



Revenues and Benefits Service

**Fair Collection and Debt Recovery
Policy**

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1. Introduction

- 1.1 The Council has a legal duty to recover all sums due to the Council in order to deliver quality public services. A collection and debt recovery policy ensures that collection methods are fair to everyone, especially those on low incomes. This Policy covers the collection of Council Tax, Business Rates, Sundry Income, Housing Benefit, and non-entitlement to Council Tax Reduction and has been written in consultation with Citizens Advice New Forest whose assistance with providing debt advice is invaluable.
- 1.2 It is recognised that people do not pay their debts for a variety of reasons and there is no one-size fits all approach to collecting arrears.
- 1.3 The council will ensure that no individual is discriminated against on any grounds. t.
- 1.4 Some people, because of living in or on the margins of poverty, will have difficulty in paying. The Council will help such people to minimise the impact of debt on them and we will work collaboratively with partner organisations to support residents.
- 1.5 Some people may deliberately set out to delay or not make payments and all methods of enforcement will be used to secure payment in these cases.
- 1.6 Some people may be able to pay but do not pay because of an oversight or personal difficulties and not because of a deliberate decision to avoid or delay payment. The Council will seek to help such people develop a culture of payment by encouraging them to get in contact and discuss a resolution to their difficulties at the earliest opportunity.
- 1.7 Encouraging customers to contact the council is central to our debt recovery approach. Where a person makes contact their circumstances will be considered with a view to agreeing a reasonable payment arrangement, minimising recovery action. Where people fail to make contact or maintain arrangements, recovery of the debt will continue.

2. Benefits of a debt collection policy

- 2.1 The Policy will:
 - a) Help to reduce the effect of debt on people on low income
 - b) Mean that by being approachable individuals will be more willing to contact us when they first face difficulties
 - c) Enable people who fall into arrears to come to payment arrangements appropriate to their circumstances
 - d) Help to identify deliberate non-payers or people who delay payment
 - e) Make sure that when we take enforcement action it is appropriate and likely to be effective

3. Aims of the Policy

- 3.1 The aims of the Policy are to:
 - a) Take positive action to prevent arrears occurring
 - b) To provide a range of payment methods
 - c) Take enforcement action against deliberate non-payers
 - d) Ensure prompt billing and to remind people quickly if they do not pay

e) Encourage people to make early contact to avoid the build-up of debt

4. Debt collection principles

4.1 The council:

- a) Considers that people have a responsibility to pay
- b) Aims to identify those who can pay but do not or who delay payment
- c) Actively encourages contact at every stage of the recovery process
- d) Aims to help maximise income and/or entitlement to discounts, exemptions, reliefs, or benefits
- e) Will provide a service that is sensitive to individuals and their needs and sympathetic to those in hardship
- f) Will signpost and refer to advice agencies where appropriate and consider safeguarding vulnerable individuals
- g) Will utilise all means of recovery available where appropriate

5. Notifications

5.1 The Council will provide prompt and clear information about the amount due, when the payments are due, how to make payments, details of discounts, exemptions and support and contact details. We will use plain English, without the use of jargon and promote organisations where customers can obtain free and impartial advice and information.

6. Making a payment

6.1 The Council promotes a payment culture and offers a variety of methods for paying bills and invoices. This includes by:

- Direct debit
- Standing Order – these are arranged by the individual with their bank. They must notify their bank of any changes to the amount due
- Phone – by contacting our office or using our 24/7 telephone payments system
- On-line – by using the Council's secure payments service at www.nfdc.gov.uk
- Payment card – these can be used at any post office
- Visiting a local council office
- On-line banking
- Cheques

6.2 Council Tax – there are three direct debit collection dates available, 1st, 15th and 23rd of the month.

6.3 For taxpayers who do not pay by direct debit, the default payment date is the first of the month although we can accept an alternate payment date where we specifically agree this with the taxpayer. Bills are sent in March requesting payments over 10 installments, April to January. Taxpayers can request instalments to be spread over 12 months and the Council will promote this where a taxpayer is having difficulty paying or is in arrears.

6.4 Business Rates has a direct debit collection date of 1st or 15th of the month.

6.5 Housing Benefit overpayments has a direct debit collection date of either 5th or 20th of the month.

- 6.6 Sundry Income has a direct debit collection date of the 1ST of the month.
- 6.7 Where we agree a payment plan, the date for payments will be flexible.
- 6.8 The Council will publicise this information on our website, www.nfdc.gov.uk
Whichever payment method is used, payment must be received by the due date.

7. Getting into arrears

- 7.1 Where an individual gets into arrears with their payment, the Council will:
- a) Expect priority debts, as defined by the Financial Conduct Authority, which includes council tax, to be paid before any non-priority debts
 - b) Aim to maximise their income and inform them of their potential entitlement to state benefits, discounts, exemptions, and reliefs
 - c) Consider pausing recovery where the taxpayer contacts the Council to work with them to pay their arrears
 - d) Advise how they can obtain independent advice and work with third parties, including advice agencies
 - e) Undertake basic debt advice which will include reviewing income and expenditure, discussing plans to repay priority debts and referrals to more specialist support, e.g., Citizens Advice New Forest.
- 7.2 The Council will agree a payment plan with the individual that reflects the ability to pay and the level of debt outstanding. This will take into consideration:
- a) The amount of arrears
 - b) The period of time taken to pay the arrears
 - c) Their payment history
 - d) Their financial situation, including reasonable living expenses
- 7.3 Where a payment arrangement is agreed, the Council will notify the customer of the amount and frequency of payments. Where payments are made as agreed, no further recovery steps will be taken. Where an individual does not provide information or give details of their income and expenditure the Council may refuse the arrangement and pursue alternative means to recover the debt.
- 7.4 Where the council receives a payment which does not match an instalment, the sum paid will be used to reduce the oldest debt.

8. Council Tax and Business Rates Recovery process

- 8.1 In accordance with legislation, where payments have not been made, the Council will seek recovery through the following:

Reminder Notice

- 8.2 A Reminder Notice is issued where an instalment is due and has not been paid. The notice will request the amount overdue to be paid within 7 days. If payment is not received within a further 7 days the full remaining balance of the years council tax or business rates will become due.
- 8.3 At this stage, where the customer contacts the council, council staff will be able to offer a number of alternatives:

- Re-profile the instalments to spread the payments
- Check entitlement to any discount, exemptions, or reliefs
- Check for Council Tax Reduction entitlement
- Special arrangements, e.g. weekly payment or double payment to be made on the next instalment

Second Reminder

- 8.4 Where payments are brought up to date following the issue of a Reminder Notice, but then a further payment becomes overdue a second reminder is issued. If payment is not received within a further 7 days the full remaining balance of the years council tax will become due.
- 8.5 If the taxpayer is in receipt of Council Tax Reduction, they will always receive two reminder notices before further recovery proceedings.

Final Notice – Council Tax

- 8.6 A Final Notice is issued where payment becomes due after issuing a reminder or second reminder and the right to instalments is lost and the full remaining balance for the year becomes due within 7 days.
- 8.7 The Council will be able to offer the alternatives above to assist the taxpayer.

Complaint

- 8.8 Where the amount is still due the council will make a complaint to the magistrate's courts requesting the issue of a liability order. Before making the complaint the council will check to ensure the summons is properly served.
- 8.9 Once the complaint is made to the court the magistrates will issue a summons to attend a liability order hearing. This summons is issued advising that the right to pay by instalments is lost and the full balance outstanding should be paid immediately. The summons advises that failure to pay the sum due or contact the council will result in a liability order being granted by the magistrates.
- 8.10 Where a summons is issued to a taxpayer in recipient of Council Tax Reduction, we will not apply the £40 summons costs. In addition, if the taxpayer agrees an arrangement ahead of the liability order hearing, the £30 liability order costs are also not applied.
- 8.11 Where a summons and liability order are issued and granted costs of £70.00 are added to the council tax account.

Liability Order

- 8.12 Once a liability order is granted by the magistrates the council will send the taxpayer a liability order notice along with a request for financial information.
- 8.13 Where the taxpayer has contacted the council, the council will:
- Agree an affordable payment plan, aiming to pay the balance due within the financial year to avoid starting the next financial year in arrears

- Encourage payment by direct debit
 - Monitor payment arrangements to ensure compliance
- 8.14 Where the taxpayer does not contact the council, make a payment, or defaults on an agreed payment plan, the council will consider the most appropriate recovery method. For Council Tax this includes:
- Attachment to state benefits, such as Jobseekers Allowance/Universal Credit/Income Support or Pension Credit
 - Attachment to earnings
- 8.15 The amount deducted is determined by legislation.
- 8.16 Where the taxpayer does not contact the council and the above methods of recovery are not available, the debt will be passed to an Enforcement Agent. The Enforcement Agent will send a Pre-Compliance letter to encourage the taxpayer to make contact and agree a payment plan. If the taxpayer does not contact the Enforcement Agent in relation to the Pre-Compliance letter within 14 days, formal proceedings will commence. This will incur additional costs. Enforcement Agents operate within a legal framework with a regulated fee structure. They will agree payment arrangements appropriate to the circumstances. Where the Enforcement Agent becomes aware that the taxpayer is vulnerable, they will contact the council to seek further advice.
- 8.17 In exceptional circumstances and only with the council's permission, the Enforcement Agent can take possession of goods if payments are not made.
- 8.18 The council will only recall a debt from an Enforcement Agency in exceptional circumstances, where it is in the best interests of all parties.
- 8.19 If the above options fail the Council will consider alternative recovery methods. This includes but is not necessarily limited to:
- Applying for a Charging Order on the property
 - Applying for a bankruptcy or insolvency order
 - Applying for a committal to prison – but only where all recovery methods have been considered, and the council considers that the taxpayer is wilfully refusing or has shown culpable neglect to pay and the taxpayer has failed to contact the council

9. Housing Benefit overpayments

- 9.1 An overpayment of benefit is any amount which has been paid but to which there was no entitlement. In accordance with regulations, the Council is responsible for recovering all overpayments of benefit and must:
- Establish any underlying entitlement
 - Establish the cause of the overpayment
 - Identify the period and amount of the overpayment
 - Decide if the overpayment is recoverable
 - Consider whether or not we will recover the overpayment
 - Decide who to recover the overpayment from
 - Notify any "person affected"
 - Classify and record overpayments so we can make the correct rate of recovery

- 9.2 Where there is ongoing entitlement to Housing Benefit, any overpayment will be deducted from this amount, subject to specified amounts. The council will not reduce a person's weekly payable benefit to below 50 pence. If the amount being deducted is causing hardship the claimant can request a revised repayment arrangement based on their financial circumstances. The council will usually request completion of an income and expenditure form.
- 9.3 Where there is an overpayment and no ongoing entitlement to Housing Benefit the council will send an invoice. Where a claimant contacts the council we will agree a payment arrangement, taking into consideration their financial circumstances. Where the claimant does not contact the council within 14 days, or keep to the payment arrangement, the council will send a reminder. If there is still no contact within a further 14 days, the council will send a Final notice. If there is still no contact the council can recover the overpayment by:
- Attachment to the claimant's earnings
 - Attachment to state benefits
 - Requesting another council recover the overpayment from Housing Benefit
 - Collection Agency

10. Council Tax Reduction

- 10.1 Council Tax Reduction is paid by way of a credit to the claimant's council tax account. Where an amount is paid that the claimant is not entitled to, e.g. failure to notify a change in circumstance, the council will consider if the amount is recoverable. Where the amount is recoverable the amount will be debited from the council tax account. The resulting outstanding council tax will be recovered in the same manner as other sums of council tax.

11. Sundry Income

- 11.1 An invoice will be issued as soon as possible. The recovery process will depend on the service but typically payment will be due within 21 days, unless specified otherwise, e.g. monthly direct debits or an agreed payment plan has been arranged.
- 11.2 If payment is not received within 21 days of the amount being due and the customer has not contacted the council, a reminder will be sent. If payment is not received within 14 days after the reminder has been issued a final reminder will be sent or the specific service is notified of the non-payment for them to proceed in line with their own policy.
- 11.3 Where the taxpayer has contacted the council, the council will:
- Agree an affordable payment plan
 - Encourage payment by direct debit or Standing Order
 - Monitor payment arrangements to ensure compliance
- 11.4 If a payment is still not received a notice is sent informing the taxpayer to contact the Council to make an arrangement or further recovering proceedings will commence, including a Collection Agency or Court.
- 11.5 If the debt remains due and the taxpayer has not contacted the Council the debt will be sent to a Collection Agency. The Council will only recall a debt from the

Collection Agency in exceptional circumstances and where it is in the best interests of all parties.

11.6 Where the debt still remains due the council can apply to the court and obtain a County Court Judgment. This will incur costs. Once obtained the council may enforce the debt by applying for:

- An attachment of earnings order
- County Court Enforcement Agent

12. Breathing Space

12.1 The Debt Respite Scheme (Breathing Space Moratorium) will give a customer in arrears or debt the right to legal protections from creditors for up to 60 days. There are two types of breathing space; a standard breathing space and a mental health breathing space, where the breathing space period lasts for as long as the taxpayer is receiving crisis treatment.

12.2 A taxpayer can apply through a debt advisor and will work with a debt advisor throughout the breathing space period to receive debt advice and review their circumstances to agree a plan to deal with their debts.

12.3 The Council will adhere to the legislation and guidance and will promptly pause any recovery on receipt of a breathing space notification.

13. Working with partners

13.1 We will work collaboratively with partner organisations to support residents and provide signposting information when communicating with residents. The Council will provide contact details, meet regularly and engage promptly with partners.

13.2 Where the council is notified by the taxpayer that they are seeking advice from a relevant body, the council will suspend recovery of the debt.

13.3 Where a recognised debt advisor prepares a Standard Financial Statement, and an arrangement is made the Council will recognise this. Offers of a payment plan received will be treated in good faith.

13.4 The Council will meet regularly with the Enforcement Agent, have point of contacts, and an escalation and returns procedure, for example if the taxpayer is vulnerable.

14. Write-offs

14.1 Where the council has exhausted all recovery methods and there is no realistic prospect of recovering the amount outstanding, the council will write-off the debt.

14.2 The council may reverse a write-off and resume recovery in certain circumstances, e.g. if they reclaim Housing Benefit.

15. Credit refunds

15.1 When a credit has built up on a council tax account and it has been identified the taxpayer had a debt with the Council, this may be used to repay or reduce a debt, including Housing, Benefits and Sundry Income. Any monies that remain in credit can then be refunded to the taxpayer.

15.2 Where there is more than one debt, the credit will normally be used to reduce or clear the biggest or oldest debt, or where it is in the interest of the taxpayer to avoid further recovery proceedings, for example possession of property.

16. Policy review

16.1 We will review this policy every 5 years, or sooner in the event of a relevant change in legislation.