

Revenue Recovery Policy – Council Tax, National Non-Domestic Rates (NNDR) and Business Improvement District (BIDs)

1 Introduction

- 1.1 The purpose of this Policy is to provide a framework for the Revenue Service to achieve an efficient and effective revenue collection.
- 1.2 The Policy is intended primarily for the Revenue Service staff who are involved in this process but it is also a public document and is available to members of the public on request as well as being available on the website.

2 Aims

- 2.1 The Recovery Policy will comply with current regulations and incorporate the Council's corporate policies where applicable.
- 2.2 The Recovery Policy and timetable for revenue collection will be agreed in advance ensuring all taxpayers are treated fairly and consistently.
- 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 The Revenue Service encourages debtors to engage with them as soon as instalments/balances become overdue and they have difficulty in meeting their liability. The Service will aim to be responsive to individual circumstances and attempt to make a reasonable and mutually acceptable arrangement for payment where possible.
- 2.5 All complaints will be dealt with in 10 working days and depending on the nature of the complaint, recovery action may be suspended pending further investigation.

3 Demand Notices

- 3.1 The Revenue Service will issue Demand Notices in accordance with the regulations. Demand Notices resulting from a change in circumstances will normally be issued within 2 working days of the change being processed.
- 3.2 The Revenue Service aim to process all changes to accounts within 10 working days of being notified.

4 The Recovery processes

- 4.1 The recovery process operated by the Revenue Service complies with current regulations and a recovery timetable is drawn up before the

beginning of each financial year to ensure that all taxpayers are treated fairly and consistently.

- 4.2 The recovery timetable will take into account key areas including:
- notices must be issued in accordance with the regulations;
 - notices must be issued in a timely manner to ensure efficient collection and recovery of revenue;
 - timetabling the issue of notices to provide for customer assistance and advice;
 - the monitoring accounts to ensure the automated recovery process is working in all cases.
- 4.3 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.

5 Reminders

- 5.1 Due to the number of accounts administered by the Revenue Service and the volume of reminder notices issued each year, reminders will not be checked individually before they are issued. The criteria to produce reminder notices are agreed in advance by the Senior Managers and reminders are issued on this basis. The criteria consist of number of days an instalment or balance is behind its due date and the monetary minimum value.
- 5.2 Generally, reminders are issued between 14 days and 20 days after the instalment becomes due. However during certain times of the year this may be reduced to only 7 days – particularly in February and March as the end of the financial year approaches.
- 5.3 A maximum of 2 reminders will be issued in any one financial year in accordance with the regulations. A second reminder will only be issued if the tax payer complies in full with the terms of payment contained in the first reminder and subsequently fails to pay a further instalment by the due date.
- 5.4 If the terms of the reminder notice are not complied with the balance remaining for the full year will become due and recovery action will proceed.
- 5.5 All reminder notices are issued with a leaflet '*What you need to know if you receive a reminder notice*'. This leaflet is revised annually and contains details about:
- Information on on-line services

- Why the reminder Notice has been sent.
- What happens if payment or contact is not made
- Where independent advice may be found in case of debt
- Applying for Council Tax Reduction or Housing Benefit

5.6 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.

6.2 A final notice will be issued where two instalments reminder notices have been issued for that financial year and the customer falls into arrears on a third occasion, the terms of the previous reminders having been complied with. This is a discretionary notice and the issue of this will be reviewed periodically.

6.3 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.

6.4 With each final notice a leaflet is issued '*What you need to know if you receive a final notice*'. This leaflet is revised annually and contains details about:

- Information on on-line service
- Why the reminder Final Notice has been sent.
- What happens if payment or contact is not made
- Where independent advice may be found in case of debt
- Applying for Council Tax Reduction or Housing Benefit

6.5 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 may still be applied for and Liability Order sought to protect the Council's

interest. This decision will be based on the payment history and circumstances of the debtor and the amount outstanding.

- 7.3 A summons is issued as a result of Kingston Council applying to the Magistrate's court for a Liability Order against the liable person. The Council will make 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 which is outstanding.
- 7.4 A summons will always be issued with a clear 14 days (or 10 working days) between issue and the court hearing date.
- 7.5 The summons will state the amount unpaid and the time 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 summons will be issued with a leaflet: '*What you need to know if you receive a Summons*'. This leaflet is revised annually and contains details about:
 - Information on on-line service
 - Why the summons has been sent
 - What happens if payment or contact is not made
 - Where independent advice may be found in case of debt
 - Applying for Council Tax Reduction or Housing Benefit
- 7.8 The leaflet encourages customers to discuss any issues of dispute with the Council prior to the Court date to ensure all issues are resolved at the earliest possible opportunity. The notice confirms that recovery will continue without further notice to the liable person
- 7.9 In addition to the above leaflet an 'Income and Expenditure' form is issued with the summons which encourages the Liable Person to contact the Council to provide employment and benefit details for an attachment order to be considered.
- 7.10 If a liable person (the defendant) disputes their liability or the amount of discount or exemption granted, they may appeal to the Revenue Service in the first instance and if further disagreement continues they have a right of appeal to the Tribunal Service. 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.

- 7.11 The liable person does not have to attend the Magistrates Court if they do not have a valid dispute. All Debtors are encouraged to contact the Revenue Service to discuss their arrears.
- 7.12 If the liable person has a Council Tax Reduction Scheme (CTRS) claim outstanding to be processed, a summons will be issued and Liability Order applied for. Recovery action may be held pending the outcome of the CTRS claim- depending on the extent of the arrears and the likelihood of 100% being granted.
- 7.13 The costs charged to the liable person (defendant) by the Authority for a Summons, comprise of both the Council's administration costs and court costs. The latter are paid to the court on the issue of a summons. Costs are also charged to the liable person (defendant) by the Council when the Courts grant a Liability Order. The court costs charged are agreed by South West London Magistrates.
- 7.14 Costs for council tax are payable by the liable person once a summons has been issued and only in exceptional circumstances are these deemed not payable. *
- 7.15 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 see 7.10 above, however if the defendant does not appear the hearing will proceed in their absence.
- 7.16 If the Magistrates are satisfied that the sum shown on the summons has become payable by the defendant they will issue a Liability Order to the Royal Borough of Kingston upon Thames. This order will carry further costs which have been previously agreed with the Courts.

* Costs for National Non- Domestic Rates differ slightly to this and are payable after a liability order has been obtained.

8 Council Tax Recovery after Liability Order

- 8.1 A Liability Order is a legal instrument allowing the Council to recover the outstanding sums.

If the liable person has provided their employment or benefit details, attachment orders will be considered.

- 8.2 **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.

- 8.3 **Attachment of Benefits Order** - if a liable person qualifies for Job Seekers Allowance, Pension Credit, Income Support, Universal Credit and Employment Support Allowance and a balance remains outstanding then this may be collected by way of direct deduction through the Benefits Agency.

In cases where an attachment of benefit has been waiting for 2 years and there is little or no likelihood of the situation changing a review will be made to consider the next stage.

Consideration will be given to cases on a DWP Benefit as to whether Enforcement Agent(s) action would be appropriate. This will include the amount of time the customer has been on Job Seekers Allowance, Pension Credit, Income Support and Employment Support Allowance and Universal Credit and the age of the debt. The fact that they are on Income Support or Universal Credit is not in itself a reason not to refer to an the Enforcement Agent(s) as the property may contain goods that were obtained previously that could be sold to pay off the debt. It may also be necessary to pass the case to an Enforcement Agent to allow the next stage of debt recovery at the Magistrates Court .

8.4 **Enforcement**

If the liable person has not provided their employment or benefit details and/or an attachment order has not been set up then the debt will move into enforcement.

- 8.5 Shortly after a Liability Order has been granted a Notice of Enforcement will be issued to the liable person (the debtor) confirming that an Order has been granted. A £75 fee will be incurred on the issue of this notice. This notice asks the debtor to contact the Council to make an arrangement to clear the amount outstanding on the notice plus fees

- 8.6 When a Notice of Enforcement is issued the case moves into the 'Compliance' stage of enforcement. The debtor is strongly encouraged to make contact with the Council at this stage to discuss the best approach to paying the debt and outstanding fees and to prevent the case being moved into the next stage - the 'Enforcement Agent' stage. It is at the 'Compliance' stage that the Council will check its council tax records to identify any exceptional circumstances or vulnerability.

8.7 **Enforcement Agent:** the Council employs Certificated Enforcement Agent(s) to collect the debt and/or remove goods and chattels to be sold at auction to settle the whole or part of the debt. The instruction of Enforcement Agent(s) will mean the debtor incurs significant additional costs- some of which are specified by Statute and other costs will be set at reasonable levels to cover the work undertaken.

8.8 **Enforcement fees**

Enforcement fees are fixed by law. If the debtor owes less than £1,500 the fees are:

- £75 on the issue of a Notice of Enforcement
- £235 if the debtor does not respond to and comply with the Notice of Enforcement. The case will be passed to a Certificated Enforcement Agent.
- £110 if the Enforcement Agent has to take goods and sell them at auction

The debtor will still have to pay the enforcement agents for any action taken including storing your goods or using a locksmith.

If the debtor owes more than £1,500 they will also have to pay 7.5% of the debt above this amount as an additional fee at the enforcement stage and at the sale or disposal stage .

There are National Standards for Enforcement Agent(s) which are on our website and these are monitored regularly by the Revenue Service.

If a case moves into the 'Enforcement Agent' stage all Enforcement Agent action will be conducted in accordance with the Taking Control of Goods regulations.

8.9 The Council Tax administration and enforcement regulations give equal priority to all recovery and enforcement routes with the exception of Enforcement Agent(s) action being a requirement prior to Committal action. The methods of recovery are listed below:

8.10 **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 and they may lose their home therefore bankruptcy proceedings will be used with caution.

8.11 A customers' account will only be referred for bankruptcy action where at least one other method of debt recovery (attachment of earnings, attachment of benefit, Enforcement Agent(s) action, or arrangement to pay) has been attempted and failed and that the total debt owed including costs exceeds the minimum statutory amount.

- 8.12 A risk assessment will be carried out using all the information the Revenue Arrears Team can reasonably gather including the information available from their records to determine if bankruptcy proceedings should be taken. The Arrears Team will make checks for vulnerability which includes contacting the Social Care team to establish if the customer is known to them. The Arrears Team will record all checks and the results. In addition a viability report will be obtained from an Insolvency Practitioners to independently confirm whether bankruptcy is the best course of action.
- 8.13 As far as possible the Arrears Team will consider all other options before deciding on bankruptcy and document why these would not be applicable*. The benefit records will be checked to ascertain if there are any disability benefits in payment which may indicate vulnerability.
- 8.14 It is recognised that taking bankruptcy proceedings is very serious and customers will be encouraged to make arrangements with the Council or its representatives at all stages.
- 8.15 Before a case is referred to the Councils solicitors the customer will be adequately warned of the consequences of bankruptcy. A letter will be hand delivered to the debtors current property (or recorded delivery if access is difficult or property out of Kingston area) informing the customer of its intention. The letter will be issued with the bankruptcy leaflet and Insolvency Service leaflet. The Bankruptcy leaflet summarises the process of bankruptcy and encourages the customer to contact the Council to make arrangements and inform them of any vulnerability.
- 8.16 Arrangement to pay will be considered when customers contact us – these arrangements will take into account the financial circumstances of the debtor. Providing the current year is being paid arrangements for arrears may be spread over several years if this removes the need for bankruptcy action. Defaulting on such an arrangement however would be considered serious and would warrant bankruptcy action being reconsidered.
- 8.17 If a customer (or their representative) contacts the Revenue Service informing them of vulnerability or extenuating circumstances the Revenue Service will review the position in light of the evidence available. The decision on vulnerability and exceptional circumstances will be made by the Arrears Team Manager or Senior Recovery Officer.
- 8.18 Cases selected for bankruptcy will have a risk assessment completed at this point. If the risk assessment is acceptable the case will be passed to the Councils solicitors who will issue a statutory demand notice.

- 8.19 Customers will be encouraged to make arrangements to pay or clear the liability at this stage. Arrangements to pay will be made with the Councils solicitors who will receive and monitor payments.
- 8.20 All cases that progress to the next stage after statutory demand notice will be authorised by the Arrears Team Manager. If further information has come to light a new risk assessment will be undertaken.
- 8.21 Once a bankruptcy order has been made the Arrears Team Manager or Senior Recovery Officer will liaise closely with the appointed Insolvency Practitioner** to identify any concerns either party have about the case. Each of the respective managers will ensure that the Trustees notice to creditors has capped fees noted on it. However the Revenue Service recognises that whilst it endeavours to ensure the fees are proportional to the debt outstanding it cannot determine how complex the case will eventually be and the final result of the costs bill. The aim is to identify at the earliest point if the case is more complex and the reasons for this. Once this is established there will be a further risk assessment to establish whether to proceed.
- 8.22 Individual Voluntary Arrangements will be considered if it is for 100% of the debt over a reasonable timescale. Debt Relief Orders will be applied in accordance with the Insolvency Act where the debt is included in the Order as a qualifying debt.
- 8.23 **Charging Orders and Sale Orders-** a Charging Order* is a method of securing a debt which is in excess of £1000. It secures the debt but does not enforce payment of the debt until the property is sold which may be many years hence.
- 8.24 The Charging Order will remain on the property until it is sold. Other methods of recovery may still be sought whilst the Charging Order is on the property. Orders for properties to be sold will be considered in relevant circumstances. Sale Orders must be agreed by the Head of Revenue, Benefits and Pensions following a full report by the Revenue Manager. A deterring factor when considering whether a Charging Order would be applicable is the length of time it will take for the Authority to receive the money which may run into many years in addition the life of a Charging Order is 12 years and would have to be renewed after that point.

*Charging Orders will be considered but the delay in the Council receiving payment will be taken into account in assessing whether this would be a viable alternative to bankruptcy.

** The Insolvency Practitioner will be voted into office by the creditors at their meeting.

9 **Method of Recovery/arrangements and benefits**

- 9.1 The method of recovery for individual cases will be determined by the Revenue Service based on the most efficient and effective means of securing the monies due to the Authority. Each case will be assessed individually based on the information available at each stage of the process.
- 9.2 At all stages of recovery the debtor will be encouraged to contact the Revenue Service to make an arrangement and not incur further costs. Where a case has been referred to the Enforcement Agent(s) any arrangement for payment must be made direct with them.
- 9.3 The Revenue 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.
- 9.4 The Revenue 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 ongoing council tax and non domestic rates an extended payment arrangement may be given.

10 **Committal**

- 10.1 The Council may, if it is unable to clear the debt by way of sale 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. The 'means enquiry' will be for two periods:
- The period covered by the Liability Order
 - The current period
- 10.2 If the debtor does not attend Court when summoned the Council will apply for an arrest warrant with bail initially and then without bail if the debtor again fails to attend.
- 10.3 The arrest warrant with bail will be hand delivered to the debtor and it will specify a 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.
- 10.4 Committal action could result in a prison sentence of up to three months. Arrangements to pay at this stage are not a matter for the Council but for the Magistrates Court to consider.

11 **National Non Domestic Rates (NNDR) & Business Improvement District (BIDs) Recovery after Liability Order**

11.1 The regulations give equal priority to all recovery and enforcement routes with the exception of enforcement action being a prerequisite to Committal action.

The post Liability Order recovery process for NNDR operated by the Revenues Service complies with current regulations.

A Liability Order is a legal instrument allowing the Council to recover the outstanding sums by any of the following means.

Shortly after a Liability Order has been granted a Notice of Enforcement will be issued to the liable rate payer (the debtor) confirming that an Order has been granted. A £75 ' fee will be incurred on the issue of this notice. This notice asks the debtor to contact the Council to make an arrangement to clear the amount outstanding on the notice plus fees.

When a Notice of Enforcement is issued the case moves into the 'Compliance' stage of enforcement. The debtor is strongly encouraged to make contact with the Council at this stage to discuss the best approach to paying the debt and outstanding fees and to prevent the case being moved into the next stage - the 'Enforcement Agent' stage. It is at the 'Compliance' stage that the Council will check its NNDR/BIDs records to identify any exceptional circumstances.

Enforcement Agent: the Council employs Certificated Enforcement Agent(s) to collect the debt and/or remove goods and chattels to be sold at auction to settle the whole or part of the debt. The instruction of Enforcement Agent(s) will mean the debtor incurs significant additional costs, some of which are specified by Statute and other costs will be set at reasonable levels to cover the work undertaken.

Enforcement fees

Enforcement fees are fixed by law. If the debtor owes less than £1,500 the fees are:

- £75 on the issue of a Notice of Enforcement
- £235 if the debtor does not respond to and comply with the Notice of Enforcement. The case will be passed to a Certificated Enforcement Agent.
- £110 if they have to take goods and sell them at auction

The debtor will still have to pay the enforcement agents for any action taken including storing your goods or using a locksmith.

If the debtor owes more than £1,500 they will also have to pay 7.5% of the debt above this amount as an additional fee at the enforcement stage and at the sale or disposal stage.

There are National Standards for Enforcement Agent(s) which are on our website and these are monitored regularly by the Revenue Service.

If a case moves into the 'Enforcement' stage all Enforcement Agent action will be conducted in accordance with the Taking Control of Goods regulations.

- 11.2 **Arrangements:** the Council monitors all post Liability Order arrangements regularly and issues reminders for late payments. Where a reminder is issued and payments are not brought up-to-date those cases are referred to Enforcement Agent(s) fourteen days later.
- 11.3 **Other methods of Recovery:** as for Council Tax (where distress and or arrangements have not been successful), bankruptcy and insolvency action will be considered see above.

12 Equality

- 12.1 Kingston has a comprehensive equal opportunities policy entitled '[Equality and Community Cohesion Scheme](#)'. This policy states that 'We have a vision to embrace the principles of equality and to make it part of everything that we do. The Community Cohesion Strategy has now been merged with the Equality Scheme as both these strategies complement each other in their aims and objectives. The purpose of the strategy is to contribute to and build on our commitment to be a more equitable and cohesive community. It is a crucial part of our Equalities Strategy which provides the overarching framework for our approach to delivering equalities around the six strands of race, gender, age, religion or belief, disability and sexual orientation.'
- 12.2 The Revenue Service will ensure that all reasonable effort is made to provide a suitable opportunity for minority groups to make their opinions known and to highlight any barriers experienced by some groups in accessing the service.
- 12.3 Annual customer consultation will be undertaken in accordance with the Corporate Consultation Strategy Good Practice Guide. The aim of the consultation is to ascertain customer satisfaction, ethnic makeup of our customers, and service accessibility. Consultation questions also ask for any improvements customers would like to see in the service. Consultation is carried out both by post and exit surveys of customers who use the enquiry desk.
- 12.4 The results from the consultations are taken into account when the Service Plans are drawn up for the following year.

- 12.5 All demand notices provide information on special needs requirements. These include: translation services, large print, Braille and deaf amplification. We have developed online account checks so that customers can view their account from their home computer.
- 12.6 Contractors who are used by the Authority are checked to ensure they meet the Authorities equal opportunities standards.

13.0 Discretionary Help for exceptional hardship

- 13.1 If a liable person experiences exceptional circumstances which creates financial hardship they may be able to claim discretionary help. The budget for this is limited so the help available will be for limited periods and amounts. If a liable person believes that they may be eligible they will need to contact the Revenues Service for further details

14 Tracing of Debtors

- 14.1 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.

15 Older Debts

We are committed to collecting all outstanding debts irrespective of the age of the debt, where they can be legally and practically recovered. Collecting all outstanding debts enables the council to maximise its revenues in order to provide services to all its customers. It is also fair to all its customers who have already paid their liability.

A Liability Order must have been applied for within six years of the Demand Notice being issued. Once the Council has obtained a Liability Order, the regulations and current case law indicates there is no time limit to pursuing the debt. This has been clarified by the Court of Appeal in the case of *Bolsover and Another v Ashfield Nominees Ltd and Others* [2010] EWCA Civ 1229 (19 October 2010).

16 Write off

- 16.1 All other debts will be pursued in accordance with this policy. The Council has a separate policy for writing off debts and generally will only write off a debt where they have been unable to trace the debtor*** or :
- If the debtor is declared bankrupt and a dividend is received that is less than the full liability the difference must be written off.

- If the debtor is committed to prison the debt relating to that offence must be written off.
- Where a debtor has died and there are no funds in the Estate the debt must be written off.
- Where the Magistrates during a committal hearing have agreed to remit all or part of the debt.
- Where the Council is subject and agreed to an Individual Voluntary Agreement that is less than the full liability the difference must be written off.

*** The Council will use tools such as Experian database and tracing agencies to pursue absconders.

This Policy has been agreed under the Councils delegated powers by

Director of Finance _____

Name _____

Date _____

V7 July 2016