



**NORTH HERTFORDSHIRE DISTRICT
COUNCIL**

CUSTOMERS DIRECTORATE

FAIR COLLECTION POLICY

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Fair Collection Policy

KEY MESSAGES

- We will work with our customers to arrange an in-house payment arrangement where possible. This will be the Council's preferred option in all cases
- When we identify vulnerable customers we will change our collection approach appropriately
- We will ensure that staff are appropriately trained to recognise vulnerability

1. Introduction

- 1.1 This policy covers the Council's responsibility to collect amounts owed to it. These are primarily Council Tax, Business Rates, Business Improvement Districts (BIDS), Housing Benefit Overpayments, Car Parking Penalty Charge Notices and all Sundry Debts.
- 1.2 These are significant amounts of money. In 2019/2020 the Council is expected to collect around £89M in Council Tax, £38M in Business Rates and over £0.5M in BID Levy. Added to this, the Council raises around £8M per annum in Sales Ledger invoices and can expect to issue over £0.5M per annum in respect of Penalty Charge Notices. Housing Benefit Overpayments can account for up to an additional £0.7M or more to be collected each year.
- 1.3 The vast majority of this money is collected on time in accordance with the payment arrangements and there is no further action that is required by the Council.
- 1.4 Unfortunately, there are some requests for payment that are not made on time for various reasons from financial hardship to on rare occasions, willful refusal to pay. The Council has a responsibility to take whatever action is required under the various pieces of legislation to recover any outstanding amounts.
- 1.5 In doing so, the Council has to balance the need to be as helpful as possible to those who are vulnerable or experiencing financial hardship with the need to safeguard the interests of those who do pay on time. This is because any shortfall in money collected for whatever service will either result in those that do pay having to pay more or the Council having to reduce the services that it provides.
- 1.6 The intention of this policy is to secure the maximum amount of income, even if that takes a little longer to collect, by providing good advice and assistance where appropriate, rather than offering no assistance and collecting smaller amounts.
- 1.7 In doing so, the Council complies with the "Stop the Knock" six steps for Local Authorities promoted by the Money Advice Trust and has signed the Council Tax Protocol, along with its Collection Agents and Citizens Advice, which is a document promoting good practice in the collection of Council Tax produced jointly by the Local Government Association and Citizens Advice.

2. Preliminaries

- 2.1 Before the Council can take any enforcement action for non-payment, certain preliminary actions have to take place, depending on the legislation in question.

Council Tax, Business Rates & BIDS

- 2.2 Legislation requires the Council to issue a Bill with instalments. If any instalment is not paid, a Reminder Notice will be issued. If this is not paid, a Summons will follow notifying the customer of the date that the Council will apply to the Magistrates Court for a Liability Order. The process does get a little more complex where Reminder Notices are cleared and the customer misses one or more subsequent instalments, but the outcome is the same, with the application for the Liability Order.
- 2.3 To promote early contact with the Council in cases where customers are experiencing financial hardship, the Council will attempt to contact customers by text and/or email, where it holds this information in advance of the issue of any Reminder Notice or Summons to forewarn the customer that this is about to happen and advise that they should make contact to discuss the position.

Housing Benefit Overpayment

- 2.4 This occurs where a customer is overpaid Housing Benefit and they could reasonably have known this to be the case. Where these may be fraudulent, the cases are referred to the Department for Works and Pensions, but it remains the Council's responsibility to collect the Overpayment. Where the customer remains in receipt of Housing Benefit, the Overpayment will be collected from on-going entitlement. Where Housing Benefit does not remain in payment, an Invoice, followed by a Reminder Notice and a Final Notice will be issued.

Car Parking Penalty Charge Notices

- 2.5 If the Penalty Charge Notice is not paid within 28 days, the Council will obtain the name of the registered keeper from the DVLA and issue a Notice to Owner. If the Penalty Charge Notice remains unpaid, the Council will make an application to the Traffic Enforcement Centre for a Warrant.

Sundry Debts

- 2.6 In the vast majority of cases, payment for Council services is required in advance before the service is delivered, meaning that very few Invoices are now raised. Where they are and they remain unpaid, the Council has the option of stopping the service, where this is ongoing, e.g. trade refuse collection, licences etc. In other cases, the invoice is followed by a Final Notice
- 2.7 At all stages of the process, customers are encouraged to contact the Council for assistance if they are having any difficulties in paying. The Council will always look to make an in-house payment arrangement wherever possible.

3. **Enforcement Options**

Council Tax, Business Rates & BIDS

- 3.1 Once the Council has obtained a Liability Order, there are various options open to the Council for recovery of outstanding debts:

Option	Comments
Attachment of Benefits (AOB)	For Council Tax only. Used automatically where the customer is in receipt of an attachable welfare benefit, e.g. Universal Credit
Attachment of Earnings (AOE)	For Council Tax only. Used automatically where the customer's employment details are known. Cases expected to increase significantly due to the implementation of a data sharing agreement with HMRC. The rates at which deductions are made are set out in statute and can be found on the Council's web site at: https://www.north-herts.gov.uk/home/council-tax/council-tax-attachment-earnings
Referral to an Collection Agent	All types. Used for Council Tax where AOB and AOE not possible and all Business Rates and BID cases. Collection Agent able to Take Control of Goods but goods can only be removed with the consent of the Council
Bankruptcy	Council Tax and Sole Traders only. Can be used where the debt is greater than £5,000.
Charging Orders	Council Tax only. Places a charge on property. The Council could force the sale or wait until the property is sold. Debt has to be greater than £1,000
Winding Up Orders	Business Rates only.
Means Enquiry	Council Tax and Sole Traders only. The Council can apply to the Magistrates Court to have the customer committed to prison for a maximum of 90 days

Housing Benefit Overpayment

- 3.2 There are fewer options available for the enforcement of Housing Benefit Overpayments

Option	Comments
Attachment of Ongoing Housing Benefit	Used automatically where the customer remains in receipt of Housing Benefit
Referral to an Collection Agent	Collection Agents act on behalf of the Council. Cannot Take Control of Goods at this stage
Application for a County Court Judgement	If successful, the case is referred to the Council Court Enforcement Officers for collection

Car Parking Penalty Charge Notices

- 3.3 The process for the recovery of unpaid Penalty Charge Notices is very prescriptive. Once a Warrant has been obtained from the Traffic Enforcement Centre, if the charge remains unpaid, it is referred directly to the Collection Agent for recovery.

Sundry Debts

- 3.4 There are few options available for the recovery of unpaid Sundry Debts, which was the main reason why the Council, some years ago changed its policy to require payment up front for discretionary services, wherever possible.

Option	Comments
Referral to an Collection Agent	Collection Agents act on behalf of the Council. Cannot Take Control of Goods at this stage
Application for a County Court Judgement	If successful, the case is referred to the Council Court Enforcement Officers for collection

- 3.5 At every stage in all the above recovery processes, customers are encouraged to contact the Council to make an in-house payment arrangement.

4 Application of Enforcement Options

- 4.1 By far the largest type of debt that requires enforcement both in terms of numbers and value is Council Tax.
- 4.2 The Council's intention at every stage of the process is to encourage the customer to make contact if they are having any difficulty in paying. Prior to the issue of a Council Tax Reminder Notice and/or Summons, the Council will endeavor to warn all those likely to receive a Notice of this via text or email to encourage either payment or contact using an external communications provider.
- 4.3 The Council will encourage customers to make contact if they are having financial difficulties at all stages of the process and will work with customers to apply payment arrangements that suit their needs, i.e. weekly or monthly payments for variable lengths of time
- 4.4 Once a Liability Order has been obtained a Warning Notice is sent explaining that a Liability Order has been granted and the further consequences of not paying the outstanding amount.
- 4.5 If payment is not made within 14 days, each case is reviewed to see whether AOB, AOE or an extension to an existing in-house arrangement is appropriate, and if so these are applied.
- 4.6 All other cases are referred to a Collection Agent for collection.
- 4.7 All Collection Agents operating on behalf of the Council must hold a valid certificate issued by the County or High Court.

- 4.8 If the Collection Agent is unable to collect the outstanding amount, other options such as Bankruptcy, Charging Order or in cases of willful refusal or culpable neglect, a Means Enquiry is considered.
- 4.9 If customers are finding it difficult to pay their debt, the Collection Agents will also signpost to them to seek advice from Citizens Advice, National Debtline or Stepchange. Accounts are then held for a period of time and no further action is taken to allow this to happen.
- 410 Recovery of Business Rates, BID Levy, Housing Benefit Overpayments, Penalty Charge Notices and Sundry Debts follow the processes in the tables above.

5 Practical Application & Vulnerability

- 5.1 The Council is conscious that some customers experience severe financial hardship and could be vulnerable to attempts to collect money that they do not have.
- 5.2 In formulating a policy for the fair collection of debts, it is important not to be too prescriptive as each case has to be considered on its own merits. However, in line with the definition used by the Financial Conduct Authority the Council would consider a vulnerable customer to be:

“Someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care”

- 5.3 Possible examples of this could be but are not limited to:

- Single parents with young children
- Pregnancy
- Recently bereaved
- Disability
- Registered with a mental illness
- Dependency on drugs, alcohol or other addictive substances
- Customers experiencing severe financial hardship
- Terminal illness
- Appearing frail, confused or ill
- Those that do not have English as their first language

- 5.4 It does not follow that everyone falling into one of the above categories is vulnerable because for example, it cannot be assumed that all single parents with young children are in financial difficulty and unable to pay their Council Tax or other debts to the Council.
- 5.5 Each case is therefore considered on its own merits and the Council may require evidence to support the customer's situation.
- 5.6 When assessing a customer's ability to pay, the Council will use the Standard Financial Statement, which is a financial assessment tool developed by the Money Advice Trust

- 5.7 The Council works very closely with both its Collection Agents and Citizens Advice. Where there is a possibility that a customer may be considered as vulnerable, the Collection Agents will refer the case to the Council and waive all enforcement fees, other than the compliance fee, which they are able to retain under the Taking Control of Goods Regulations 2013. In cases of severe vulnerability, where there is clearly no ability to pay and the case is returned to the Council, the Collection Agents will waive all fees.
- 5.8 Collection Agents will also refer customers in multiple debt to Citizens Advice or other debt advice agencies for specialist debt advice and both the Collection Agents and the Council will agree to accept any payment arrangement considered reasonable by the agencies.
- 5.9 The Collection Agents play a critical role in identifying vulnerable cases “on the ground” and referring these for specialist help. This role supercedes any requirement to collect any debt, where a customer may be considered as vulnerable.
- 5.10 The use of Collection Agents provides an important lever in collecting outstanding amounts from those who have the ability to pay and choose not to.
- 5.11 The Council, its Collection Agents and Citizens Advice also work closely in terms of delivering training, with the Collection Agents providing legislative updates and other training to both the Council and Citizens Advice.
- 5.12 The Collection Agents have also attended and completed the Council’s Safeguarding and Modern Day Slavery Training and will continue to receive refresher training in line with the Council’s training policy.
- 5.13 If it has not been possible for the Council or its Collection Agent to secure a payment arrangement, and there is no evidence that the customer should be considered as vulnerable or does not have the ability to pay, other options will be considered to collect the outstanding amount. These are:

Bankruptcy & Charging Orders

These options will be considered where the customer owns a home or other substantial asset. The intention is to secure the Council’s debt against the asset or by making the customer bankrupt. Specialist Solicitors are used to report on the customer’s assets and make a recommendation on whether either of these are viable options. If there is no equity in the asset neither option is viable as there will be no assets to cover the debt.

Even at this stage, the Council will accept a payment arrangement to avoid following this course of action and in practice, these remedies are rarely carried through to a conclusion.

Winding Up Orders

These apply only to Business Rates collection and the same considerations are made as with Bankruptcy and Charging Orders.

Means Enquiry

This applies to Council Tax and sole traders.

If the Council has exhausted all other recovery options and the customer has not demonstrated that they do not have the means to pay, the Council will consider applying to the Magistrates Court for a Means Enquiry.

In advance of the Hearing, the Council will require the customer to complete a Standard Financial Statement for consideration by the Magistrates.

The Magistrates will conduct an enquiry into the means of the customer to establish whether they have the ability to pay. Options available to the Magistrates are:

- Instruct the Council to remit the debt if they feel that the customer does not have the means to pay
- Set a payment order requiring the customer to adhere to a payment arrangement. This is usually accompanied by a suspended prison sentence subject to maintaining the arrangement
- In extreme cases, the Magistrates can order immediate imprisonment for up to 90 days

5.13 At all stages throughout the recover process, the Council will accept a reasonable payment arrangement and suspend any further recovery action dependent on that arrangement being maintained.

6 Discretionary Council Tax Payments

6.1 The Council has the discretion to assist customers in exceptional hardship with their Council Tax Payments. These will generally be one-off payments to assist in specific circumstances and are not intended to address on-going liability. Such circumstances could include, but are not restricted to:

- Where Collection Agents, Citizens Advice or Council Officers identify a customer in extreme hardship and a one-off payment will assist with long standing arrears
- Where customers are required to move at short notice for reasons beyond their control and have a liability on two properties
- Where a Discretionary Housing Payment has been awarded

6.2 In determining an award of a Discretionary Council Tax Payment, the Council will consider the following:

- The amount of outstanding Council Tax liability and the length of time that the debt has accrued.
- Reasonable steps have been taken by the Council Tax Payer to reduce their outgoings in order to meet their liability.
- The general circumstances surrounding the application.

- The financial and social health/medical circumstances of the applicant, their partner and any dependants and any other relevant occupants of the applicants home.
- The income and essential expenditure of the applicant, their partner and dependants or other relevant occupants of their home to determine whether the applicant could reasonably afford to pay the Council Tax.
- The savings or capital which is held by the applicant or their family, or could be made available to them.
- The availability and any steps taken by the applicant to obtain extra income or to reduce expenditure of the applicant or their family.
- The level of indebtedness of the applicant and their family.
- The exceptional nature of any circumstances surrounding the applicant and their family

7 Collection Viability

- 7.1 In some cases, it is unlikely that debts will be recovered within a reasonable time frame. This is particularly the case where a Liability Order is being collected by Attachment of Benefits and there are other multiple Liability Orders waiting to be attached.
- 7.2 Consequently, in cases where Attachment of Benefits are being collected, the Council will not retain Liability Orders for attachment that are older than the current year plus three.

8 Training

- 8.1 The Council is committed to ensuring that its staff and Collection Agents are adequately trained.
- 8.2 Staff involved in the collection process will receive training on recognising vulnerability in terms of ability to pay as soon as possible after appointment and refresher training will be provided every two years. This will be done in consultation with the Council's Collection Agents.
- 8.3 In addition, all staff are subject to annual mandatory training on safeguarding and modern day slavery, which the Collection Agents also attend.