

LONDON BOROUGH OF WALTHAM FOREST

COUNCIL TAX COLLECTION

AND

RECOVERY POLICY

2018- 2019



Signed

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COUNCIL TAX COLLECTION AND RECOVERY POLICY

Purpose of our recovery policy

The money collected for Council Tax is used by the Council to provide essential services to local people. We recognise that the majority of our residents pay their Council Tax promptly however, where that is not the case we have a duty to recover those outstanding debts for the benefit of all residents and tax payers.

The purpose of this policy is to explain our processes and the actions we will take to collect Council Tax debts so that:

- We maximise the level of Council Tax collection to fund essential services;
- Customers who fall into arrears have a full understanding of the process and the documentation that may be issued, and to;
- Provide assurance to customers who pay their Council Tax promptly that we are committed to recover money owed to us.

As part of our customer commitment we will:

- Issue accurate and timely bills.
- Promote easy payment methods such as Direct Debit with a choice of payment dates, to prevent recovery action being necessary.
- Promote the use of and access to online and self service facilities so that customers can easily access and up date their information.
- At every stage of the recovery process, explain why action is being taken and what will happen if the debt is not paid.
- Sign up to the Local Government Association and Citizens Advice Bureau's 'Council Tax Protocol' (June 2017) good practice guide and implement the recommendations where possible.
- Where possible, assist customers who are experiencing financial hardship through our Discretionary Council Tax Hardship scheme and work with debt advice agencies to reach a mutually acceptable repayment agreement.
- Ensure that we take account of vulnerabilities and that recovery measures are proportionate to a person's circumstances.
- Review this policy annually. If there are changes in legislation relating to Council Tax that affect the recovery process the policy may be reviewed as their effects become apparent.
- Take steps to secure and recover debt from customers who do not pay in line with instalments set. This may involve court action and additional fees/costs being added to the outstanding debt.
- Trace taxpayers who owe Council Tax to ensure every effort is made to recover unpaid debt.

We recognise that some customers will have financial and other difficulties in addition to paying Council Tax. . Wherever possible, we will try to achieve a long-term solution rather than just recovering money that is owed now, so that the customer is better able to manage their finances in the future, and meet their future liabilities. However, Council Tax is what is known as a priority debt and must be paid

There are three main stages of activity involved in Council Tax collection. These are outlined below.

Part 1: Our process up to obtaining Liability Orders

Issuing of Council Tax Bills

Bills are sent in advance each March for the financial year beginning 1 April to each person shown on the Council's records as liable for the council tax in respect of a particular property. The first payment will usually be due on or soon after the 1st April on the annual bills.

Council Tax bills are also issued throughout the year where there have been changes to amounts due, for example, changes of occupiers, granting or withdrawal of reductions such as disregards and exemptions.

Council Tax payers are required to make their payments by the due dates shown on their bills. It is essential that payments are received on or before the due date. Where payments are not received on time, recovery action will begin without delay in the form of a reminder or a final notice. Bills are usually due to be paid by monthly instalments.

Joint and Several Liability, (joint tenants, joint owners etc.)

Where there is more than one person liable for the Council Tax, for example joint tenants, joint owners, or partnerships such as a married couple or civil partnership; we will look to all parties to pay the charge. The law says that each party is liable for the whole charge (called "jointly and severally liable") i.e. if one person does not pay we are legally allowed to pursue the other liable person(s) for the full amount. Our bills and other communications will be addressed to all the liable persons.

Payment plans and methods of payment

Statutory Instalment Scheme

Council Tax bills usually require monthly payments by instalments. The number of months offered depends on when the first bill is issued and are set out in the Council Tax (Administration and Enforcement) Regulations 1992 as amended. Generally speaking if you are billed at the start of the tax year you will be offered 10 monthly instalments (April to January). When someone moves in part way through the billing year the payment period will be the number of months available through to March less 1 month. If an account is opened between 1st January and 31st March only one instalment will be given to pay the amount due.

A customer also has the statutory right to pay over 12 monthly instalments on request if they are liable for Council Tax for the full billing year. We can also make agreements with customers to pay by less than the statutory 10 payments. We therefore also offer quarterly, half yearly, annual payment plans on request where applicable.

Details of the amounts and the dates that each instalment is due are set out on the bill. Instalments are due on the 1st of each month for those not paying by Direct Debit.

Options for making payments

We will accept payment by any of the following means:

- ❖ Direct Debit
- ❖ Internet
- ❖ 24hr automated Telephone Payment Line
- ❖ Pay point
- ❖ Cash paid at a bank or post office
- ❖ BACS – via Banks

The methods and types of payment we offer are clearly explained on our bills and on our Web site. We do not issue payment books or cards.

Please note that payments made by PayPoint or by cash at a post office can take up to 7 working days to get to your Council Tax account. If you pay on or very close to the due date using one of these methods your payment will arrive late and you may end up receiving a reminder notice and if repeated you could end up with a summons due to late payment.

Paying by Direct Debit

This is our preferred method of payment. It is widely accepted as being the most efficient form of payment. The costs to the Council of processing a direct debit payment are much lower than other methods of payment. This method is highly secure and customers are covered by the Direct Debit guarantee so you can get your money back if anything goes wrong, and; once set up by you, there is no risk of forgetting to make the payment. We offer various in-month payment dates to accommodate most pay dates for customer convenience. These are the 1st, 6th, 10th, 15th, 21st & 28th of each month. You can set up a Direct Debit online on the Council's website. You can also arrange to pay over 10 or 12 monthly instalments.

Missed payment(s), late payment or paying less than the amount due

First Reminder Notice

If a bill has been issued and you miss an instalment (or pay late), we will send you a first reminder notice asking for the missed instalment to be paid by a given date, normally 14 days after the date on the reminder; and to ensure that future payments are made by the due dates. If you cannot pay the missed instalment(s), you should contact us immediately.

If the missed instalment is received within 14 days of the reminder date we will not take any further action. However if it remains unpaid and you have not contacted us to agree a suitable arrangement plan the right to instalments will be lost and a summons (including costs of £95) will be issued for the Council Tax charge for the remainder of the year.

Second reminder

If you bring your account up to date after receiving a first reminder, but then miss (or pay late) another instalment, we will send you a second reminder.

If the missed instalment is received within 14 days of the reminder date we will not take any further action. However, if it remains unpaid and you have not contacted us to agree a suitable arrangement plan, the right to instalments will be lost and a summons (including costs of £95) will be issued for the Council Tax charge for the remainder of the year.

Final Notice

We will issue a maximum of 2 reminders during a financial year. Each reminder will ask for the missing instalment(s) to be paid within 14 days of the reminder date. Following that we will issue a final notice or summons.

A final notice will be issued where a first and a second reminder have been complied with and a further instalment is missed (or paid late).

What happens when Reminders/Final Notices are not paid?

Some customers do not pay when we send reminders or final notices so it becomes necessary to request a summons from the Magistrates Court. By law we are required to go to Court and make a 'Complaint' stating that the Council Tax remains unpaid before we can take any further action to recover the debt.

If the Magistrates accept that you owe the debt, and that we have followed the correct recovery process in accordance with the legislation as outlined above they will grant a liability order. This work costs the Council extra money to administer and we also have to pay the Court a fee for each summons issued. These costs (shown below) are added to the amount of Council Tax outstanding so will increase the amount owed.

Summons Costs = £95
(Applied at the point we issue the summons)

Liability Order Costs = £7
(Added on granting of the liability order)

As recovery of the debt progresses to different stages additional costs will be incurred. The more action that is required the higher the costs will be. Costs will rarely be waived unless we have made a mistake or there is some compelling reason for so doing.

When we send a summons we will tell you when the complaint will be heard and where. We will also provide information regarding the amount of costs and offer you a monthly payment plan so you don't have to pay the full balance in one go. Failure to agree to the plan offered means we will expect you to pay the full balance plus the costs before the date of the summons hearing.

Special arrangement for charge payers in receipt of Council Tax Support

The Council will allow up to two months additional time for charge payers receiving assistance to pay their Council Tax through the Council Tax Support scheme before issuing a summons.. The additional time is built into the process so that consideration can be made on any applications received for additional support under the Council's discretionary council tax hardship scheme. If no application for additional support is received during that period or no arrangement plan is agreed we will proceed to issuing a summons for the outstanding debt which will incur additional costs as outlined above.

The liability order hearing

If a debt remains unpaid the case will progress to a liability order hearing. A bench (panel) of lay Magistrates or a District Judge will conduct the hearing. We provide information with the summons to answer many of the more common questions.

We have specialist officers who attend court hearings on behalf of the Council. You are not required to attend by law, but can do so to dispute the outstanding balance or example, or to speak to the Court.

The Court will listen to any liable person who wishes to appear. However, unless there is a valid defence the Court must grant a liability order. There are very few valid defences available. Most often the customer is not disputing that the debt is owed, but merely wants to make an arrangement to pay. The Court cannot make payment arrangements, but it may ask the Council to consider making one.

If you are disputing liability for Council Tax and the Court is satisfied that there may be a case to consider, it may grant an adjournment to a later date to give the Council an opportunity to investigate the matter further.

We will send staff to the Court to deal with enquiries and discuss payment arrangements with anyone who attends the hearing.. Whilst we will try to answer as many enquiries as possible, the Court does not have the facilities available for us to conduct in-depth discussions so it is often necessary to arrange to speak to the taxpayer at another time. We usually agree to get back to the taxpayer on our return to the office.

Part 2: Recovery processes after obtaining Liability Orders

14 day warning letter before further action

A liability order allows us to take further recovery action to obtain payment of the debt. If an arrangement has been made and payments made as agreed the liability order will not be enforced.

Once we have a liability order we will send you a letter stating that you have 14 days in which to pay or we will take further action. We also have the authority to ask you certain questions about your income and employment status. Any information that we receive is used to establish the appropriate steps to take next. We will also offer you another opportunity to make an arrangement over 3 or 6 months and ask you to contact us if you have any questions.

A liability order gives us the power to recover the debt using any of the following methods set out below.

Attachment of earnings

If we establish that you are in paid employment and we have your employer's details we may ask your employer to make deductions from your salary. The law allows us to request the outstanding balance on up to 2 liability orders (for different years) at the same time and in some cases we will do this. The amount deducted from your salary by your employer will be a fixed percentage dependent on how much you earn. The percentages are set out by the Government in legislation and applies to your net earnings (after for example, tax and national insurance).

Once we have obtained a liability order your employer has no option other than to make the deductions. Your employer can deduct an extra £1 each time they make a deduction, for their administration costs.

Fines may be imposed for non-compliance on both the employer and the employee.

Attachment of Benefits (deductions from welfare benefits)

If you are receiving certain benefits the Council may request the Department for Work and Pensions (DWP) make weekly/monthly deductions at rates set by Government to reduce your debt. You must be receiving one of the following benefits for us to use this option:

Income Support

Jobseeker's Allowance (income based)

Employment and Support Allowance – ESA (income based)

Guarantee Pension Credit, or

Universal Credit

It is not always possible to make an attachment especially if deductions are already being made for other debts.

The set deductions are low and if there is a large debt we may choose not to request this deduction and pursue alternative means of recovery.

Where we have applied for deductions from benefits this does not stop us from asking for additional payments after considering your full circumstances.

If additional debts accrue and a further liability order is obtained while an attachment of benefit is in place, we will usually ask for another attachment of benefit to commence when the first one finishes. However, depending on circumstances, we may consider other means of recovery.

Attachment of Members Allowances

If a Councillor has not paid their Council Tax, up to 40% of their allowances can be claimed to clear the debt. Any decision will be made in consultation with the Head of Revenues or Head of Revenues and Benefits. These provisions operate separately from the rules excluding Council Members in arrears with Council Tax from voting on certain matters.

Enforcement Agents (previously known as bailiffs)

We will refer outstanding amounts to enforcement agents (EA) if we feel this is the best course of action. We will ensure as far as possible that the information the enforcement agent holds is up-to-date and accurate.

The enforcement agents also have trained welfare officers who can assist in cases of identified hardship and vulnerability.

If there is evidence of hardship or vulnerability then the Council may ask the EA to return the liability orders to the council for alternative collection or to explore your circumstances further.

The EA is expected to operate in a fair and consistent manner and any complaints we receive are treated seriously and investigated thoroughly. Our enforcement agents have also signed up to the 2017 Citizen's Advice Council Tax protocol good practice. We have regular client meetings with our EA to ensure any issues that arise are dealt with.

The enforcement agent will charge set fees which are set out in legislation for any action taken by them to recover the debt. Their charges are detailed in the 'Taking Control of Goods (Fees) Regulations 2014'. These charges are payable by you in addition to the debt. The table below sets out the standard fees that can be charged:

Stage of process	Action	Fixed fee
Compliance	Writing to inform you of the debt, requesting payment, issuing an enforcement notice	£75
Enforcement	Visiting your home or business premises to take control of goods, including everything involved in identifying, valuing and taking control of your belongings	£235
Sale	Removing and selling the belongings that were taken control of in the previous stage	£110

Compliance Stage adds £75.00 per liability order to what is owed

When enforcement agents receive our instruction, they will contact you by letter asking you to either pay in full or contact them to discuss a suitable payment arrangement. This is called the compliance stage. They may also contact you by other means including telephone, text, fax or email. A fee of £75.00 is charged for each separate liability order they hold.

The enforcement agent is empowered to make arrangements on our behalf if they think it appropriate.

Special arrangements with EA for people in receipt of Council Tax Support

We have special arrangements in place with our EA to assist Council Tax payers who are in receipt of Council Tax Support. These arrangements ensure that the first letter or contact made by the enforcement agent will not add any additional charge to the outstanding debt. However, if you fail to make contact with the enforcement agent to make an arrangement to pay the outstanding debt a second letter will be sent by the enforcement agent and a charge of £75.00 will be added to the outstanding balance.

The enforcement agent will return the debt to the Council if there is no contact within a month of issuing the second letter for us to consider what additional action to take.

Enforcement - Taking Control of Goods adds £235.00 or more to what is owed

If you ignore the contacts from the EA, they will visit you at your home or business address. This visit will incur a further set fee of £235.00 and if the debt owed exceeds £1,500.00, further fees of 7.5% will be payable. They will not add further costs for additional visits.

When the enforcement agent visits you, they will ask for payment in full, including all their costs. If you cannot pay the amount due in full immediately, they may agree a payment arrangement.

To secure the arrangement the enforcement agent will make an inventory of goods that can be sold to repay the debt if you do not keep to your arrangement. This is called a 'controlled goods agreement'. If your goods are subject to a controlled goods agreement, you cannot move them from the property or sell them without the enforcement agent's permission.

Sale of goods – adds £110.00 or more to the amount you owe

If you make an arrangement with the enforcement agent and then fail to pay as arranged and you have signed a controlled goods agreement, they may re-enter your property, to take the goods listed on the inventory. If this happens, you will be charged a sale fee if goods are removed and sold, plus other costs such as auctioneer's fees. This can add a significant amount to the costs that you will be liable for.

If the enforcement agent is unable to agree a payment arrangement or collect the amount outstanding, they must take control of your goods if there are appropriate goods owned by you to take. If this is necessary and they are taken to a place of sale or are sold, a further fee of £110.00 will be payable. If the debt owed exceeds £1,500.00 further fees of 7.5% will be payable in addition to the £110.00.

If a debt has been passed to EA and you pay us instead of them without including their fees, then they will continue to recover their costs from you.

If the enforcement agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to your property, they will send a certificate to us to confirm that they have been unable to recover the debt. We will then consider one of the remedies detailed below in part 3.

Arrangements with Enforcement Agents

The enforcement agent will enter into payment arrangements with you and they will be monitored by the enforcement agent. If your case is with an enforcement agent then you must contact them to set up an arrangement. The aim of all arrangements is to clear the debt within the financial year where possible.

Any arrangements will be confirmed in writing with details of consequences if the arrangement is not adhered to.

If you are disputing liability and/or you have an appeal outstanding with the Valuation Tribunal please contact us and we may put a 'hold' on (suspend) enforcement action pending the outcome of the Tribunal decision or liability query. Any holds will be regularly reviewed to ensure that there is not an attempt by the customer to deliberately delay action. We may ask for evidence before instructing the enforcement agent to apply a hold on collection.

Part 3: Final recovery options (charging orders, bankruptcy and committal to prison)

A liability order gives the Council certain additional powers of enforcement. We will only use severe legal sanctions for the most difficult high value debts and/or persistent non-payment. We will decide on the most effective course of action based on the size of the debt, the history of the case and the personal circumstances of the debtor. The Council will also have regard to its equality duties <https://walthamforest.gov.uk/content/equalities-and-diversity>.

The following recovery options will only be considered if the methods above have proven ineffective. However, before we consider one of the following three options we will have:

- confirmed that your liability for Council Tax is correct;
- made all reasonable efforts to check that you are not entitled to any discounts, exemptions, reductions, Council Tax Support or benefits;
- made all reasonable efforts to contact you by letter, phone, e-communications or visits to your address;
- provided contact details of free independent debt advice agencies;
- Made reasonable efforts to investigate your financial situation and consider whether your case is suitable for an award under the Council's Discretionary Council Tax Hardship Scheme

Placing a charging order on your property

If the total debt owed to us is over £1,000.00 and you own or part own a property on either freehold or leasehold we can apply to the County Court for a charging order to be placed on your property. You will also incur additional costs and court fees.

If a charging order is granted it gives us two options:

1. To recover the debt and interest from the proceeds of sale if the property is sold at a later date; or
2. To ask the County Court to evict you from the property and enforce its sale to recover the money owed

We will only consider this option if there is sufficient equity in your property to pay your debts when it is sold.

This means of recovery is less punitive than committal to prison or bankruptcy and may be considered more suitable for vulnerable debtors who have insufficient income to make an acceptable arrangement. Although the charge will safeguard the Council's financial interests a payment arrangement may still be sought to reduce the debt. Once a charge is obtained, we may force a sale of the charged property after having regard to the debtor's vulnerability and adherence to any payment arrangement.

Making you Bankrupt

Prior to instigating proceedings we will send a letter warning of the action we are going to take and give you a last chance to pay. If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, we will serve a Statutory Demand on you. This is the first formal stage in a process that may lead to bankruptcy.

If you are a home owner and the debt is over the bankruptcy threshold (£5,000), we will consider issuing a bankruptcy petition against an individual or applying for a winding up order in the case of a company.

Bankruptcy will sometimes be considered against tenants of a property where other methods of recovery have proved to be unsuccessful.

If the Court declares you bankrupt you could lose your home and possessions to pay the debts and have to pay significant additional costs on top of the debt owed to us.

If you do not pay the full amount outstanding including costs or agree an acceptable short-term arrangement after the service of a Statutory Demand or if the court does not set your case aside, we will then serve you with a bankruptcy petition.

An Official Receiver will then be appointed and you will no longer have control over your assets. You may find it extremely difficult to obtain credit in the future.

Given the potentially grave consequences of such an order, we will thoroughly examine your personal circumstances and fully consider the effect of these consequences on you, particularly in respect of possible vulnerability, before applying for bankruptcy.

Committal to Prison

We will only consider committal proceedings if all other avenues of recovery have been considered and discounted or failed. This means that we ask the Magistrates Court to decide whether to send you to prison for not paying your Council Tax.

Before taking this action we will advise you of our intention to place the matter before a Magistrates Court by issuing a summons to attend a committal hearing and again we will give you another opportunity to pay in full. We will again also ask for information of employer and income.

At the hearing, you will be asked questions about your income and expenditure and the reason(s) why you have not paid your Council Tax bills. There will be a full enquiry into your means and ability to pay the outstanding council tax.

The Magistrates Court will consider if you are guilty of either:

1. refusing to pay, when you could have done, known as 'wilful refusal'; or
2. not taking appropriate action when you were billed, and recovery action was being taken, known as 'culpable neglect'.

At the hearing, the Magistrates may sentence you to a term of imprisonment of up to 90 days. The sentence can be suspended on whatever terms the Magistrates consider appropriate. Usually this would be an agreement to pay a weekly or monthly amount.

If the Magistrates decide that failure to pay was not due to wilful refusal or culpable neglect they have the power to write off all or part of the debt.

If you do not appear at court we will initially ask the Magistrates Court to issue a warrant for your arrest with bail. If you subsequently fail to appear at court we may ask the magistrate to issue a further warrant without bail. In this case, you will be arrested again and taken into police custody or straight to the Magistrates Court.

Part 4: How and when we offer help and Support

Council Tax Support

Council Tax Support helps residents' with low income to pay their Council Tax. There are two schemes:

- The first assists people of working age and offers up to a maximum of 76% reduction in the amount of Council Tax you are required to pay.
- The second scheme is for people of pension age and offers up to 100% reduction in the amount of Council Tax you are required to pay.

Where we identify that you are struggling or unable to pay your bill, we will encourage you to apply for Council Tax Support if you are not already receiving support through one of the schemes. You can also apply yourself online by going on the Council's website at: www.walthamforest.gov.uk/content/council-tax-support

When a new application for Council Tax Support is made, or a customer's circumstances have changed, we will continue to collect the instalments as they appeared on the last bill. Once Council Tax Support is awarded, we will reduce the remaining instalments, or if your account is in credit for the year, issue a refund. A revised bill will be issued when we make a change to the amount of Council Tax you are required to pay.

Discretionary Council Tax Hardship Scheme

This scheme supports residents who are responsible for Council Tax and are unable to pay their bill due to financial hardship. We will ensure that you are made aware of this scheme and encourage you to make an application where you are experiencing financial hardship. Applications are made online on our website at: www.walthamforest.gov.uk/content/discretionary-council-tax-hardship-scheme

You can receive help from the hardship scheme even if you are also receiving Council Tax Support.

Where we become aware that you are in extreme financial hardship and you are struggling to pay your council tax, we could consider awarding a reduction on your Council Tax by using our Discretionary Hardship Scheme without an application.

When we will suspend any recovery action

We will suspend (pause) recovery of outstanding Council Tax under the following circumstances:

Appeals against Council Tax Support decisions, including overpayments

Valuation Tribunals

No summons will be issued or, if a summons has already been issued, no further enforcement action will be taken for a period of up to three months of the date the Council receives notification from the Valuation Tribunal that an appeal has been received against a decision relating to Council Tax Support.

No such suspension will be placed on an account, or, an existing suspension will be removed if;

- The appeal relates to a different time period to that in respect of which enforcement action is being taken.
- The potential additional award which could be gained if the appeal is successful is less than 50% of the overall debt being pursued.
- The taxpayer has been convicted of an offence relating to Housing Benefit, Council Tax Benefit or Council Tax support within three years of the date of the summons.
- The taxpayer has failed to cooperate with the Tribunal – for example by failing to comply with a set of directions.

After a period of three months has elapsed the Council will decide whether, having regard to all of the circumstances, it is appropriate to continue to suspend enforcement action.

High Court, the Court of Appeal or the Supreme Court

No summons will be issued or, if a summons has already been issued, no enforcement action will be taken for a period of six months of the date the Council receives notification from either the High Court, the Court of Appeal or the Supreme Court that an appeal has been received which ultimately seeks to challenge a decision made by a Valuation Tribunal if;

- None of the exclusions relating to Valuation Tribunal apply, and
- The Council supports the appeal or is satisfied that the appeal stands a reasonable prospect of success

After a period of six months has elapsed the Council will decide whether, having regard to all of the circumstances, it is appropriate to continue to suspend enforcement action.

Appeals against Council Tax Liability

As a general rule and in line with Council Tax regulations and the guidance provided on the Valuation Tribunal Service website, we will not suspend recovery during the appeal process.

You should continue to pay Council Tax as bill whilst waiting for the outcome of your appeal. If the tribunal make a decision in your favour and you have overpaid your Council Tax we will refund the overpaid sum or use it to offset any other Council Tax you may owe.

Complaints and disputes

As a general rule we will not suspend recovery on receipt of complaints. We will however, consider on a case by case basis whether it is appropriate to do so. Where a decision is made to suspend recovery this will be communicated to you in writing.

Outstanding Council Tax Support decisions

We will withdraw from recovery action in cases where it is apparent that the arrears accrued whilst the customer was waiting for a Council Tax Support application to be processed (except in cases where the delay is due to the customer failing to provide information).

Conclusion

The actions we take to recover outstanding Council Tax are not taken as punitive measures. Our intention is to secure payment in an efficient and cost effective way, whilst still offering choices to council tax payers. We will always act in accordance with the Law.

We will, as far as possible, ensure that the actions we take are reasonable and we will consider what alternatives are available in exceptional or compelling cases. We can only decide the most appropriate action if we are aware of your circumstances and we give customers the opportunity at each stage of the recovery and collection process to contact us about the outstanding debt.