

Epping Forest District Council - Resources Directorate

Recovery Policy – Council Tax and NNDR

Background:

Council Tax represents the financial contribution made by the residents and owners of domestic properties towards the many services provided by Epping Forest District Council and the other precepting authorities, Essex County Council, Town and Parish Councils, Essex Fire and Rescue Service and Essex Police Authority. It provides for the collecting and recycling of rubbish, funding for street lighting, roads and paths, as well as the police and fire services, schools, libraries and social services. The level of Council Tax payable by residents in the Epping Forest area is decided annually in conjunction with the spending requirements of all the precepting authorities.

Business Rates is also known as National Non-Domestic Rates (NNDR) and is a tax charged on properties that are used for a wide range of purposes, other than domestic or residential use. Examples of properties, which are subject to Business Rates include shops, factories, offices and warehouses. Currently, the Council only retains 40% of the rates collected – 9% goes to Essex County Council, 1% to the Essex Fire and Rescue Service and the remaining 50% goes back to Central Government.

1 Introduction

1.1 The purpose of this document is to provide the framework for the Revenues Service to work from to provide efficient and effective revenue collection (Council Tax and Business Rates).

2 Aims

2.1 The Recovery Policy will comply with current regulations and incorporate the Council's corporate policies where applicable. The Policy will also support the work towards the achievement of the Council's Key Performance Indicators for Council Tax and Business Rates collection.

2.2 The Recovery Policy and timetable for Revenues collection will be agreed by the Resources Director and Assistant Director (Revenues) respectively in advance ensuring all taxpayers are treated fairly and objectively.

2.3 Instalments and balances will be collected as they become due and unpaid instalments/balances will be recovered in a timely and efficient manner.

2.4 Where instalments become overdue the Revenues service will issue reminder notices as soon as practicable and where possible be responsive to individual's circumstances when attempting to make a reasonable arrangement for payment.

2.5 The Council must have particular regard to people with disabilities as required under equality legislation. This includes mental health issues. In its actions the Council needs to take steps to take account of a person's disabilities, even where that involves treating disabled persons more favourably than other persons to avoid the disadvantage of the disability.

- 2.6 In terms of general equality duties, the Revenues Service will be provided on the basis of fairness and openness. No one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation or age.
- 2.7 All complaints will be responded to within 8 working days and depending on the nature of the complaint, recovery action may be suspended pending further investigation.

3 Demand Notices

- 3.1 The Revenues Service will issue Demand Notices and collect Council Tax and Business Rates in accordance with the regulations:
1. The Local Government Finance Act 1992 and the Council Tax (Administration & Enforcement) Regulations 1992
 2. The Local Government Finance Act 1988 and the Non-Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989.
 3. The Local Government Act 1972
 4. The Insolvency Act 1986
- 3.2 The Revenues Service aims to process all changes to accounts within 8 working days of them being notified however this is subject to resources being available.

4 The Recovery processes

- 4.1 The recovery process operated by the Revenues Service complies with current regulations and a recovery timetable are drawn up before the beginning of each financial year to ensure that all taxpayers are treated fairly and objectively.
- 4.2 The recovery timetable will take into account key areas such as:
- Notices issued in accordance with the regulations
 - Notices issued in a timely manner to ensure efficient collection and recovery
 - The issue of notices is timetabled to maximise resources available to assist customers over the telephone, reception desk and by correspondence.
 - Customers are encouraged to contact us at each stage of the recovery process to discuss difficulties they are experiencing and to make a mutually acceptable arrangement for payment, and whether they may be entitled to benefit, a discount, exemption or relief.
- 4.3 Customers that are potentially vulnerable must be identified as early as possible, including the registration stage, so that action that is appropriate to their circumstances can be determined at any recovery stage.

5 Reminders

The collection of Council Tax and Business Rates is strictly governed by legislation, which requires the council to send bills.

- 5.1 Due to the number of accounts administered by the Revenues Service it has been decided that reminders will not be checked individually before they are issued. Parameters are agreed in advance by the Senior Managers and reminders are issued on this basis. The parameters consist of number of days behind and the monetary minimum value.
- 5.2 Generally reminders are issued in accordance with the recovery timetable where an account is more than 7 days in arrears. Should a further instalment be due within 7 days of the date of the reminder notice this sum will also be included.
- 5.3 A maximum of 2 reminders for Council Tax and 1 for Business Rates will be issued in any one financial year in accordance with the regulations. A second reminder for Council Tax will only be issued if the tax payer complies with the terms of payment contained in the first reminder and subsequently fails to pay a further instalment by the due date.
- 5.4 All reminder notices are issued with guidance notes for customers.
- 5.5 Also issued with reminder notices is a leaflet devised with the Citizens Advice Bureau providing guidance and relevant signposting to those who may have debt problems. Business Rates reminder notices are issued with Small Business Rate relief forms.
- 5.6 All reminders are issued with a direct debit to encourage take up of this more efficient method of collection.
- 5.7 Reminders are issued by second class post

6 Final Notices

- 6.1 If payment demanded on a closing account or an account with only one instalment, or other such scenario prescribed by regulation, is not received by the due date a final notice will be issued. This will include where there has been a failure to comply with the terms of a reminder notice previously sent or where 2 reminder notices have already been sent and a further payment default occurs.
- 6.2 A final notice confirms that the liable person has lost the right to pay by instalments, and informs them of the balance due to the end of the financial year.
- 6.3 Final notices are issued by second class post.

7 Summons

- 7.1 A summons will be issued if the liable person has not made payment in accordance with the notices previously issued.
- 7.2 Where an arrangement to pay has been agreed a summons will still be applied for and Liability Order sought to protect the Council's interest.
- 7.3 A summons is issued as a result of the Council making a complaint to the Justice of the Peace or Clerk to the Justices, requesting the issue of a

summons, directed to the liable person to appear before the court to show why they have not paid the sum outstanding.

- 7.4 A summons will always be issued with a clear 16 days between issue and the court hearing date.
- 7.5 The summons will state the amount unpaid and the time, date and place at which the defendant is required to appear at Court.
- 7.6 The normal service of a summons will be by first class post and in accordance with the regulations.
- 7.7 All summonses will be issued with guidance notes.
- 7.8 If a liable person (defendant) disputes their liability or the amount of discount or exemption granted, they may appeal to the Revenues Service in the first instance and if further disagreement continues they have a right of appeal to the Valuation Tribunal. However the full amount as demanded remains due and payable until the appeal has been decided. If following the decision of the appeal the Liable Person is in credit then the amount of the credit will be refunded.
- 7.9 If the liable person has a Council Tax Support claim outstanding to be processed, a summons will be issued and Liability Order applied for but no further action would be taken for 28 days pending the outcome of the claim or such other date depending on the circumstances.
- 7.10 The costs charged to the liable person (defendant) by the Authority for a Summons, are made up of both the Authorities administration costs and court costs. The latter are paid to the court on the issue of a summons.
- 7.11 Costs are payable by the liable person once a summons has been issued and only in exceptional circumstances are these deemed not payable.
- 7.12 A summons is a legal document requiring the defendant to attend a court hearing. The defendant has the right to attend the hearing to give evidence as to why an order should not be made, however if the defendant does not appear the hearing will proceed in their absence.
- 7.13 If the Magistrates are satisfied that the sum shown on the summons is payable by the defendant they will issue a Liability Order to the Council. This order will carry further administration costs which the Council will have incurred.
- 7.14 Following the granting of a Liability Order the Council will issue a notice to the liable person confirming that an Order has been granted. This notice will contain a request for further information in accordance with the regulations. In addition the notice will specify that recovery will continue without further notice unless the debt is paid in full or a mutually acceptable payment arrangement is made with Council.

8. Recovery after Liability Order

- 8.1 A Liability Order is a legal instruction authorising the Council to recover the outstanding sums by any of the means described below.

- 8.2 The method of recovery for individual cases will be determined by the Revenues Service based on the most efficient and effective means of securing the monies due to the Authority.
- 8.3 At all stages of recovery the debtor will be encouraged to contact the Revenues Service to make an arrangement and not incur further costs. The Revenues Service understands and is sympathetic to debtors who find themselves in difficult financial or personal circumstances and will encourage early contact with the Service so that mutually acceptable arrangements may be made and any issues regarding liability discussed with the aim of resolution.
- 8.4 Individuals that are identified as potentially vulnerable will have their cases handled by the Recovery team's Vulnerable Persons Officer who will determine the appropriate course of action.
- 8.5 The Revenues Service appreciates the benefit both to the customer and the Council of paying regular bills by direct debit and if a customer is prepared to use this method of payment for on-going council tax and non-domestic rates an extended payment arrangement may be given.
- 8.6 **Attachment of Earnings Order:** this is an order instructing the liable person's employer to make deductions from the earnings of the employee and to pay the amounts deducted to the Council. The liable person must supply the Council with details of their employment, on request, and failure to do so could result in an additional fine of up to £500 for non-disclosure and £1,000 for supplying false information. Once the attachment is served on the employer deductions must be made as required by regulations, the actual amount varying with the income of the liable person.
- 8.7 **Deductions from Income Support / Job Seekers Allowance:** if a liable person qualifies for income support or Job Seekers Allowance and a balance remains outstanding then this may be collected by way of direct deduction through the Benefits Agency.
- 8.8 The Compliance Stage – cases will be referred to the Council's Certificated Enforcement Agents should no payment agreement be agreed, should a payment agreement be broken by the debtor and if the debtor has not made contact with the debtor and the Recovery team is not aware of any circumstances why the case not should be passed to the Enforcement Agent. As soon as the case is received by the Enforcement Agent it is identified as at the Compliance Stage and an additional £75 fee is incurred by the debtor and is payable to the Enforcement Agent.
- 8.9 Should the Enforcement Agent become aware at any stage that a case is potentially vulnerable the Council's Vulnerable Persons Officer should be notified immediately to determine the appropriate course of action.
- 8.9 Once a case has been referred to the Council's external Enforcement Agents (Ross and Roberts, Equita and Phoenix) all payments must be made directly to the Enforcement Agent and not to the Council.
- 8.10 As part of the Council's contract with the Enforcement Agents the following will be undertaken:

- 8.11 Should the debt not be resolved at the Compliance stage then the case will be move onto the Enforcement Stage at which point the debtor will incur an additional £235 costs +7.5% of any debt over £1,500. Payment at this stage must be made to the Enforcement Agent and monies paid will be apportioned pro rata between the debt and costs.
- 8.12 **Enforcement Stage:** the Enforcement stage allows the Agent to remove goods and chattels to be sold at auction to settle the debt in whole or part. There is a code of conduct and service level agreement within the Contracts with the Enforcement Agents and these are monitored regularly with the Revenues Service.
- 8.13 Should the goods proceed to sale an additional £110 cost will be incurred by the debtor, along with other costs associated with the sale or disposal of the goods.
- 8.14 **Bankruptcy / Liquidation:** will be considered if there are sufficient assets to realise and meet the outstanding debt and the debt exceeds that required by legislation. There will be significant costs associated with this method of recovery incurred by the liable person. The checklist of actions prior to bankruptcy, to ensure the case is suitable for taking this method of recovery, must be completed.
- 8.15 **Charging Orders and Sale Orders-** a Charging Order may be placed on a property to secure a debt. This will not prevent other methods of recovering the debt. Orders for properties to be sold will be considered in relevant circumstances. The checklist of actions prior to applying for a Charging Order, to ensure the case is suitable for taking this method of recovery, must be completed by the Senior Recovery Officer and approved by the Assistant Director (Revenues).

9. **Committal**

- 9.1 The Council may, if it is unable to clear the debt by way of removal of goods and other methods, apply for a further summons to be issued for the debtor to appear before the Magistrates for an enquiry into his or her means and consider the reasons for non-payment.
- 9.2 The checklist of actions prior to taking committal action, to ensure the case is suitable for taking this method of recovery, must be completed by the Senior Recovery Officer and approved by the Assistant Director (Revenues).
- 9.3 If the debtor does not attend Court the Council will apply for an arrest warrant with bail initially and then without bail if the debtor again fails to attend.
- 9.4 The arrest warrant with bail will be hand delivered to the debtor and it will specify a date and time to appear at court. The arrest warrant without bail will require the immediate arrest of the debtor who will be taken and detained at a relevant place (police station or prison cells) pending the hearing at court.
- 9.5 Such action could result in a maximum prison sentence of three months. Arrangements to pay this stage are not a matter for the Council but for the Magistrates Court to consider.

10 Tracing of Debtors

10.1 All amounts unpaid will be pursued in accordance with the above policy. In the event of the debtor leaving their last known address without providing a forwarding address, the Council will use various methods of tracing the individual which may include external tracing agents and companies.

11 Write off

11.1 The Council will only write off debts where they have been unable to trace the debtor. All other debts will be pursued in accordance with this policy.

11.2 The only exceptions to this are:

- Ø If the debtor is subject to a debt relief order, declared bankrupt or if a business is made insolvent and a dividend is received that is less than the full liability the difference will be written off.
- Ø Where a debtor has died and there are no funds in the Estate the debt will be written off.
- Ø Where the Magistrates during a committal hearing have agreed to remit all or part of the debt.
- Ø Where the Council is subject and agreed to an Individual Voluntary Agreement that is less than the full liability the difference will be written off.

12 Hardship

If you experience considerable financial hardship or have multiple arrears we may look at your case on its own merit and may agree an extended payment arrangement looking at all your debts. However, we will always expect you to pay your current years' Council Tax plus an amount towards the arrears.

If you are of working age, in receipt of the maximum amount of Council Tax Support, we will work with you to establish an affordable payment arrangement that clears the debt before the end of the financial year.

In cases of significant hardship the Council we may consider an application for assistance by way of a one-off arrangement; this will usually, but not always be a single payment to deal with specific hardship issues.

In all cases, if you fail to pay as arranged, further recovery action will be taken.

(Version 2 – 2016)

**This Policy has been agreed under the Councils delegated powers
by the Director of Resources**

Signature _____

Date _____