

## **OVERVIEW AND SCRUTINY COMMITTEE**

**DATE OF MEETING:** 15 June 2021

**TITLE OF REPORT:** **CONSIDERATION OF DRAFT CORPORATE DEBT RECOVERY POLICY**

**Report of:** **Head of Corporate Services and S.151 Officer**

**Cabinet Member:** **Councillor James Radley, Deputy Leader and Portfolio Holder for Finance**

### **1 PURPOSE OF REPORT**

- 1.1 To consider the draft Corporate Debt Recovery Policy at Appendix 1 which incorporates the Citizens Advice revised collection of Council Tax arrears good practice protocol.

### **2 RECOMMENDATION**

- 2.1 That Overview and Scrutiny Committee reviews and scrutinises the draft Corporate Debt Recovery Policy recommending any amendments to be considered in advance of the policy being presented to Cabinet in July 2021.

### **3 BACKGROUND**

- 3.1 Hart District Council has a duty on behalf of all its residents and businesses to collect what is owing to it, to pay for the vital services that we provide to our communities. As part of this we believe in treating our customers fairly and equitably. Therefore, the way in which we go about collecting and recovering money owed to the council reflects how we can support our residents, adopting a firm but fair approach.
- 3.2 The previous Hart District Council Debt Recovery Policy was written and approved in April 2013.
- 3.3 Appendix 1 contains a completely new replacement policy containing current best practice and the Citizens Advice good practice protocol for the collection of Council Tax. The new policy provides detailed recovery practice for each type of debt to ensure consistency, compliance with laws and regulations and support for those that can't pay not won't pay.

### **4 CONSIDERATIONS**

- 4.1 The scope of the policy includes all debt raised by the Council to our customers be those residents, individuals, or business organisations.
- 4.2 The provides a framework to officers to collect money in the right way aligned with best practice and advises not only on collection but provides guidance on

the wording including in invoices so that our communication regarding debt is in plain English and easy to understand.

- 4.3 The policy states the importance of making it easy for customers to make payment and ensures that benefits advice is promoted to our residents. This is underpinned in Section 3.5 which details the Council's obligations and expectations.
- 4.4 Our principles around recovery are set out in Section 4 which emphasise our approach of facilitating payment.
- 4.5 Subject to the policy being approved Hart District Council officers and partner officers will be trained and supported in implementing the new policy.
- 4.6 The policy contains nine appendixes setting out the detailed procedures to be followed for each type of debt as well as the Citizens Advice Good Practice protocol which forms part of this policy. Details of support agencies are also provided to staff using this policy.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 Whilst there are no direct financial implications of this policy, maximising income collection is key to us delivering value for money.

## **6 ACTION**

- 6.1 Subject to any recommendations made by Overview and Scrutiny Committee, Cabinet will consider the draft Debt Policy.

### **Contact Details:**

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## **APPENDICES**

Appendix A – Draft Corporate Debt policy



# **Corporate Debt Recovery Policy**

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## **1.0 FOREWORD**

Hart District Council has a duty on behalf of all its residents and businesses to collect what is owing to it to pay for the services we provide. That said we believe in treating our customers fairly and equitably. The way in which we go about collecting and recovering money owed to the council is an important way in which we can support our residents and therefore we adopt a firm but fair approach.

This corporate debt recovery policy sets out both what our customers can expect from us and what we expect from them when collecting monies due.

We recognise that people can get into financial difficulties for many reasons, often due to unexpected circumstances, especially in the current climate. Our approach to helping is built around

- seeking to work in partnership to resolve problems as early as possible and
- seeking to provide help and advice that will both deal with emergencies and
- provide longer-term solutions to prevent difficulties reoccurring.

We hope that this policy sets out clearly our commitment to helping people deal with difficult problems in an effective way, if you do not feel we are delivering this please let us know.

## 2.0 OVERVIEW

### 2.1 Introduction

This policy details the Council's approach to collection and recovering all monies due to it. The policy sets out what our residents, businesses and visitors can expect from us together with our expectations of them.

### 2.2 Scope of the Policy

The policy relates to all monies due to the authority but specifically to the collection of:

- Council Tax
- Business Rates
- Housing Benefit Overpayments
- Housing Invoices
- Parking Enforcement
- Sundry Invoices

### 2.3 Commencement and Duration

The policy was reviewed, approved and adopted by the Council in **MONTH/YEAR**

The policy will have continuous effect but will be reviewed regularly, at least annually to ensure that it reflects our vision and values whilst continuing to meet the current legislative requirements together with changes in resident's needs and demands.

## 3.0 COLLECTING MONEY THE RIGHT WAY

### 3.1 Recognising Good Practices

The Council has a statutory duty to collect what is owed by all residents and businesses to pay for Mandatory service. We understand that how we go about collecting and recovering money can impact our residents' lives and therefore to collect money owed in a fair and efficient manner, we will:

- Ensure all requests for money e.g council tax bills, and sundry invoices are issued in a timely manner, in plain English with only mandatory 'jargon' detailed on the bills.
- Ensure the amount due is clearly stated together with other essential information such as how to pay, contact details and signposts to how to contact us with any queries
- The option of different formats to meet specific communication needs of the customer (for example, braille, large print, community languages) on request.

- Provide access for residents to services who are experiencing issues in making payment as required enabling early intervention and the ability to agree a suitable payment arrangement.
- Signpost customers for advice about broader debt matters from other local agencies such as Citizens Advice Bureau and Hart.
- Quickly prompting people by reminder notices that they may have forgotten to pay.
- Use the most appropriate means of enforcement action for both the type of debt and the debtor (customer).

### **3.2 Maintaining Good Practice**

Hart Council will seek to comply with current good practice guidance in respect of local authority revenue collection published by recognised bodies.

The council will have regard to good practice provided by professional institutes such as:

- The Chartered Institute of Public Finance and Accountancy
- The Institute of Revenues, Rating and Valuation

The Council will also seek to comply with the following guidance.

- Collection of council tax arrears good practice protocol (Published by Citizens Advice October 2013) see Appendix 7.
- National Standards for Enforcement Agents January 2012 (Published by the Ministry of Justice)

### **3.3 Making it Easy to Pay**

The Council recognises that the payment options available must be convenient for customers, to ensure making their payment is as easy as possible. A wide range of payment options are provided which vary according to the type of bill or for which service the customer is paying. In addition to this, the Council takes into account the cost of different payment options when promoting and encouraging customers. For most bills, Direct Debit is the most efficient way of paying, it is also very reliable, easy to set up and cancel and is backed by a guarantee. When Direct Debit is not available, other methods such as online payments using debit or credit cards are secure, reliable and efficient.

A list of the payment options offered can be found in the appendices.

### **3.4 Promoting Benefits and Entitlements**

The Council will proactively make customers aware of benefits, discounts, exemptions and reliefs that are available, to ensure no one pays more than they are legally required. If the Council can identify entitlement to reductions automatically, we will apply this to bills, accounts and charges. If this is not possible to do automatically, customers will be advised how to claim/apply and support to do this will be provided where necessary.

### **3.5 Dealing with Customers**

#### **3.5.1 What we will do**

- Try to deal with financial difficulties to solve the immediate problem, and where we can, take steps to help prevent future problems
- Be polite, professional and courteous at all times
- Make contact at the earliest opportunity to make customers aware of the outstanding monies
- Ensure steps are in place so that any payment arrangements set up are affordable
- Where appropriate sign-post customers to organisations to provide specialist advice whether Financial, physical or emotional.

#### **3.5.2 What we expect from our customers**

The policy has set out clearly what the Council will do in order to collect money owed, however the Council also has expectations that residents and businesses will:

- Pay the amount due to ensure receipt by the Council on or before the due date
- Inform the Council of any changes in their circumstances which may affect the amount to be paid or their ability to pay
- Inform the Council of any changes in their circumstances which may affect the amount of Housing Benefit and Council Tax Support they receive to ensure they are not overpaid
- Make contact with the Council, at the earliest opportunity, if they are unable to pay what is due
- When in contact with the Council remain patient and polite at all times
- Ensure all information provided in connection with the billing, collection or recovery of money owed to the Council is correct.

## **4.0 RECOVERING OVERDUE MONEY**

### **4.1 Our Approach**

The Council recognises that occasionally customers have trouble paying what is due; in these circumstances, we encourage customers to contact the Council at the earliest opportunity to discuss payment arrangements. When contact is made the Council makes every effort to understand the individual's circumstances in order to make the best assessment of their ability to pay and to determine a realistic payment arrangement.

### **4.2 Action Taken Against Non-Payment**

Whenever possible, all outstanding money owed to Hart District Council is consolidated and one payment arrangement is set up, this helps to pull together all money due and manage it in a holistic way.

Although the Council's priority is to engage with its residents and businesses to arrange payment for outstanding money, on occasions the Council will have to take enforcement action.

If payment is not received by the due date, the Council will contact the customer as soon as possible in order to remind them of the required payment. This provides an opportunity for the customer to bring the payments up to date before the amount increases or prior to enforcement action commencing.

Please see further information on the recovery processes for the following revenues in the appendices:

- Council Tax
- Business Rates
- Repayment of Housing Benefit
- Parking Tickets
- All other bills (Sundry Debts)

If the Council finds it necessary to take court action and that action is successful, the Council will then be empowered to obtain payment through a range of statutory remedies. These include powers which impact on a person's possessions, credit rating or liberty.

Examples are:

- The right to seize goods by using enforcement agents
- The right to deduct money due from earnings or benefit
- The power to start bankruptcy or liquidation proceedings
- The power to seek eviction or imprisonment
- The ability to place charges against property owned by the debtor

The Council aims to ensure that these powers are only used when all other reasonable methods of obtaining payment have failed.

Where legislation or other provisions exist that allow the Council to take action to recover debts without the need for court action, the Council will make use of those provisions where appropriate. For example, the Social Security (Overpayments and Recovery) Regulations 2013 allow the Council to recover housing benefit overpayments from earnings using a notice to an employer to deduct sums and pay them to the council.

#### **4.3 Additional Costs**

When the council incurs additional costs for pursuing non-payment of monies due to them, where regulations allow these costs will be added to the amount owed by a customer and recovered together with all other monies due.

In the situation that the council has authorised a third party to recover the monies further costs will be incurred in line with statutory regulations (for example the taking control of goods regulations (fees) 2014)

The Council will endeavour to only seek and recover reasonable costs associated with the action necessary to recover money and ensure any third parties acting on their behalf work within the law with regard to the application of any add costs.

#### **4.4 Monies Deemed Irrecoverable or Uneconomic to Pursue**

At Hart District Council it is accepted that 100% of monies owed to it will never be collected and that there are situations where there are either legal, financial or personal situation imposed on a customer which restricts their ability to pay a debt.

In certain circumstances such as insolvency or where a person passes away without leaving an estate, the money will be classified as irrecoverable and duly written off. The Council has a firm, but fair write off policy which provides for debts that are classified as irrecoverable and those deemed uneconomic to pursue.

For both Council Tax and Business Rates, regulations exist which give councils the discretion to reduce a ratepayer's liability on the grounds of exceptional hardship.

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**APPENDIX 1**  
**Payment Options**

	<b>Council Tax</b>	<b>Business Rates</b>	<b>Housing Benefit Overpayment</b>	<b>Parking Enforcement</b>	<b>Sundry Debtor (invoices)</b>
<b>Direct Debit</b> Choice of 1 <sup>st</sup> or 15 <sup>th</sup> for Council Tax. Business Rates DDs are set up for 1 <sup>st</sup> of each month.	<input type="checkbox"/>	<input type="checkbox"/>			
<b>Online</b> Payments can be made by debit and credit card through the Council's website <a href="http://www.hart.gov.uk">www.hart.gov.uk</a>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Automated Telephone Line</b> Payments can be made by debit and credit card	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Post Office and Payzone Outlets</b> Payments can be made at post offices and Payzone outlets, at various locations across the borough (see below). There is no charge for this service, customers must present the barcoded document.	<input type="checkbox"/>	<input type="checkbox"/>			
<b>Transfer/BACS/Standing Order</b> Payments can be made direct into the Council's bank account.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Pay Point - A complete list of paypoint outlets for Hart District Council can be found at <https://consumer.paypoint.com>**

## **APPENDIX 2 COUNCIL TAX RECOVERY PROCESS**

The collection of Council Tax is governed by The Local Government Finance Act 1992 and other subsequent legislation.

The Council collects money on behalf of Hampshire County Council, Adult Social Care for Hampshire County Council, Hampshire Fire and Rescue receive, Police and Crime Commissioner for Hampshire receive and the Town and Parish Councils of Hart District.

Every dwelling within the area of Hart District Council is subject to Council Tax based on the Valuation band of the dwelling. A demand notice (bill) is issued annually to the liable person requesting payment in ten monthly instalments. A customer can request to pay their instalments over 12 months, further information can be found on the council's website.

### **Recovery for Council Tax**

Following the issue of a council tax demand notice (bill) or adjustment notice, and in the event of non-payment of the monies due the following process will be pursued.

### **Reminder and Final Notices**

If a customer has the right to pay by instalments but does not pay an instalment by the due date, then we will issue a reminder notice.

We will ask the customer to pay the missed instalment within seven days of the date on the notice. If the missed instalment is received within seven days no further action will be taken

If payment is not received, then the right to pay by instalments is lost and the remaining council tax for the year becomes due. If the remaining balance is not paid then a complaint will be laid with the Magistrates Court requesting the issue of a summons to appear at a liability order hearing at the Magistrates' Court.

If the instalment is received within seven days, but another instalment is not paid, then we will send a second reminder notice. If the missed instalment is received within seven days, we will not take any further action. If payment is not received, then the right to pay by instalments is lost and the remaining council tax for the year becomes due. If the remaining balance is not paid then a complaint will be laid with the Magistrates Court requesting the issue of a summons to appear at a liability order hearing at the Magistrates' Court.

If the account is brought up to date but falls behind for a third time, we will send a final notice for the full outstanding amount for the tax year, as the right to instalments is lost. If this is not paid in full within seven days, then a complaint will be laid with the Magistrates Court requesting the issue of a summons to appear at a liability order hearing at the Magistrates' Court.

## **Summons**

Where customers fail to respond to any reminder notice or final notice or defaults on an arrangement to pay following either, the Council will apply to the Magistrates' court for a liability order to be issued. A summons to appear at a liability order hearing at the Magistrates' Court will be sent to each person named on the bill and summons costs will be added to the account. These costs are reviewed annually.

The summons will always be issued with at least 14 days before the court hearing date. The summons will state the amount due and the time and place of the court hearing. The summons will normally be served by second class post. If a customer pays the amount of the summons including the summons costs prior to the court hearing, then the application will not proceed, and we will not obtain a liability order.

If the Council or the court decides that a summons has been issued incorrectly then it will be withdrawn, and no costs will be charged.

## **Liability Order Hearing**

A customer has a right to attend a hearing and a right to give evidence as to why a liability order should not be granted.

If they do not attend, the hearing will still proceed in their absence. If the Magistrates are satisfied that the council tax is payable and remains unpaid, then they are required to issue a liability order.

If a customer wishes to defend an application for a liability order, they must offer a valid defence against it.

Valid defences include:

- the Council has not demanded council tax in accordance with the regulations
- the amount has been paid in full with costs
- the person named on the summons is not the liable person
- the Council has already commenced bankruptcy or winding up proceedings which include the unpaid council tax concerned.

It is not a valid defence if the customer:

- is unable to pay
- has recently applied for council tax reduction
- has applied to the Valuation Office Agency against their council tax band
- has appealed their liability to the Valuation Tribunal.

If a taxpayer does not pay the summons amount including costs in full prior to the hearing, the hearing will proceed, and we will ask the Magistrates to grant a liability order plus additional cost. Any time after a summons is issued the Council will still consider making an arrangement to pay the amount due on the summons including costs. If an arrangement is made at this stage, a liability order will still be obtained to secure the debt. However, if payments are received as per the arrangement no further action will be taken.

Once a **Liability Order** has been granted by the Magistrates the Council will:

- Monitor payment arrangements where customers have already contacted the Council or have made the first payment on the payment arrangement,
- Order deductions from Benefits where appropriate,
- Order an attachment of earnings order where appropriate,
- Order deductions from the allowances of a member of a local authority

In all other cases a **Request for Financial Information Notice** is sent to the customer asking for this to be completed and to be returned to the council advising that if there is no response within 14 days the debt will be passed to an enforcement agent. A list of the fees the enforcement agent may charge is enclosed with the notice.

Should there be no response to the **Financial Information Notice** after 14 days the case is referred to the enforcement agent for further enforcement action. The enforcement agent will charge additional fees in accordance with the relevant statutory provisions. The enforcement agent must abide by the Council Code of Practice whilst seeking to enforce payment

A payment arrangement may be considered at any stage in the enforcement process and the Council aims to consider an individual's circumstances and ability to pay. However, the Council may refuse to accept payment arrangements where they are unrealistic, or it is considered there is little likelihood the arrangement will be kept.

Where a payment arrangement is defaulted upon the case will be dealt with immediately under the normal collection procedure. The case will be checked thoroughly to establish which method of recovery is appropriate prior to enforcement action being taken. However, if the customer contacts the Council to explain why the arrangement has been broken then consideration may be given to making a further arrangement.

If all other enforcement options fail, then the Council will consider using more severe remedies to collect the debt.

The remedies include:

- Instigate bankruptcy proceedings
- Applying to the County Court for a charging order to be registered against the property
- Applying to the Magistrate's Court for the debtor (customer) to be committed to prison - a customer can be committed to prison for up to 3 months

### **APPENDIX 3 BUSINESS RATES RECOVERY PROCESS**

The collection of Non-Domestic Rates is governed by The Local Government Finance Act 1988 and other subsequent legislation.

Every Non-Domestic property, which can include land, advertising rights, telecommunications masts etc., within the area of Hart District Council is subject to Non-Domestic Rates based on the rateable value of the property.

A bill is issued annually to the liable person, usually the person entitled to possession, requiring payment in ten monthly instalments.

The Local Authority retains a proportion of the amount collected and the remainder is paid to Central Government, Hampshire County Council and Hampshire Fire Authority.

Where payments due have not been made the Council will take the following action:

#### **Reminder and Final Notices**

If a customer has the right to pay by instalments but does not pay an instalment by the due date, then we will issue a reminder notice.

We will ask the customer to pay the missed instalment within seven days of the date on the notice. If the missed instalment is received within seven days no further action will be taken

If payment is not received, then after a further seven days the right to pay by instalments is lost and the remaining Non-Domestic Rates for the year becomes due. If the remaining balance is not paid then a complaint will be laid with the Magistrates Court requesting the issue of a summons to appear at a liability order hearing at the Magistrates' Court.

If the account is brought up to date but falls behind for a second time, we will send a final notice for the full outstanding amount for the tax year, as the right to instalments is lost. If this is not paid in full within seven days, then a complaint will be laid with the Magistrates Court requesting the issue of a summons to appear at a liability order hearing at the Magistrates' Court.

#### **Summons**

Where customers fail to respond to any reminder notice or final notice or defaults on an arrangement to pay following either, the Council will apply to the Magistrates' court for a liability order to be issued. A summons to appear at a liability order hearing at the Magistrates' Court will be sent to each person/company named on the bill and summons costs will be added to the account. These costs are reviewed annually.

The summons will always be issued with at least 14 days before the court hearing date. The summons will state the amount due and the time and place of the court hearing. The summons will normally be served by second class post. If a customer pays the amount of the summons including the summons costs prior to the court hearing, then the application will not proceed, and we will not obtain a liability order.

If the Council or the court decides that a summons has been issued incorrectly then it will be withdrawn, and no costs will be charged.

### **Liability Order Hearing**

If a customer wishes to defend an application for a liability order, they must offer a valid defence against it.

Valid defences include:

- the Council has not demanded Non-Domestic Rates in accordance with the regulations
- the amount has been paid in full with costs
- the person/company named on the summons is not the liable person
- the Council has already commenced bankruptcy/ or winding up proceedings which include the unpaid Non-Domestic Rates is concerned.

It is not a valid defence if the customer:

- is unable to pay
- has recently applied for Non-Domestic Rates Relief
- has applied to the Valuation Office Agency against their Rateable Value
- has appealed their liability to the Valuation Tribunal.

If a taxpayer does not pay the summons amount including costs in full prior to the hearing, the hearing will proceed, and we will ask the Magistrates to grant a liability order plus additional costs. Any time after a summons is issued the Council will still consider making an arrangement to pay the amount due on the summons including costs. If an arrangement is made at this stage, a liability order will still be obtained to secure the debt. However, if payments are received as per the arrangement no further action will be taken.

Once a **Liability Order** has been granted by the Magistrates the Council will:

- Monitor payment arrangements where customers have already contacted the Council or have made the first payment on the payment arrangement,

In all other cases a **Request for Financial Information Notice** is sent to the customer asking for this to be completed and to be returned to the council advising that if there is no response within 14 days the debt will be passed to an enforcement agent. A list of the fees the enforcement agent may charge is enclosed with the notice.

Should there be no response to the **Financial Information Notice** after 14 days the case is referred to the enforcement agent for further enforcement action. The enforcement agent will charge additional fees in accordance with the relevant statutory provisions. The enforcement agent must abide by the Council Code of Practice whilst seeking to enforce payment

A payment arrangement may be considered at any stage in the enforcement process and the Council aims to consider an individual's circumstances and ability to pay. However, the Council may refuse to accept payment arrangements where they are unrealistic, or it is considered there is little likelihood the arrangement will be kept.

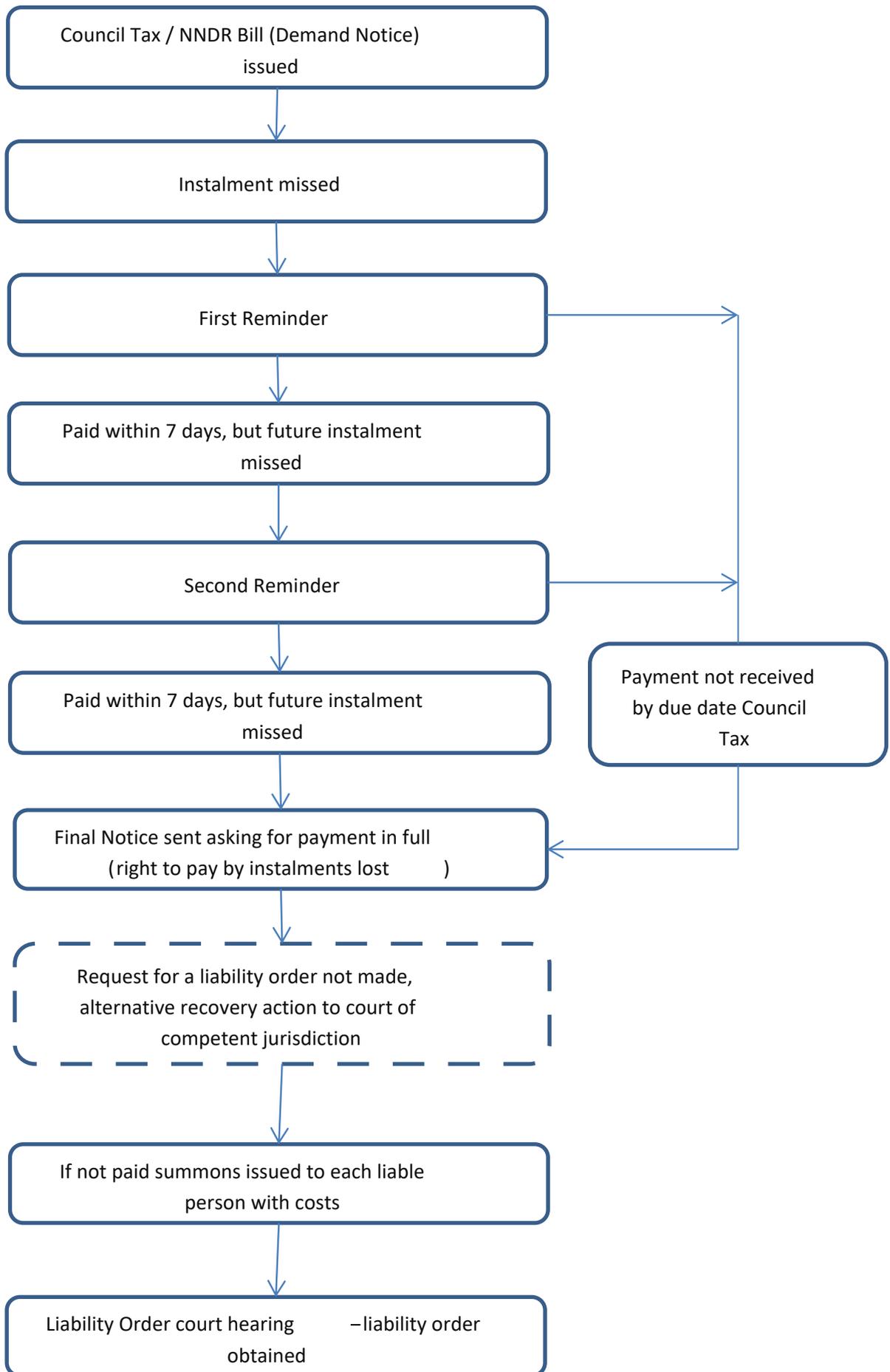
Where a payment arrangement is defaulted upon the case will be dealt with immediately under the normal collection procedure. The case will be checked thoroughly to establish which method of recovery is appropriate prior to enforcement action being taken. However, if the customer contacts the Council to explain why the arrangement has been broken then consideration may be given to making a further arrangement.

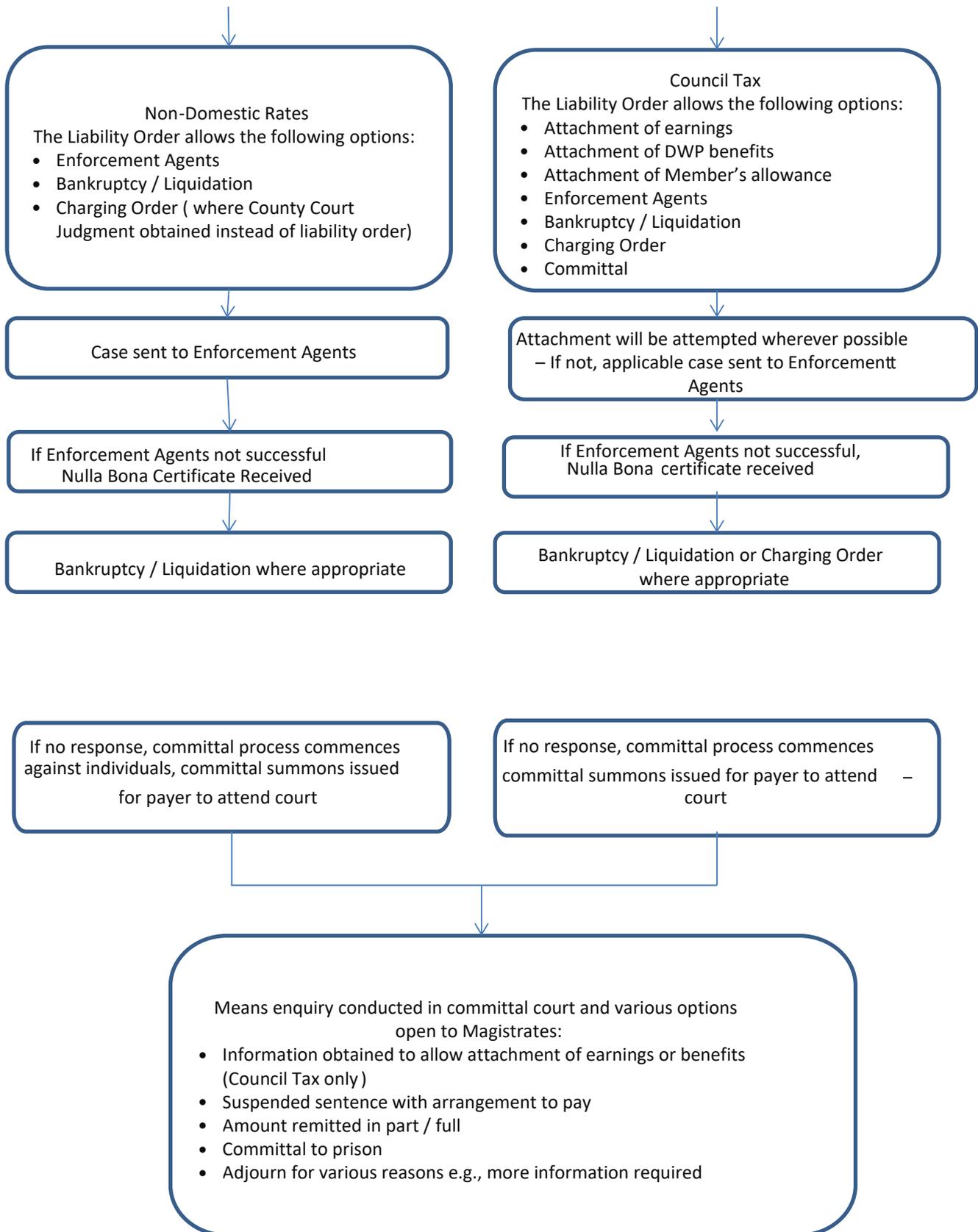
If all other enforcement options fail, then the Council will consider using more severe remedies to collect the debt.

The remedies include:

- Instigate bankruptcy/winding up proceedings
- Applying to the County Court for a charging order to be registered against the property (where a County Court judgement was granted rather than a liability order)
- Applying to the Magistrate's Court for the debtor (customer) to be committed to prison - a customer can be committed to prison for up to 3 months.

**Council Tax and NDR Recovery Flow Chart is shown below:**





## **Repayment of Overpaid Housing Benefit Recovery Process**

When deciding whether an overpayment of Housing Benefits is recoverable the Council Section 75 of The Social Security Administration Act 1992 provides the Council with the power to prescribe the circumstances when an overpayment is recoverable. This Act underpins The Housing Benefit Regulations 2006 (HBR 2006) and outlines the Council's right to recover, discretion to recover, whom to seek recovery from and methods of recovery.

### **Decision Making**

The Council must make a number of decisions in the course of calculating overpayments of Housing Benefit and undertaking recovery action. In making these decisions the Council will have due regard to the circumstances of each case and will not apply "blanket" policies which may constitute a fettering of its discretion.

The Council specifically undertakes to ensure that no person is required to repay unrecoverable overpayments. An unrecoverable overpayment (as defined in HBR 2006) is one that:

1. Has been caused by official error
2. The claimant or recipient of the benefit did not contribute to it
3. The claimant or recipient of the benefit could not reasonably have been expected to know that an overpayment was occurring at the time that payment was made or at the time of notification

In respect of recoverable overpayments, due consideration will be given to the question of whether or not the Council should exercise its discretion not to recover the debt.

No landlord/agent will be required to repay an overpayment where the conditions of Regulation 101(1) of the HBR 2006 are satisfied.

The Council will then decide whom to seek recovery from in accordance with HBR 101 (2).

### **Principles of Overpayment Recovery**

The Council will seek to recover overpaid Housing Benefit in the most efficient and cost-effective manner, having regard to its statutory obligation to protect public funds.

The Council will, however, have regard to the circumstances of the individual from whom recovery is sought.

The person from whom recovery is sought shall have the right to request a revised repayment arrangement based on their financial circumstances.

The minimum rate of recovery is set in accordance with the lower-level rate of recovery, as determined by the Department for Work and Pensions.

The Council will review all concessionary payment arrangements periodically. If the overpayment is subject to an appeal, either with the Council or the DWP, the Council will consider whether recovery should be suspended or not, pending the outcome of the appeal.

## **Methods of Recovery for Overpayment of Housing Benefits**

### **Instalment recovery**

Instalment recovery may be used by the Council where the debtor has continuing entitlement to Housing Benefit. A portion of the weekly entitlement is withheld and offset from the outstanding debt until it has been fully recovered. The provisions of Regulation 102 limit the maximum amount that may be recovered each week and the Council will not exceed these maximum amounts without express written agreement from the debtor. In any case, the council will not reduce a person's minimum weekly payable benefit below 50 pence. At the outset of instalment recovery, the Council will decide on the level of deduction to be made on the basis of the information available. The claimant will be notified of the commencement of instalment recovery. If the claimant is experiencing financial hardship, he/she may request a revised repayment arrangement based on their financial circumstances notwithstanding the minimum rate of recovery. The Council may request such reasonable information as is necessary to decide on an amended level of recovery.

### **Offset of entitlement (netting off)**

The Council may offset some or all of any amount of benefit owed to the claimant to recover an overpayment in part or full (HBR102 (1)).

This may occur, for example, where an amount of benefit is owed due to the effect of a "backdated" advantageous change of circumstances.

Wherever applicable, underlying entitlement to benefit during the overpayment period will be taken into account and, if the necessary information for calculation of underlying entitlement is not available, claimants will be given at least one opportunity to provide that information.

### **Recovery from other DWP benefits**

If recovery from ongoing entitlement to Housing Benefit is not available, the Council may seek to recover overpaid benefit from another Social Security benefit (as detailed in HBR 105(1)) in payment to the claimant.

### **Recovery from Housing Benefit paid by another council**

This method of recovery may be appropriate where the debtor has left the creditor Council's area and it can be established that they are in receipt of Housing Benefit in another council's area. The debt may then be recovered by way of the new Council, which will make deductions from ongoing entitlement on behalf of the creditor Council.

### **Recovery via Sundry Debtor invoice**

Where no other method of recovery can be used, the Council will issue an invoice to the debtor for payment. Payment is due on demand unless the debtor is experiencing financial hardship and cannot make full payment. In this instance, the debtor should contact Exchequer Services to discuss the possibility of an arrangement plan.

Unless a mutually acceptable arrangement can be agreed, the debtor will be asked to complete an Income and Expenditure form and a payment arrangement will be made based

upon the information provided. Following the issue of the first invoice if neither payment nor any contact is made from the debtor, a reminder invoice will be issued 21 days later. If neither payment nor any contact is made from the debtor, a final invoice will be issued 7 days later. Where payment or contact is still not received, the Council will take further recovery action.

**Recovery from "blameless tenants"**

Where an overpayment is recoverable from a third party, such as a landlord or agent, and Housing Benefit continues to be paid to that third party, the Council may recover the overpayment by deducting some or all of any due payments to the third party. Recovery may be made in this manner even if the third party is no longer receiving payment of benefit direct for the person in respect of whom the overpayment was made, in which case recovery is said to be being made from the entitlement of the third party's "blameless tenants".

**Enforcement Agents**

Where no payment has been received 7 days after the final invoice has been issued, the Council may instruct Collection Agents to visit the debtor with a view to securing payment or a payment arrangement.

**Registration of debts at County Court**

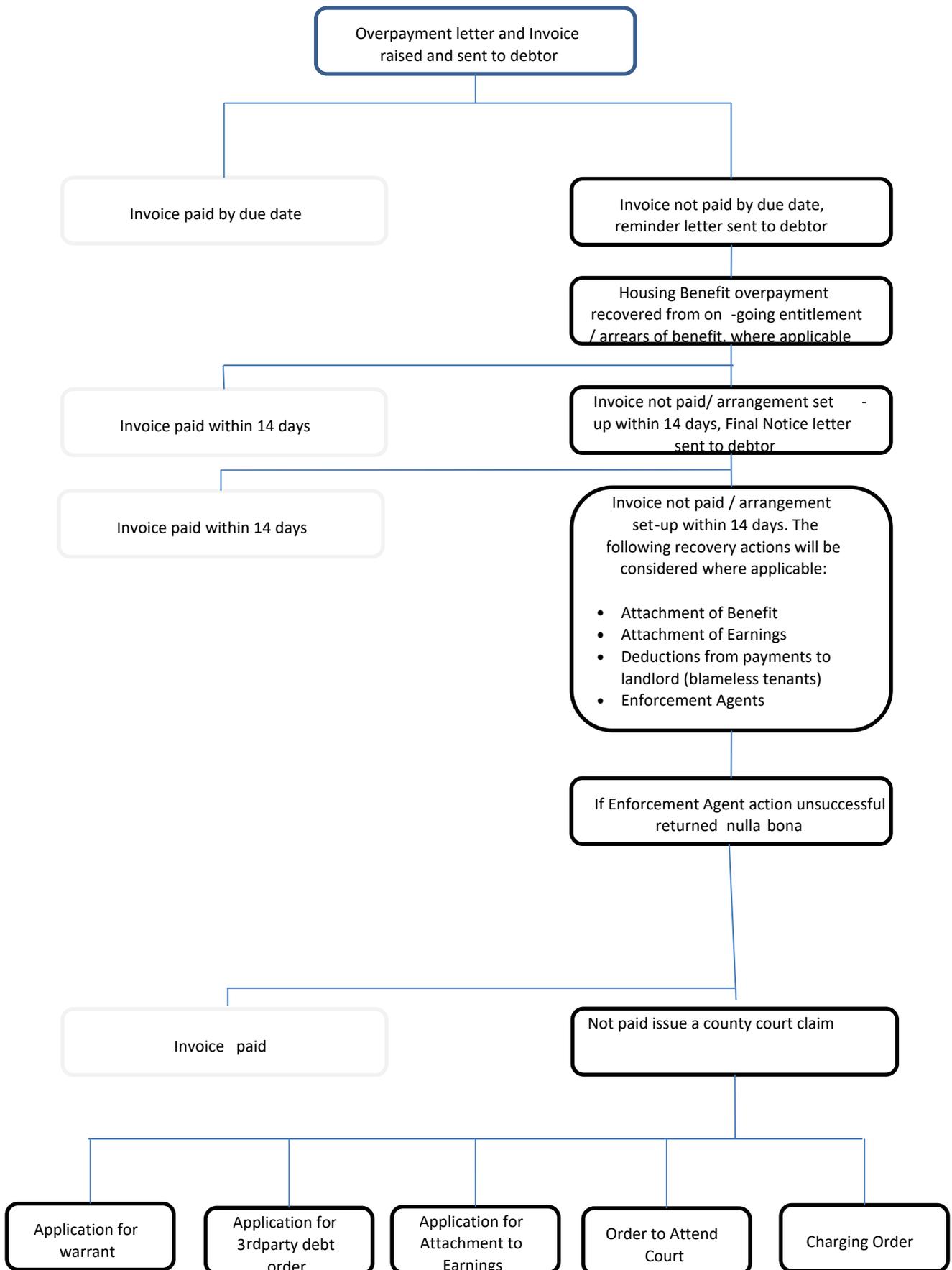
Where recovery by any of the methods outlined above is unavailable or impracticable, the Council may seek to enforce recovery by registering the debt at a County Court. This has the effect of enabling the Council to use recovery methods that are otherwise unavailable without obtaining a County Court judgement (CCJ). The Council will not seek to register a debt at County Court before the debtor has had the opportunity to dispute the overpayment decision (i.e., one calendar month), nor will it seek registration where a request for revision or appeal is outstanding. The Council will incur costs when registering a debt and these will be added to the total debt owed. The effect of registering the debt at County Court will enable the Council to enforce the Order via one or any of the methods detailed below: This list is not exhaustive, and the Council will seek to enforce the Order via whichever method of enforcement is the most practicable and cost effective.

**Adjustment of Council Tax Support**

Council Tax Support is paid to a claimant by way of a credit to the claimant's Council Tax account. Where an adjustment is required which reduces the amount of Council Tax Support the Council will give the same consideration to whether the reduction is recoverable as outlined above regarding Housing Benefit.

Where a reduction to Council Tax Support is deemed to be 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.

Repayment of Housing Benefit Recovery Process Flowchart



## **Parking Ticket Recovery Process**

The collection of outstanding parking tickets is governed by the Traffic Management Act 2004.

A parking ticket is issued in accordance with a current Off Street Parking Order (OSPO) or Traffic Regulation Order (TRO) for the specified location, when a vehicle is contravening the relevant OSPO/TRO.

The income received from parking tickets issued on street goes into the Civil Parking Enforcement (CPE) Account owned by the highway's authority (Hampshire County Council). The income received from parking tickets issued in car parks is retained by Hart and reinvested back into improving our parking services.

### **Recovery of unpaid Parking Tickets**

When payment for a parking ticket is not received within 28 days of the PCN being issued by a Civil Enforcement Officer, or 21 days of being posted due to the Civil Enforcement Officer being prevented from serving it at the time of the contravention, the process set out in legislation starts.

### **Statutory Notices**

A minimum of two statutory items of correspondence are sent prior to the debt being registered at the county court as outstanding.

The final correspondence is issued by the council on behalf of the County Court giving a further 21 days to make the payment to the council. Should payment not be forthcoming the case is referred to the council's certified Enforcement Agency for the recovery of the debt, which will further increase the amount of money owed.

### **Enforcement Agents**

Once the case has been referred to the Enforcement Agency it is difficult for the council to intervene, so early intervention is always encouraged.

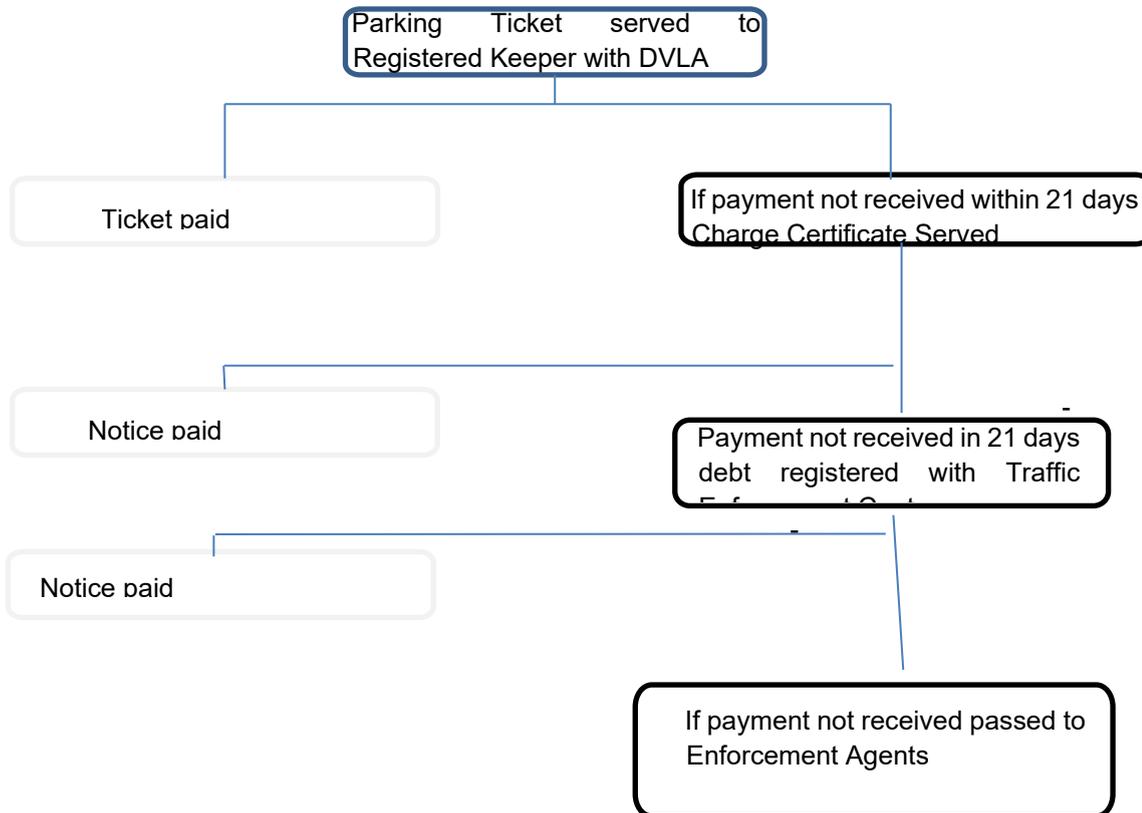
If at any point during the process a customer is struggling to make payment, we urge them to make contact with us as soon as possible. The parking ticket will be placed on hold to avoid further escalation of costs, and a payment arrangement will be considered taking into account individual circumstances.

### **Multiple Parking Tickets Outstanding**

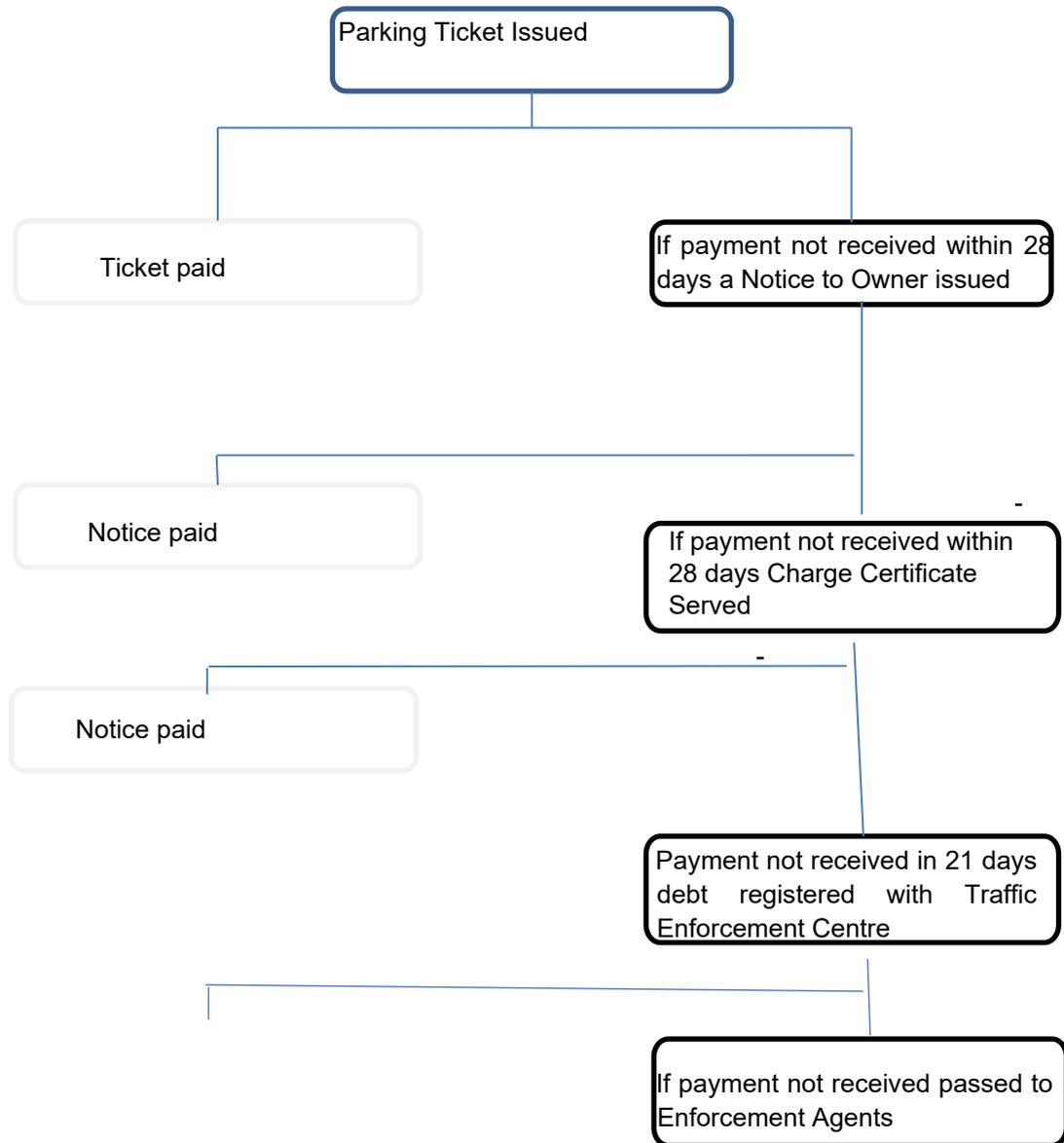
Should a customer be in a position where multiple parking tickets are outstanding, it is important they make contact with us to discuss making payment. If multiple parking tickets remain outstanding, and the registered keeper is made aware of them via the serving of a Notice to Owner, the Council is authorised to remove the vehicle from the highway should a subsequent parking ticket be issued. It is not in the Council's interest to do this, setting a payment arrangement is preferable however if a customer fails to engage with the Council this process may be applied.

**Parking Ticket Recovery Process Flowchart**

**Regulation 10 Parking Ticket** (issued by a civil enforcement officer who is prevented from serving whilst at your vehicle)



Regulation 9 Parking Ticket Flowchart (issued to your vehicle – on street or in a car park)



## Sundry Debts Recovery Process

Sundry Debts are debts raised for all other statutory and discretionary services and products provided by the council examples include Building Control, Licensing, Parking permits and certain housing debts.

An invoice should be issued as soon as possible after the event giving rise to the charge occurs. All sundry debt invoices will be issued for payment due immediately except where there is a contractual agreement to make payment at agreed intervals (e.g. 28 day terms). All the available payment methods will be stated clearly on the invoice.

At any stage following receipt of the invoice the customer can contact the Council to discuss payment by instalment arrangement if payment in full is not possible for the customer.

### Reminders

If payment is not received within 7 days from the due date of an invoice, and no request is received to consider a payment arrangement, a **first reminder** letter will be sent together with a copy of the original invoice issued requesting immediate payment.

Should payment still not be received a final notice will be issued 7 days after the 1<sup>st</sup> reminder

After a further 7 days attempts to contact the customer by alternative methods to prompt payment of the amount outstanding.

If payment is still outstanding after a further 7 days the case will be reviewed and where appropriate will be forwarded to our shared legal service for commencement of recovery action

### Legal Action

A **Letter Before Action** is issued giving notice that the debt should be paid within seven days or the debt will become the subject of a County Court action. The Council may then obtain a County Court Judgement against the debtor. Costs and statutory interest may also be added to the debt at this stage.

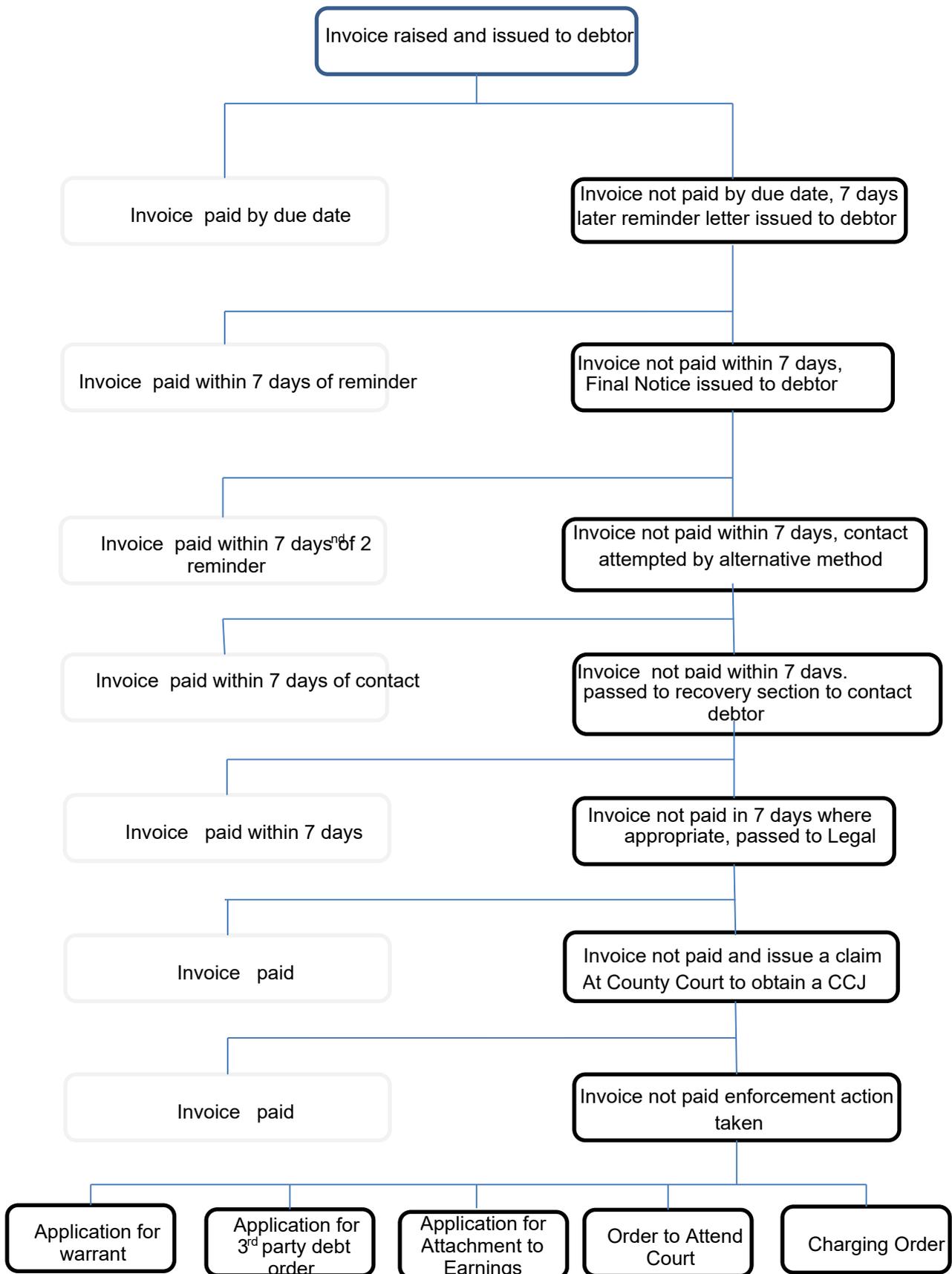
Once a judgement is obtained the Council may enforce the judgement by applying for:

- An Attachment of Earnings Order
- A Warrant of Execution against the Debtors Goods (i.e., refer the debt to the County

Court's Enforcement agent)

- Any of the other enforcement processes available through the County Court that the Council may deem appropriate dependant on the circumstances of the Debtor.

Sundry Debts Recovery Process Flowchart

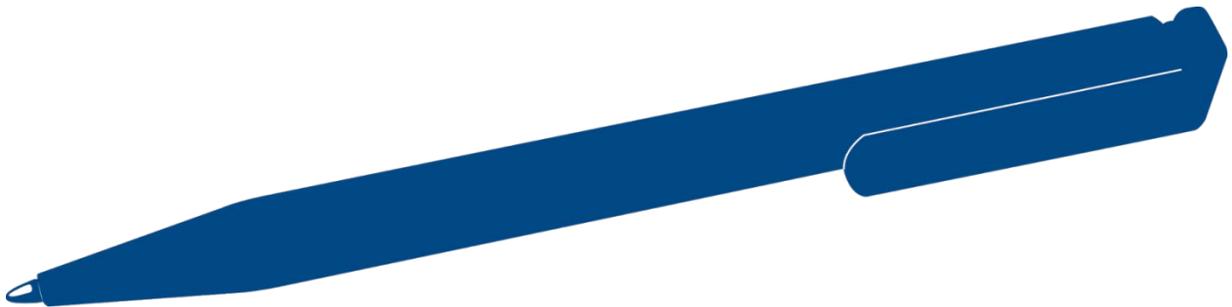


**Collection of council tax arrears good practice protocol**

Council Tax

**Protocol**

**Revised Collection of Council Tax Arrears Good Practice Protocol**



**Agreed by:**

Citizens Advice, June 2017

Local Government Association, June 2017



**Council Tax Protocol**

We agree to adopt this protocol in ..... as our public commitment to its principles of fairness, partnership working and transparency in local authority debt collection:

**Signature**

**Signature**

.....

.....

**Local authority representative**

**Local Citizens Advice / advice agency representative**

**Signature**

**Signature**

.....

.....

**Enforcement agency representative**  
*(where relevant)<sup>1</sup>*

**External contractor representative**  
*(where relevant)<sup>1</sup>*

**Date:**

**Council Tax Protocol**

Revised collection of council tax arrears good practice protocol

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<sup>1</sup> Enforcement agents and external contactors may sign this protocol if they and the authority agree that it is appropriate.

Council taxpayers receive a better level of service when local authorities<sup>2</sup>, enforcement agencies and debt advice agencies work closely together. Early intervention and proactive contact with people struggling with bill payments can help prevent them incurring further charges and help alleviate stress. It can also potentially help reduce both collection costs and calls on local public services, particularly mental health services.

This good practice protocol makes a number of suggestions on how local partnerships can be strengthened and residents better supported.

Developed through partnership work between the national bodies representing advice agencies, local government and enforcement agencies throughout England and Wales, it builds upon the previous protocol, which government recommended local authorities adopt in their 2013 guidance. The protocol reflects best practice at local level and is intended to facilitate regular liaison on practices and policy concerning council tax debt collection. In setting down clear procedures and keeping them regularly under review, all parties can ensure that cases of arrears are dealt with appropriately whilst complaints are handled efficiently.

By signing the protocol and adopting the practices set out below, local authorities, enforcement agencies and advice agencies can help taxpayers pay their council tax bills while accessing debt advice when needed.

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### **Partnership**

#### **To foster more effective partnership working:**

- Local authorities, enforcement agencies and advice agencies should meet regularly to discuss practical and policy issues with a recommendation to meet quarterly at officer level and annually with elected members.
- All parties should have dedicated contacts accessible on direct lines and electronically so that issues can be taken up quickly.
- All parties should promote mutual understanding by providing training workshops, undertaking exchange visits and sharing good practice.
- As local authorities are responsible for the overall collections process, they should ensure all their staff, external contractors and enforcement agencies receive the appropriate training, particularly on vulnerability and hardship.

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<sup>2</sup> Where we use the term 'local authorities', this should also be read to cover a local authority's external contractors, where the local authority has contracted out the administration of some or all of its council tax collection process.

- Advice agencies, enforcement agencies and local authorities should work together to develop a fair collection and enforcement policy, highlighting examples of vulnerable people or those who find themselves in vulnerable situations, and specifying clear procedures in dealing with them. Contractual arrangements with enforcement agents should specify procedures for the local authority to take back cases involving vulnerable people.
- Local authorities should consider informal complaints as debtors may be afraid to complain formally where enforcement agent activity is ongoing. Informal complaints received from advice agencies can indicate problems worthy of further investigation both locally by the local authority and by referral to national bodies.

**Information****To improve the information supplied to council taxpayers about the billing process, how to get support and debt advice and to promote engagement:**

1. All parties should work together to produce letters that clearly and consistently explain how council tax bills have been calculated (including any Council Tax Support award). Council tax bills should make clear council tax is a priority debt and explain the consequences of not making payment by the date specified. As far as possible within the constraints of systems, where a taxpayer has council tax arrears, the letters should explain how the debt has been accumulated and over which time period, the layout and language of bills and letters should be easy to understand, with any letters including a contact phone number and email address. All information should also be made available online in a clear format.
2. Local authorities should consider reviewing payment arrangements and offer more flexible options, including, subject to practicality, different payment dates within the month, spreading payments over 12 months and, potentially, different payment amounts to assist those on fluctuating incomes. This can allow people to budget more effectively.
3. Local authorities and enforcement agents should publicise local and national debt advice contact details on literature and notices. Advice agencies can help by promoting the need for debtors to contact their local authority promptly in order to agree payment plans. Parties can work together to ensure the tone of letters is not intimidating but encouraging of engagement.
4. Local authorities should ensure that enforcement agencies have appropriate information about the council tax debts they are recovering, so they can put this in letters they send to debtors and answer any questions.
5. Local authorities should consider providing literature about concerns council tax debtors may have about enforcement agents and enforcement. Information could cover charges enforcement agencies are allowed to make by law, how to complain about enforcement agent behaviour or check enforcement agent certification and further help available from the local authority or advice agencies.

6. All parties should work together to review and promote better engagement by council taxpayers. This should include information on how bills can be reduced through reliefs, exemptions and council tax support schemes, advising taxpayers that they should contact the local authority if they experience financial hardship and the consequences of allowing priority debts to accumulate. Information and budgeting tools should be made available on local authority and advice agency websites, via social media and at offices of relevant agencies. This is an opportunity for joint campaign work.

### Recovery

**If a council tax bill is not paid, then the local authority's recovery process comes into play. While local authorities strive to make early contact with a debtor, the first point of engagement by a debtor often only occurs when an enforcement agent visits the premises. Greater effort should be made at or before the Tribunal Courts and Enforcement Act's compliance stage, including debt and money advice referrals and to assess whether vulnerability or hardship applies, so as to avoid escalating a debt. Therefore:**

1. Local authorities and enforcement agencies should work in partnership with advice agencies on the content, language and layout of all documents, produced by the local authority and agents acting on its behalf which are part of the enforcement process. This should aim to ensure that the rights and responsibilities of all parties, particularly those of the debtor, are clearly set out.
2. Enforcement agents should provide the debtor with a contact number and email address should they wish to speak to the local authority.
3. Local authorities should keep all charges associated with recovery under regular review to ensure they are reasonable and as clear and transparent as possible and reflect actual costs incurred. Enforcement agents should only make charges in accordance with council tax collection and enforcement regulations, particularly the Tribunal Courts and Enforcement Act.
4. Local authorities should periodically review their corporate policy on debt and recovery, particularly what level of debt (inclusive of liability order fees) should have accrued before enforcement agent action, as enforcement will add additional costs to a debt.
5. As part of their corporate policy on debt and recovery, local authorities should have a process for dealing with cases that are identified as vulnerable, bearing in mind that different local authorities may have different definitions of a vulnerable person or household. Any local definition of vulnerability should be developed in consultation with advice agencies and enforcement agencies and, wherever possible, the local authority should aim to publish clear guidelines on what constitutes vulnerability locally. Where a local authority's vulnerability criteria apply, in these cases, debts should be considered carefully before being passed to enforcement agencies. Where enforcement agents or other parties identify a vulnerable household, recovery action will be referred to the local authority.

6. Local authorities should regularly review and publish their policies which cover hardship, including how these relate to council tax arrears.
7. Where a household is in receipt of Council Tax Support, the local authority should consider matters carefully and determine whether to pass such cases to enforcement agents, based on the individual circumstances of the case.
8. The debtor may have outstanding claims for Universal Credit, Council Tax Support or other benefit(s) which are contributing to their arrears. Local authorities can suspend recovery once it is established that a legitimate and relevant claim is pending.
9. Local authorities and their enforcement agents should consider offering 28 days hold or “breathing space” on enforcement action if debtors are seeking debt advice from an accredited advice provider.
10. Procedures should exist for debt advisers to negotiate payments on behalf of the taxpayer at any point in the process, including when the debt has been passed to the enforcement agent. In some cases, the debtor may only contact an advice agency following a visit from the enforcement agent.
11. Local authorities and enforcement agents should consider accepting and using the Standard Financial Statement (SFS) or Common Financial Statement in assessing ability to pay as long as this is consistent with securing value for money for all council taxpayers.
12. Each case should be examined on its merits and repayment arrangements need to be affordable and sustainable, while ensuring that the debt is paid off within a reasonable period. Where appropriate, local authorities should provide the flexibility to spread repayments over more than a year, including beyond the end of a financial year.
13. Local authorities should prioritise direct deduction from benefits or attachment of earnings in preference to using enforcement agents. This avoids extra debts being incurred by people who may already have substantial liabilities.
14. Clarity should be provided to the debtor and enforcement agency as to which debts are being paid off, in what amounts and when, especially where a debtor has multiple liability orders. Where appropriate, debts should be consolidated before being sent to enforcement agents.
15. Local authorities should publish a clear procedure for people to report complaints about all stages of recovery action. Local authorities will regularly monitor and, subject to requirements of commercial confidentiality and the Data Protection Act, publish the performance (including complaints) of those recovering debts on their behalf and ensure that contractual and legal arrangements are met.

**Free, confidential advice. Whoever you are.**

We help people overcome their problems and campaign on big issues when their voices need to be heard.

We value diversity, champion equality, and challenge discrimination and harassment.

We're here for everyone.



[citizensadvice.org.uk](http://citizensadvice.org.uk)  
Published June 2017

Citizens Advice is an operating name of The National Association of Citizens Advice Bureaux. Registered charity number 279057.

[Support Agencies](#)

**Citizens Advice Bureau** [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk).

There are 3 offices local to Hart:

## APPENDIX A

Fleet - Civic Offices, Harlington Way, Fleet, GU51 4AE  
Farnborough - Elles Hall, Meuden Avenue, Farnborough, GU14 7LE Yateley  
- Royal Oak Close, Yateley, GU46 7UD 03444 111306

### **National Debt line** [www.nationaldebtline.org](http://www.nationaldebtline.org)

The National Debt line can give free information to people living in England and Wales. It also provides an information pack on dealing with debt. The line is available on Monday to Friday 9.00am to 9.00pm and on Saturday 9.30am to 1.00pm. 0808 808 4000

### **Civic Legal Advice**

Civic Legal Advice has a telephone helpline which offers advice to people in debt who are on a low income or on benefits. Help is also available on a number of other topics including housing, family, welfare benefits (Upper Tribunal appeals and above), discrimination and education.

The helpline is open from 9.00am to 8.00pm Monday to Friday and 9.00am to 12.30pm Saturday. Outside of these hours, you can leave a message and they will call you back the next working day. 0345 345 4 345

### **Step Change Debt Charity** [www.stepchange.org](http://www.stepchange.org)

Step Change Debt Charity is a registered charity offering free, confidential advice and support to anyone who is worried about debt.

There is a freephone helpline where you can speak to a Debt Counsellor. The website offers information on how to deal with your debt. It also offers an online Debt Remedy Tool, which asks you a series of questions about your household, income and expenditure and then provides you with a Debt Remedy tailored to your personal circumstances. 0800 138 1111

### **Payplan** [www.payplan.com](http://www.payplan.com)

Payplan is an independent company offering free debt advice and solutions to clients, such as debt management plans (DMPs). 0808 250 4545

### **Business Debtline In England and Wales,** [www.businessdebtline.org](http://www.businessdebtline.org).

Business Debtline is a dedicated advice services for small businesses. 0800 197 6026

### **Money Advice and Law Centres** [www.lawcentres.org.uk](http://www.lawcentres.org.uk)

The website can help you find your nearest law centre.

### **Ministry of Justice** [www.gov.uk/find-a-legal-adviser](http://www.gov.uk/find-a-legal-adviser).

The website can help you find a legal adviser.

The Debt and Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 come into force on the 4<sup>th</sup> of May 2021; with its object to help people in problem debt, manage their finances & seek professional debt advice. You can access help via Citizens Advice as detailed above.