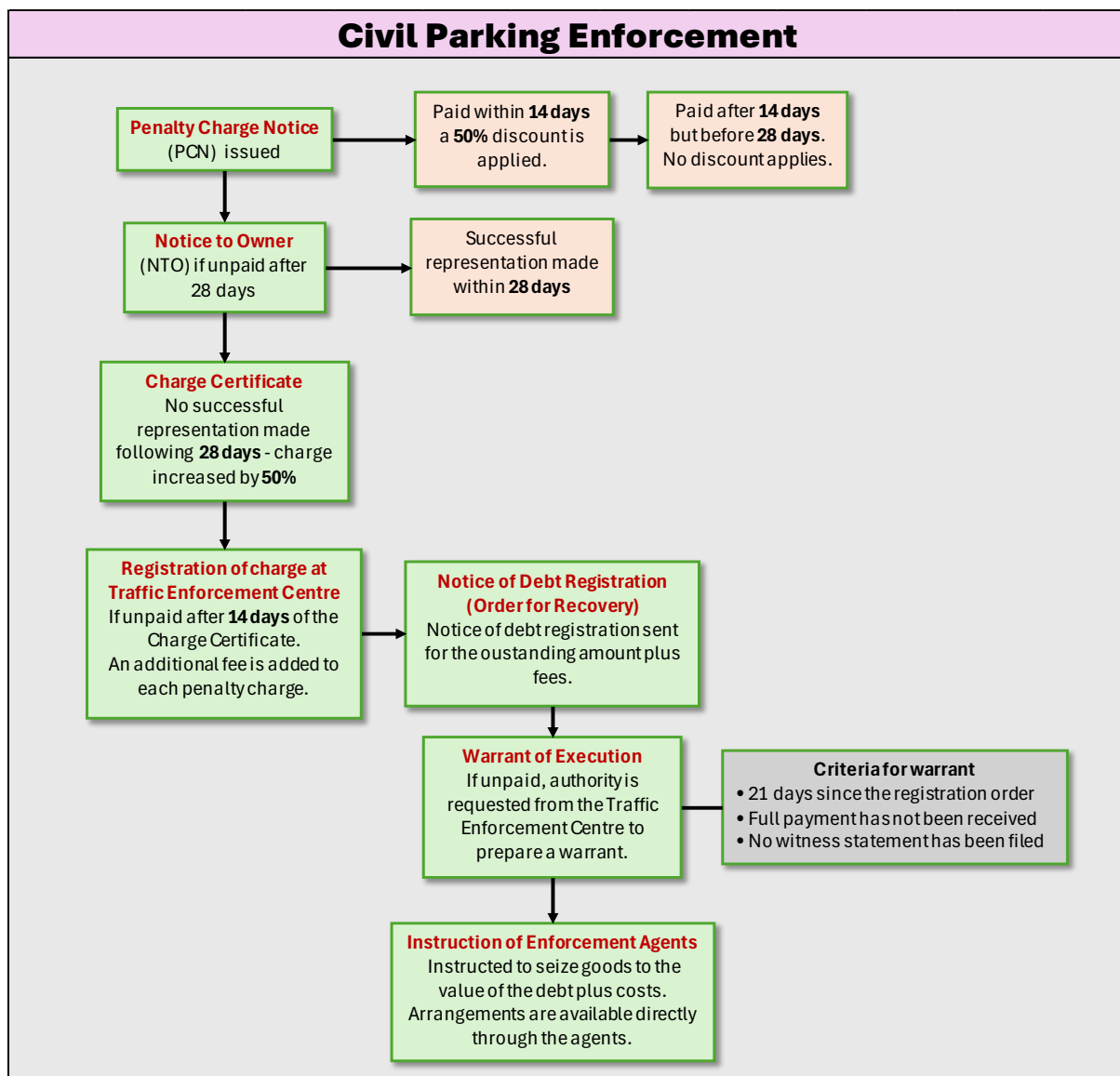
The choice of recovery action will depend on the specific circumstances of each case and will adhere to the principles outlined in Section 5.

11. Civil Parking

11.1 Introduction

The Council is responsible for civil parking enforcement (CPE). Penalties will be issued according to the regulations contained within the Traffic Management Act 2004.

Consideration of longer term payment arrangements for those suffering from hardship is not available for debts with statutory timescales such as Penalty Charge Notices (parking fines).



11.2 Penalty Charge Notice (PCN)

Where the Penalty Charge Notice is paid within 14 days of issue, a discounted amount of 50% will apply.

After 14 days the discount period will have ended and the full amount becomes due.

11.3 Notice to Owner (NTO)

Where the debt is unpaid after 28 days, a Notice to Owner (NTO) is issued to the registered keeper of the vehicle advising that full payment is due or to submit a formal representation within 28 days.

11.4 Charge Certificate

Where a successful representation is not made, a 'Charge Certificate' is issued after a further 28 days from the NTO being issued. The penalty charge will increase by 50% at this stage.

11.5 Registration of charge at Traffic Enforcement Centre

14 days after the Charge Certificate is issued, an additional fee (£10 as at 2024/25) is added to each penalty charge.

11.6 Notice of Debt Registration (Order for recovery)

A Notice of Debt Registration will be issued to the registered keeper for payment of the outstanding amount plus fees.

11.7 Warrant of Execution

Where an 'Order for recovery' has been issued, and the amount remains unpaid, the Traffic Enforcement Centre will be asked for authority to prepare a warrant of execution. A warrant will be prepared if the following criteria are met:

- 21 days have elapsed since the 'Registration Order' was issued
- Full payment hasn't been received
- No witness statement has been filed

Instruction of Enforcement Agents will be made to recover the debt which may involve the seizure of goods belonging to the registered keeper. The value of this will include the outstanding debt and costs incurred in executing the warrant. Payment plans are available through the Enforcement Agent and will be considered on a case by case basis.

Collection of parking fines by Direct Debit is not permitted.

12. Insolvency Policy

12.1 Introduction

This policy governs the recovery of outstanding debts owed to the Council, including Council Tax, Non-Domestic Rates, invoicing, and Housing Benefit overpayments. It aims to ensure that the Council's application of insolvency as a debt recovery method is both appropriate and consistent, while adhering to all relevant legislation and best practices.

The following options can be considered by the debtor:

- Debt Relief Order
- Individual voluntary arrangements
- Company voluntary arrangement

- Company in Administration
- Liquidation of a company
- Bankruptcy

12.2 Bankruptcy

A creditor (such as Local Authority) can make someone bankrupt if the debt owed is more than £5,000. A debtor can make themselves bankrupt if they cannot pay what they owe, or creditors can apply to make a debtor bankrupt.

An Insolvency Practitioner can also make a debtor bankrupt if they have broken the terms of an Individual Voluntary Arrangement [IVA].

All debts can be included in a Bankruptcy with exception to a fraudulent Housing Benefit Overpayment, or a debt that arose after the date of bankruptcy. The bankruptcy of an individual starts on the date of the bankruptcy order and continues until discharge (S278 Insolvency Act 1986). A Bankruptcy Order is usually in place for 12 months, however, if duties are not carried out in accordance with the order restrictions can be extended up to 15 years.

12.3 Legislative Background

The Council Tax (Administration and Enforcement) Regulations 1992 and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 enable debts for Council Tax and Non-Domestic Rates that are secured by Liability Orders to be pursued for insolvency proceedings under the provisions of the Insolvency Act 1986.

Housing Benefit overpayment and Sales Ledger debts may be pursued through insolvency proceedings where the debt exceeds £5,000 and a County Court Judgment has been granted in respect of the debt.

12.4 Local Requirements

The Council recognises that the consequences of insolvency can be severe and result in considerable legal and administrative costs being incurred, so will undertake to thoroughly examine the rationale for commencing insolvency proceedings on a case-by-case basis using the following guidelines (the list is not exhaustive):

- Action taken is proportional to the level of outstanding debt.
- The debtor is not making regular, mutually agreed payments that are sufficient to clear any accruing debt and arrears within a reasonable timescale.
- The debtor appears to have sufficient assets to ensure the debt is recoverable by the Official Receiver or the Trustee in Bankruptcy.
- Other methods of recovery have failed or are not appropriate to the debtor.
- Insolvency action is likely to elicit payment from the debtor due to their personal circumstances, for example, where a bankruptcy order may affect the debtor's employment, professional status or ability to acquire finance.

- The debtor is not considered as vulnerable.

12.5 Decision Making

An Insolvency Action checklist will be completed throughout the process, to evidence decision making and consideration of potential bankruptcy proceedings. The Council will seek to build a complete picture of the debtor including their personal and financial circumstances to assist in the decision-making process, before consideration to commence bankruptcy proceedings. Bankruptcy action is only considered as a last resort when all other attempts at recovery action have failed.

Are insolvency proceedings appropriate?

At the earliest stage of considering insolvency proceedings, an authorised Council Officer will undertake a full interrogation of internal systems to:

- Establish a full debt history for the debtor and identify whether other debts have been successfully collected in a reasonable period by other means.
- Confirm that all entitlements to benefits, discounts and exemptions have been granted on the information currently held.
- Establish whether the debtor may be vulnerable or unable to manage their financial affairs from the information held. Investigations will include information held by external suppliers where appropriate (for example, where an external enforcement agent has previously made contact with debtor).

Cases will be assessed for their suitability on this recovery method and contact will be made with the Councils Social Services team to ensure vulnerability issues are considered prior to action commencing. A full enquiry into the debtor's means and circumstances will be conducted with the completion of an insolvency checklist before the decision is taken.

If it is established that a debtor is vulnerable at any stage prior to a bankruptcy order being granted, the Council will strongly consider withdrawing proceedings in favour of an alternative method of enforcement action. The Council is committed to supporting vulnerable individuals and will always seek to find a responsible and sustainable solution to addressing outstanding debt in such cases. Where appropriate, the Council may seek support from other Council service areas or third party agencies in addressing the debt with a vulnerable individual.

Where no evidence of vulnerability is identified, an authorised Council Officer will undertake a financial background check to review whether another enforcement method is suitable and whether insolvency proceedings will be successful in either recovering the debt or preventing further debt from accruing. The following checks will be undertaken, although the list is not exhaustive:

- H.M. Land Registry records will be checked to confirm whether the debtor holds an interest in any property where they are liable, resident or have had connections with.
- A search with a Credit Reference Agency will be undertaken on our behalf via the Enforcement Agent to gather financial information relating to the debtor.
- Potential business and employment information held internally will be reviewed and checked against Companies House, Tracing data and proactive internet/social media searches.

Can instigating bankruptcy be avoided?

Before formal insolvency proceedings are instigated, a further attempt will be made to engage with the debtor. **An authorised Officer will visit the debtor's home** address (or business address if appropriate) to attempt to make arrangements for the debt to be paid. At the visit, the Council Officer will serve a letter on the debtor requesting payment of the debt, advising them that the Council is considering undertaking bankruptcy or liquidation proceedings and urging them to contact the Council by a specific date. If contact cannot be made with the debtor, the letter will be served on the debtor's home address.

If full payment is not received or a suitable payment arrangement has not been agreed by the date specified in the letter, the case will be reviewed and an authorised Officer will decide whether there is any reasonable probability of recovery by other means or if not, to instigate insolvency proceedings.

A final letter will be issued to the debtor advising that a Statutory Demand will be issued after 7 days if payment in full is not received. The letter will explain the reason that insolvency proceedings are being commenced and will advise the debtor to seek urgent independent advice from a Citizens Advice, a solicitor, a qualified accountant, an authorised insolvency practitioner, a reputable financial adviser, or a debt advice centre.

13. Charging Orders

13.1 Introduction

A charging order is considered only as a last resort to secure arrears. The total balance of Council Tax Liability Orders for the property must exceed £1,000. In accordance with legislation, an application may be made to place a charge on the property if, at the time the liability order was issued, the debtor was liable for Council Tax.

Similarly, a charging order may be considered if the combined outstanding balance for Housing Benefit Overpayments or Council Invoices also exceeds £1,000.

Once granted, the charging order remains in effect until the property is sold, and the amount of the charge will be recovered from the sale proceeds.

13.2 Application

In line with current Council procedures, the Council will only refer appropriate cases where other attempts to collect the arrears have been unsuccessful. The Council will consider using a Charging Order in the following circumstances (this list is not exhaustive):

- a) Where the property is currently for sale
- b) Where the property is owned by a debtor who resides outside UK jurisdiction
- c) Where a debtor, as a result of age, mental illness or other health issues cannot deal with their affairs
- d) Where the debtor's whereabouts are unknown, making other options such as committal proceedings impossible

Prior to the charging order application being served, the Council's authorised officer will complete an interim charging order approval document.

The application will include any costs incurred by the Council at the Interim Order and Final Order stage.

The charging order will regularly be reviewed on an annual basis in order to ensure it remains valid, effective and relevant.