

# **Revenues' Recovery Policy**

## Introduction

This document sets out Birmingham City Council's policy in relation to the recovery of unpaid council tax.

The powers for the recovery are contained within the Council Tax (Administration & Enforcement) Regulations 1992 (SI 1992 No. 613, as amended).

## **Overall policy**

Birmingham City Council is committed to assisting all customers to pay their council tax bills. This includes maximising benefit take up; providing accurate bills as soon as possible; and assisting people to make affordable payment arrangements based on their means and where appropriate through our own Debt Advice Team.

To make a claim for benefit visit www.birmingham.gov.uk/benefitsnewclaims

To ask for help with debts or money problems call 303 2087.

However, where following these measures bills remain unpaid the City Council will and does use all available powers open to us in order to pursue these debts, including summonsing to Court and collection through bailiffs, charging orders against property, bankruptcy and in extreme cases even imprisonment.

This document provides full information on the different stages and actions the City Council will consider.

# Revenues' Statement on Potentially Vulnerable Persons

There is a need for officers within the Revenues service and partner organisations involved in the collection of council tax and business rates, to identify those citizens who could be identified as possibly being vulnerable and so require an approach which takes into account all viable options.

Whilst there is no national standard or legal definition of a vulnerable person and the City has no overall policy statement, the Revenues Service has always recognised the need to be mindful of such instances and has had in place for sometime, guidelines for the bailiff. These are contained within the City's Code of Conduct for the bailiff.

The following indicate the categories of individuals who may be considered as potentially vulnerable under this statement:

- Ongoing mental Illness / severe depression
- ► Allegations of suicide
- ► Long standing health condition
- ► Learning Disability
- ► Terminally III
- ► Recent bereavement
- ▶ The elderly where it is clear the person is unable to deal with payment

The intention is not to produce a prescriptive list but potential categories/indicators, as all other individual cases will still have to be considered on merit.

Where a person is proven to be vulnerable, staff will ensure no enforcement action is taken before consideration is given to all aspects of the case. If an account is with the bailiff it must be recalled immediately.

Where the bailiff becomes aware of a person who is potentially vulnerable, they will return the account to the Revenues service for investigation

# **Stages of Recovery**

#### Stage 1: Bill

Each household will receive a bill and enclosed with this is a booklet advising, among other things, of the availability and how to claim benefits.

A person who cannot maintain the instalment amounts over the 10 month statutory payment period may contact the City Council at this point and extend the bill over the whole financial year and into the following year.

In March each year every council tax payer is sent a bill covering the 12 months starting 1 April. Included with the bill is an information booklet advising, among other things, of the availability and how to claim benefits.

There is a legal right to pay by ten instalments (April to January) and details of the payment plan are included in the bill.

For people paying by a payment card payments should reach the account by the 1st of each month and should match the amount shown on the bill.

For direct debit payments we are able to offer 4 dates - 8th, 15th, 21st or 28th of the month. This is because direct debits are the most secure and cheapest way of making payments.

You can also choose to pay your council tax half yearly or yearly in advance.

#### Stage 2: Reminder

Where a person fails to pay the bill as it becomes due they will be sent a reminder notice. This advises of the situation they are in and makes it clear that court action will follow if payment is not made. The Call Centre number is provided, as is an address for written correspondence.

If the account is brought up-to-date, the instalment plan remains in place unless two reminders have already been issued during that year, in which case the right to instalments is lost.

The reminder provides the telephone number of the Council Contact Centre and an address for written correspondence so that people can contact us to resolve any issues they may have.

Where appropriate, the payment plan can be extended into February or March.

#### Stage 3: Final Notice

Where a person has failed to pay following a Reminder Notice or having done so defaults again, then a Final Reminder will be sent. This requires payment in full within 7 days, as failure to pay will lead to the issue of a summons for a liability order.

Where the circumstances are appropriate a further payment arrangement may still be entered into at this stage.

#### Stage 4: Liability Order Summons

Where a person fails to make a suitable arrangement, a summons for a liability order will be issued along with an income and expenditure form.

Whether contact is made with the Call Centre or directly in writing, the person has the opportunity to explain any financial difficulties they may have and to negotiate a realistic arrangement based on these circumstances.

Unless agreed otherwise, where the right to instalments has been lost and an amount remains outstanding, a summons will be issued advising that a liability order will be sought from the magistrates' court. Additional costs for this summons are added to the amount due.

There is a further opportunity at this stage to explain any financial difficulties, with the option to negotiate an arrangement - an income and expenditure form is enclosed to help with this. The liability order application will generally still go ahead, but no action will be taken to enforce the debt if payments are maintained.

## Stage 5: Liability order hearing

Council staff attend the magistrates' court to interview those attending the liability order hearing, with a view to making payment arrangements and discussing any other issues that may be raised. Notes are taken, and income and expenditure forms completed.

Individuals may choose to go before the magistrates, but this is generally not necessary. In most cases, the court has no powers to address the issues raised and is required to grant the liability order.

There is a further opportunity at this stage to make a payment arrangement or raise any other issues.

#### Stage 6: Liability order

A liability order gives the City Council certain powers in order to collect the outstanding debt. These are:

- ▶ Power to seek information about someone's income;
- ▶ Power to deduct money direct from earnings through an attachment of earnings order;
- ▶ Power to deduct money direct from benefits;
- ▶ Power to refer the debt for collection to our appointed bailiffs
- ▶ Power to declare someone bankrupt;
- ▶ Power to apply to the county court for a charging order against property

We cannot apply to the magistrates' court to commit a person to prison at this stage.

#### Stage 7: 14-day letter

Once a liability order has been granted, we will send a notice stating that the liability order will be passed to the council's bailiffs within 14 days unless an agreed payment arrangement is decided upon.

This notice (known as a 14-day letter) incorporates an income and expenditure form, and invites the person to contact us to make a payment arrangement, or provide information so that deductions can be made direct from their benefits or earnings.

### Methods of enforcement

#### Attachment of earnings orders (AEOs)

Where someone is in employment and those details are available, consideration will be given to deducting instalments direct from wages or salary.

The amount to be deducted is worked out by the person's employer as a percentage of net earnings, and may vary from week to week or month to month - for instance if overtime is worked. The percentages are set out in law and neither the Council nor your employer can change these levels.

Different percentages apply depending on the band the person's income falls into - the higher the net earnings, the higher the percentage. Where earnings are low, the amount that can be deducted may be very small or even zero.

Councils are not allowed to have more than two such orders in place at any one time. Our policy is to apply for the maximum of two, unless it is clear from information provided that this would cause hardship.

#### **Deductions from Benefit**

Where someone is receiving benefits we can ask the Department for Work and Pensions to deduct payments direct from benefit.

A set amount can be deducted each week from benefits such as Job Seekers Allowance, Income Support or Pension Credit.

If making deductions would leave a person without enough money to live on, the DWP will be unable to make deduction and will write to us. We will then contact or write to the person with a view to making a payment arrangement. If no contact is made, the account may be referred to the bailiff.

#### **Bailiffs**

We only send cases to the bailiff where:

- ▶ No contact has been made to raise disputes, and/or
- ► No arrangement has been made: and/or
- ► Alternative ways of collecting the amounts owed, such as deduction from benefit or attachment of earnings is not appropriate

On receipt of the account, the bailiff will issue a letter asking the council tax payer to contact them to make or discuss payment. They will be prepared to enter into a payment arrangement at this stage.

The bailiff can make charges in accordance with regulations for their work, which are payable by the debtor.

The bailiff must act in accordance with relevant regulations and the Council's code of practice for bailiffs.

#### Debts returned unpaid from the bailiffs

Where the bailiff is unable to collect the debt in full, the account is returned to us.

A letter is then sent to the person advising of the need to contact the office to discuss payment or raise any disputes they may have, and making it clear that failure to do so may lead to an application for

- Insolvency
- Charging order
- ► Committal to prison

In each of the three options stated above, people are encouraged to contact us on receipt of summonses or other documents sent to them to discuss payment – but clearly by this late stage any arrangement has to take into account the legal process then underway.

#### <u>Insolvency action</u>

An application may be made in the County Court for a person to be made bankrupt. This means that any assets owned by the person(s) subject to the application - such as property, shares or savings - may be used to clear their debts.

Costs involved in this action can be substantial, but can be recovered from the person subject to the order.

Because of the serious consequences of being declared bankrupt, such action is only taken where the bailiff has been unsuccessful in collecting the amounts owed, and we believe the person concerned has sufficient assets for the council to expect payment in full either before the hearing or once assets have been realised.

#### **Charging order**

We may make an application to the County Court for a charging order where the owner owes at least £1,000 in liability order debt for that property. The costs will also be charged to the person concerned.

Once an entry is made at the Land Registry confirming that the debt has been secured, the property cannot be sold without the council tax debt being paid first. In certain circumstances, statutory interest can also be claimed.

Payments can still be made to reduce the debt. If the debt is paid in full, including costs, the charge will be removed.

#### **Enforced Sale**

Where a charging order has been made, we may go on to apply to the County Court for an order for possession and sale which gives us the power to sell the property at auction.

We only seek such an order where the property is not anyone's sole or main residence.

#### Committal

Where a person is aged over 18 years of age, and a liability order has been returned by the bailiff endorsed 'no effects', an application can be made to commit that person to prison.

A summons is issued for the person named to attend the magistrates' court to explain why the amount remains outstanding.

The options available to the court are:

- ► To make an order of imprisonment of a maximum of 90 days, usually suspended on payment of a set amount at intervals set by the court;
- ► To allow the case to be withdrawn for other actions, for example insolvency, charging order or attachment of earnings;
- ▶ To write off some or all of the debt due to an ongoing inability to pay.

There are substantial costs involved with such an application and these may be payable by the debtor.

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