

# Redditch Borough Council

## Council Tax and Business Rates Recovery Policy



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## **1. Purpose of this Policy**

- 1.1 The purpose of this policy is to set out a framework within which employees of Redditch Borough Council will make decisions on the appropriate courses of recovery action.
- 1.2 The policy, while primarily aimed at staff, will also provide information to advice agencies on the processes applied by Redditch Borough Council when dealing with the recovery of Council Tax and Non-Domestic Rates.
- 1.3 Redditch Borough Council has a legal duty to ensure cost effective billing, collection and recovery of all sums due to the Council.
- 1.4 The recovery policy will comply with current legislation and corporate policies.
- 1.5 The policy will ensure all tax and ratepayers are treated fairly and objectively.

## **2. Customer Commitment**

- 2.1 The Council is committed to supporting customers whilst also recognising its duty to collect the money owed. We are committed to the following:
  - To maximise recovery of debts using all methods available.
  - To be sympathetic when assessing an individual's ability to pay.
  - To follow all appropriate legislative requirements and procedures in an efficient and effective way.
  - To ensure that there is clarity in the enforcement action process.
  - To identify and assist, at an early stage, those who face difficulties in paying and to encourage them to contact us.
  - To help identify customers who face barriers in understanding what is expected of them - because of age, language, culture or disability.
  - To identifying vulnerable people and treating them sympathetically and appropriately.
  - To enable customers with multiple Council debts who are unable to make their payments to make a consolidated arrangement in respect of their total debt.
  - To maximise the income of debtors by ensuring that they are in receipt of all appropriate help.
  - Identifying deliberate non-payers or people who delay payment.
  - Enabling people who fall into arrears to come to payment arrangements that are both acceptable to the Council and appropriate to their circumstances.
  - Ensuring that when we take enforcement action it is appropriate and likely to be effective.

## **3. Principles**

- 3.1 We will provide clear and prompt information about liabilities. The information we provide will show;

- Which property the demand is for.
  - The amount due.
  - How to make payment.
  - A contact point for all enquiries.
- 3.2 All correspondence will be clearly written. We will avoid the use of jargon and where appropriate we will include information about your rights of appeal or where to get independent help and advice.
- 3.3 Where possible we will advise people about how they can reduce their liabilities by;
- Informing people of the available discounts, reductions, exemptions, reliefs or benefits.
  - Promoting maximum take-up of benefits and discounts and ensuring that demands are issued which include any entitlements.
  - Inform people of the general availability of income related benefits such as Jobseeker's Allowance, Income Support, Tax Credits and Disability Allowances.
  - Inform people of the availability of independent advice for people with financial problems.
  - We will provide clear information about the recovery process and the steps that will be taken if people do not pay.
  - We will encourage people to contact us or to seek help at the earliest possible stage.
- 3.4 When people contact us to make an arrangement we will;
- Request details and evidence of employment status and income.
  - Try to agree to a payment arrangement which is acceptable to the council and appropriate for the person's circumstances.
  - Expect priority debts to be treated as such.
  - Request documentary evidence of income and expenditure where it is appropriate.
- 3.5 We will only take recovery action where it is appropriate and likely to be effective.
- 3.6 We will aim to take timely recovery action to avoid arrears becoming unmanageable, however any delay in taking action will not remove or inhibit our rights in seeking payment of arrears.
- 3.7 Management checks will take place to ensure that the number of reminders and notices issued corresponds to the number produced by the Council's revenues software. This will ensure that in the event of a dispute we can be sure that all reminders or notices produced by the Council have been issued to the tax or rate payer.

#### **4. Payment Arrangements**

- 4.1 Where a customer is experiencing difficulties in making payments we will consider entering into an arrangement for payment of the debt.
- 4.2 As a general principle the debt should be paid by the end of the charge or rate year in which it accrued and it is for this reason that we encourage debtors to contact at the earliest possible stage.
- 4.3 When making an arrangement we will attempt to ensure that the amount that we ask someone to pay is realistic. This means that the payments are sufficient to discharge on-going liabilities and prevent further arrears but are not so high that they are unmanageable.
- 4.4 If unmanageable arrangements are made then it is likely that the customer will default and this will lead to avoidable costs and recovery action.
- 4.5 Where it is suspected that an offer of payment is too high or too low the customer will be asked to complete a financial circumstances form.
- 4.6 When a customer completes a financial circumstances form we will ask them to provide details of all of the debts which are due to the Council. This will allow us to take an holistic view of the customer's indebtedness and where appropriate to enter into a consolidated arrangement.
- 4.7 When we receive details of a person's financial circumstances we will ensure that we attempt to maximise their available income.
- 4.8 When negotiating an arrangement we will expect, as a minimum, current year's instalments to be paid on time. When an arrangement is made on account with multiple years' debt any arrangement made in respect of arrears will be conditional on the maintenance of payments towards the current year's liability.
- 4.9 Where we identify that additional financial, debt or money management advice may be appropriate we will aim to work with the debtor to identify a suitable course of action.

#### **5. Partnership Arrangements from advice agencies**

- 5.1 We will work closely with local advice agencies to clarify the standards of service which can be expected between both organisations and to the customer. We will enter into agreements with agencies which will allow debt payment plans constructed by those agencies to be accepted without need for further evidence to be provided to us.
- 5.2 Agreements with advice agencies will include:
  - Mechanisms for effective liaison between the agency and the Council.

- Processes by which recovery procedures can be held in abeyance whilst an assessment is made of the customer's financial situation.
- Process by which we can refer cases to the advice agency for debt advice.
- An agreement on the circumstances in which a repayment proposal determined by the advice agency will be accepted without the need for further evidence from the customer.
- A commitment to provide training, advice and information on a reciprocal basis.
- A method by which informal complaints can be captured by advice agencies and used to review recovery processes.
- Agreement as to the progression of cases where a debtor has been identified as vulnerable.

## **6. Monitoring Payment Arrangements**

- 6.1 All payment arrangements will be closely monitored if an arrangement falls into arrears the arrangement will be removed. This action will be taken where arrangements are in arrears by seven or more days.
- 6.2 Where an arrangement fails further recovery action will be taken
- 6.3 Where a liability order has been obtained but the requirements of the order not met further recovery action can be taken without referral to the Court.

## **7. Information and Advice**

- 7.1 We will provide information and advice to people throughout the whole recovery process. The advice will vary dependant on the stage in the recovery process but in general the aim will be to ensure that people are;
- Fully informed as to how the liability has accrued.
  - Aware of the discounts, reductions and benefits that may be available.
  - Aware of the action that will be taken if they do not pay.
  - Provide advice and, where appropriate, access to independent financial support.
- 7.2 The Council encloses information with the annual Council Tax Demand which includes:
- Valuation Bands
  - Discounts
  - Reductions for people with disabilities
  - Exempt Dwellings
  - Council Tax Benefit
  - Appeals
  - How the Council Tax is spent
- 7.3 Where we have issued a reminder or final notice we will enclose information which will explain what will happen if the notice is not paid.

- 7.4 When a summons for non-payment of Council Tax is issued we will provide general advice on:
- Why the summons has been issued.
  - What happens at court.
  - What defences are available at court.
  - What will happen if the debt is not paid.
  - We will also provide advice on the availability of independent financial advice for people who have financial difficulties.
- 7.5 When a liability order has been granted we will write to the customer advising them of this and requesting information on their employment status. We will provide information on what will happen if they don't pay and the powers that liability order provides to the Council.
- 7.6 The Council encloses information with the Non-Domestic Rate demand which covers:
- The rateable value.
  - The Non-Domestic Rate Multipliers.
  - Charitable and Discretionary Rate Relief.
  - Hardship Relief.
  - Small Business Rate Relief.
  - Rural Rate Relief.
  - Information on Council Budgets.
- 7.7 Where we have issued a further or reminder notice we will provide information which will explain what will happen if the notice is not paid.
- 7.8 When a summons for non-payment of Non-Domestic Rates is issued we will provide general advice on why the summons has been issued, what happens at court, the defences that are available at court and what will happen if the customer does not pay. We will also provide advice on the availability of independent financial advice for people who have financial difficulties.

## **8. Equality**

- 8.1 The Council is required to pursue all debts irrespective of a person's age, disability, ethnic origin or language. However, the Council recognizes that some groups of people may have difficulty in understanding or dealing with their financial problems.
- 8.2 "The Council is committed to equality of opportunity in the provision of service and aims to ensure that within the resources available, services are accessible and appropriate to the differing needs of the general public".
- 8.3 We will aim to;

- Provide appropriate, accessible and effective services and facilities to the general public without prejudice or bias.
  - Provide clear information about our service in a variety of formats, on request.
  - Identify appropriate representative groups and strive to work in partnership through consultation with and involvement of these representatives in decisions we make.
  - Ensure that action is taken to identify groups who have specific needs in relation to the Council's services.
  - Ensure that all employees understand what equality in service provision means.
- 8.4 No-one will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation, disability or age.
- 8.5 Contractors engaged in the collection of Council Tax and Non-Domestic Rates on behalf of the council will be required to ensure that they meet the Council's equal opportunity standards.
- 8.6 Documentation issued by or on behalf of the Council will be reviewed to ensure that it is clear and provides information on special needs requirements.

## **9. Council Tax and Non Domestic Rates (NDR) Recovery Procedures**

The recovery process operated by Redditch Borough Council complies with existing regulations. A recovery timetable is drawn up at the beginning of each calendar year. The timetable ensures that all taxpayers are treated fairly and objectively.

The timetable will provide that all notices are issued in a timely manner in accordance with regulations.

Actions to minimise arrears and the enforcement considerations which will apply at each stage of the recovery process are summarised in the following sections.

### **9.1 Demand and Adjustment Notices**

- 9.1.1 We will issue annual Council Tax and Non Domestic Rates demands in the March prior to the commencement of the Charge Year.
- 9.1.2 If a Council Tax or NDR payer is making their payments by a method other than Direct Debit then we will promote the availability of Direct Debit, as the most effective and efficient payment method. ;
- 9.1.3 Where there are changes in liability or discount entitlement revised demand and adjustment notices will be issued.



9.1.4 In order to reduce the number of accounts that become recovery cases before we issue a notice we will ensure that;

- The notice is issued as soon as practicable, providing the Council tax payer with the maximum number of instalments.
- We have the correct correspondence address.
- That the correct people are shown as liable and that all Jointly and Severally liable parties are shown on the demand.
- That any discount, reduction or period of exemption that the taxpayer is entitled to has been correctly applied.
- That any benefit entitlement has been awarded correctly.
- We have promoted the benefits of paying by Direct Debit.

## **9.2 Reminders**

9.2.1 Reminders will be issued between 10 to 18 days of the instalment becoming due. However, during certain times of the year this may be reduced to 7 days particularly in February and March as the end of the charge year approaches.

9.2.2 The reminder will inform the tax or rate payer of the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.

9.2.3 All reminders will be accompanied by information explaining why reminders are issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.

9.2.4 The reminder will allow seven days for the overdue amount to be paid, or for an arrangement to be made.

9.2.5 If the amount is not paid then, after a further seven days, a complaint will be made to the Magistrates' court and a summons for non-payment will be issued.

9.2.6 In accordance with the regulations, two reminders will be issued to a Council Tax payer, and only one reminder will be issued to NDR payers, in any charge year.

## **9.3 Final Notice**

9.3.1 Where the amount due is payable by one instalment, all instalments have fallen due or the taxpayer has defaulted on an instalment for the third time in a charge year a Final Notice will be issued.

9.3.2 The Final Notice will inform the tax or rate payer that they have lost the right to pay by instalments, that the whole balance of Council Tax or NDR

for the charge year is payable, the amount due for payment, the property for which the payment is due, the ways in which payment can be made and the action that will be taken if the amount is not paid.

- 9.3.3 Final Notices will be accompanied by information explaining why the notice has been issued, the enforcement action that may be taken if the amount is not paid, information on discounts, benefits and reductions, and information on paying by Direct Debit.
- 9.3.4 The Final Notice will allow seven days for the overdue amount to be paid. If the amount is not paid then a complaint will be made to the Magistrates' court and a summons for non-payment of Council Tax or NDR will be issued.

#### **9.4 Summons and Liability Order Application**

- 9.4.1 Failure to make payment or suitable arrangements to pay will result in a summons being issued.
- 9.4.2 Where there is a history of arrangements being broken or payments being irregular and a tax or rate payer has agreed to make payments under a special arrangement then a liability order may still be applied for to protect the Council's interests. This is to ensure that further recovery action can be taken without further recourse to the court.
- 9.4.3 A summons is issued as a result of the Council commencing the application for a liability order. A complaint will be made to the magistrates' court requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.
- 9.4.4 The summons will be served in accordance with the regulations and will provide a minimum of 14 days between being served and the hearing date.
- 9.4.5 Notes explaining the reasons why summonses are issued, the defences against the issue of a liability order, the matters that can not be raised in defence, the enforcement action that may be taken if the amount is not paid, and information on discounts, benefits, reliefs and reductions will accompany the summons.
- 9.4.6 The issue of the summons and the application for a Liability Order will incur costs which are debited to the debtor's Council Tax or NDR account.
- 9.4.7 In exceptional circumstances the costs may be deemed not to be payable. These circumstances may include cases where the summons has been issued solely to protect the Council's interests or where the Council Tax or NDR outstanding is below the level of the Council's costs.

9.4.8 Costs are set in accordance with guidelines and only cover the actual cost incurred by the Council.

9.4.9 In cases where the costs are removed the debtor will still be expected to pay the administration costs charged by the magistrates' court for the issue of the summons.

9.4.10 The Revenue Services Manager, The Senior Revenues Officers, The Enforcement Officers or the Revenues Officers may withdraw a summons. They will use their own discretion and evidence justification for their decision. As a general rule a summons will only be withdrawn if it has not been served, it is incorrect, or there are other exceptional circumstances.

9.4.11 If the debtor has a claim for Council Tax Benefit outstanding then a summons maybe issued and a liability order applied for but no further action will be taken pending the outcome of the benefit application.

9.4.12 If the benefit application is successful then consideration will be given to utilising the Council's powers to request that the liability order be quashed. In most cases this power will only be exercised where the subsequent benefit award reduces the balance of the liability order to the level of the costs debited to the account.

9.4.13 A Liability Order provides the Council with further powers to recover the debt. These powers are:

- The request for financial information - Council Tax only.
- Attachment of Earnings Orders - Council Tax only.
- Deductions from Benefit - Council Tax only.
- Attachment of Allowances - Council Tax only.
- Distress - Council Tax and NDR
- Insolvency Proceedings - Council Tax and NDR.
- Charging Orders - Council Tax only.
- Committal to Prison - Council Tax and NDR.
- Security for Unpaid NDR
- Recovery in a court of competent jurisdiction - NDR Debt

9.4.14 The method of recovery action will be made based on the most appropriate and effective remedy available for individual cases.

## **9.5 Request for Financial Information - Council Tax Debt**

9.5.1 Within five days of the Liability Order being granted we will write to the debtor requesting that they provide details of their employment, earnings or benefits. Information must be provided within fourteen days.

9.5.2 If the information is not provided, or if information provided is shown to be false then we may take action against the debtor. The debtor will be prosecuted in the Magistrates' court and a punitive fine may be issued and

costs awarded. These financial penalties are distinct and separate to the Council Tax and are collected by the court.

## **9.6 Attachment of Earnings Order - Council Tax Debt**

- 9.6.1 Where a debtor is employed an Attachment of Earnings order will be the preferred method of recovery. If it is shown that the debtor will suffer undue hardship then a payment arrangement may be agreed in preference to the Attachment of Earnings.
- 9.6.2 Any payment arrangement will need to be made before the issue of the attachment of earnings order; once the order is issued we will not vary the terms of the order.
- 9.6.3 If an alternative arrangement is made and the debtor defaults then the attachment of earnings order will be issued without prior notification.

## **9.7 Deductions from Benefits - Council Tax Debt**

- 9.7.1 Where an debtor is in receipt of benefits applications for deductions will be made from a debtor's Jobseeker's Allowance, Income Support, Pension Credits or Employment Support Allowance in preference to any other recovery method, unless where it appears that the debtor may have other means with which to pay the outstanding amount. This may be
- Cases where the debtor has other people resident in the property who are not liable for Council Tax but contribute towards household expenses.
  - The debtor owns property and a charging order or bankruptcy petition may be appropriate.
  - The debtor has savings or capital which could be used to discharge the debt.
- 9.7.2 Where deductions from benefit are in force or an application for deductions from benefit has been made then no other action will be taken against the debtor. This precludes any action under any other liability orders and therefore if deductions from benefit are made all action under other liability orders must be stopped.
- 9.7.3 Where a liability order is made against two or more joint taxpayers and deductions from income support are made then action against any of the other joint taxpayers who are part of the same family may not be taken under any other liability order. Where there are joint taxpayers care will be taken to ensure that any other action is stopped while the deductions are in force.

## **9.8 Attachment of Allowances - Council Tax Debt**

- 9.8.1 Attachments of Allowances may be made against an elected member of a billing authority or a precepting authority.
- 9.8.2 Where a liability order has been granted against an elected member of the authority the provisions of Section 106 (restrictions on voting) of the Local Government Finance Act 1992 will apply.
- 9.8.3 These cases will be referred to the Revenue Services Manager who, in liaison with the appropriate monitoring officer, will make the application for attachment of allowances and take the appropriate action to ensure the provisions of section 106 are applied.

## **9.9 Enforcement Agents - Council Tax and NDR Debt**

- 9.9.2 Where an attachment of earnings or a deduction from benefits/allowances not appropriate and a debtor does not make an offer of payment, or the debtor fails to maintain an existing payment arrangement, the Council's appointed enforcement agents (Bailiffs) may be instructed to recover the balance outstanding.
- 9.9.3 Attachment of Earnings or Deductions from benefit will be made in preference to enforcement action except where:
- It appears that the debtor may have self employed earnings in addition to their earnings from employment.
  - The debtor has other means with which to pay the debt: Savings or capital.
  - The debtor's wages include tax credits, which are not attachable, and financial statements indicate that disposable income is above the level of deductions under an attachment of earnings order.
- 9.9.4 All cases will be reviewed prior to referral to a bailiff to ensure that this is the most appropriate course of action. Where ever possible other arrangements will be made to recover the debt. Referral will not be made as a matter of course or as part of a timetable.
- 9.9.5 The Council's enforcement agents will comply with the Enforcement Services Associations Code of Practice and relevant legislation and according to agreed service level agreements with the Council.
- 9.9.6 The enforcement agents will be authorised to enter into payment arrangements with the debtor. The Council will not intervene in the actions of the enforcement agent except in exceptional circumstances. The Bailiffs will refer cases back to the Council where hardship is identified. The Council may pull a case back where hardship or other circumstances come to light which makes bailiff action inappropriate.

- 9.9.7 There is no requirement for the Council to notify the debtor that enforcement action is being taken. Cases will be referred to the Council's enforcement agents without prior notification to the debtor.
- 9.9.8 In some circumstances we may choose to issue a pre-enforcement warning letter. This is discretionary and may be done where the debt is deemed to be at a low level and warning of action may prompt payment or the debtor is making payments but the payments are made late which has resulted in the account progressing through the recovery stages
- 9.9.9 If enforcement action is unsuccessful and the debtor is not employed nor in receipt of benefits then the available recovery actions will be limited to insolvency, charging orders or committal to prison.
- 9.9.10 Insolvency action and charging orders are remedies which will only be utilised where the debtor has realisable assets and it appears that there is likelihood that the debt will be discharged.
- 9.9.11 If the debtor has no realisable assets then committal action will be the only available option. The costs of obtaining a committal order are substantial and therefore in preference to this action the Council will consider secondary distress.
- 9.9.12 Debts under £100 will not be referred to the bailiffs as it recognised that the bailiffs cost would nearly double the original debt.

## **9.10 Insolvency - Council Tax and NDR Debt**

- 9.10.1 Where the balance outstanding under a Liability Order or a number of Liability Orders is greater than £5000.00 the Council may apply for a bankruptcy order, or in the case of a company, an order for the winding up the company.
- 9.10.2 In most cases the commencement of bankruptcy proceedings will not be undertaken if the debt can be recovered by alternative methods.
- 9.10.3 Examples of where bankruptcy action may be appropriate are:
- The debtor is self employed and an attachment of earnings is unavailable.
  - The debtor is self-employed and Enforcement Agent's have taken action in respect of earlier Liability Orders and it has been shown that there are insufficient goods or all goods are protected as tools of the trade.
  - The use of Enforcement Agents has been attempted in respect of earlier Liability Orders and recovery by this method has proven to be unsuccessful.

- Bankruptcy proceedings have proved to be successful in respect of earlier Liability Orders.
- Information is held that indicates that the debtor may have realizable funds that are sufficient to discharge the debt in full. This may be the case following a benefit investigation which has revealed undeclared capital.
- To prevent a continuing accrual of debts and not necessarily as a method to ensure collection of the outstanding sum.

9.10.4 In considering the use of Bankruptcy as an enforcement tool the Council will have regard to the likelihood of alternative methods being successful within an appropriate period. If the alternative methods will discharge the debt in an acceptable period then they will be taken in preference to the Bankruptcy action.

9.10.5 Evidence of the reasons that bankruptcy action was chosen will be held within the Council's systems.

9.10.6 Where bankruptcy action is taken the Council will send a letter to the debtor advising that this action is being considered, inform the debtor of the effects of bankruptcy and giving the debtor the opportunity to make contact and make suitable arrangements to clear the debt.

9.10.7 If the debtor makes contact then the Council will consider entering into a payment arrangement. Any arrangement must clear the debt within a reasonable period. This period will usually be no more than four months.

9.10.8 If no contact is made or if a payment arrangement is defaulted then the Council will commence bankruptcy proceedings by issuing a statutory demand.

9.10.9 In selecting a case for bankruptcy proceedings regard will be made to the level of the costs which will be incurred if a bankruptcy order is made and to the fact that the action may result in a debtor losing their home.

9.10.10 Other factors which will be considered prior to the commencement of bankruptcy action are:

- Whether the debtor is vulnerable. Enquiries will be made with other Council departments including Housing Services and Benefits Services, information will also be sought from the County Council Adult Services teams.
- Whether contact has been made with the debtor. Where there is no history of contact with the debtor we will attempt personal visit.
- The debtor's payment history. Where there is a lengthy history of non-payment or of failing to adhere to payment arrangements then we may consider it inappropriate to enter into further arrangements and pursue the bankruptcy action.

## **9.11 Charging Orders - Council Tax Debt**

9.11.1 Where the balance outstanding from a debtor under a Liability Order or a number of Liability Orders is greater than £1000.00 we may attempt recovery of the debt by application for a charging order.

9.11.2 An application for a charging order will usually only be made where recovery by way of attachment of earnings, deductions from benefits or distress has been unsuccessful.

9.11.3 Charging Orders can only be made against the property for which the debtor was liable for Council Tax at the time the liability order was made.

9.11.4 In considering the application for a charging order the Council will consider whether bankruptcy proceedings are more appropriate.

9.11.5 Cases where charging orders may be appropriate may include:

- Where the debtor's home is being marketed for sale and it appears likely that a sale will be successful. This offers advantages to the debtor as the significant costs of bankruptcy can be avoided.
- The debtor is elderly or vulnerable and this option provides the best outcome for all.
- The Council is unable to instigate bankruptcy proceedings because the service of the statutory demand is impracticable. The conditions for service in respect of a charging order are less onerous and therefore recovery by this method may be more appropriate.

9.11.6 In considering whether a charging order is appropriate regard shall be made to the Council Tax collection good practice report produced 29 April 2004. Effectiveness of recovery procedures will be a consideration in determining the appropriate action. The Council will consider whether the effectiveness of bankruptcy action outweighs the benefits to the debtor in applying for a charging order

9.11.7 The decisions as to whether a case is suitable for bankruptcy action will be made by the Revenue Services Manager.

## **9.12 Committal to Prison - Council Tax and NDR Debt**

9.12.1 Where enforcement agents have not successfully collected the debt the Council will have the option to apply for a warrant committing the debtor to prison.

9.12.2 Before committal action is taken the Council will consider all other methods of recovery.



9.12.3 Where it appears that the debtor may have additional means with which to pay the amount due, and the means enquiry undertaken as part of the process would identify these means, then committal action could be taken in preference to an attachment of earnings order. These cases would include:

- Where the debtor has savings which could be used to discharge the sum outstanding.
- The debtor's wages include tax credits which are not attachable and financial statements indicate that disposable income is above the level of deductions under an attachment of earnings.
- Cases where the debtor has other people resident in the property who are not liable for Council Tax but contribute towards household expenses.

9.12.4 If the debtor has capital assets such as a property which would be available in other civil proceedings such as bankruptcy or the application for a charging order and there is sufficient equity to discharge the debt then these actions may be taken in preference to committal.

9.12.5 The application for committal to prison is intended to coerce payment and is not taken as a punitive measure. Where there is no possibility of payment being made then the authority will consider whether it is more appropriate to write off the outstanding sum.

### **9.13 Security for Unpaid Rates - NDR Debt**

9.13.1 On agreement between the ratepayer and the Council a charge may be placed on the debtor's interest in the property for which the liability has accrued.

9.13.2 In consideration of the agreement the Council would not take steps to enforce the amount. The agreement can last for no longer than three years.

9.13.3 The agreement can include future liabilities for the property and interest.

9.13.4 The Council would only seek to recover NDR by this method where the arrangement would ensure payment of the arrears within a short period usually of one year or where there was a certainty that the property would be sold within the period of the agreement.

### **9.14 Recovery in a court of competent jurisdiction – NDR Debt**

9.14.1 The Non-Domestic Rates regulations allow that in preference to the application for a liability order the Council may recover unpaid non-domestic rates in a court of competent jurisdiction. This would be the county court by way of a county court judgement.

9.14.2 Recovery by this method would allow the Council to apply for either a charging order or a third party debt order.

9.14.3 Where the property is not for sale, and therefore security for unpaid rates would unlikely be successful or in circumstances where the debtor has property other than the hereditament for which the rates have accrued, then recovery in the county court and the application for a charging order may be used in preference to recovery under a liability order.

9.14.4 Where the debtor is known to have assets within a bank account, and the costs of applying for a third party debt order are less than that of recovery by insolvency then the Council may recover in the county court.

9.14.5 The choice between recovery under a liability order or recovery in the County Court is a strict dichotomy, either we use obtain a liability order or we recover in the County Court. A decision in each case on which recovery route to use would need to be made following the issue of a reminder notice but before the application for a liability order is made.

## **10. Sundry Debts**

10.1 Sundry debt accounts are raised where payment in advance for a service is inappropriate.

10.2 The minimum value of any demand is for £5.00.

10.3 Except in the case of a demand payable by instalments or as otherwise contractually agreed, the settlement terms for all demands will be 28 days.

10.4 Recovery action will commence 14 days after the demand has fallen due. Recovery action 'profiles' are agreed between the Income Team and the account raising section.

10.5 Sundry debtor invoices will be raised using the Council's Finance System.

10.6 All statutory methods of enforcement of debts shall be available for use. These include:

- Attachments of Earnings
- Warrants of Execution (taking possession of goods/charging order on land/securities)
- Insolvency
- Possession proceedings
- Charging orders

10.7 Prior to statutory methods of enforcement being taken, officers may use, where cost effective to do so, external collection agents, visits to the debtor's home by designated Council Officers and telephone contact with the debtor as an alternative means of recovering sundry debts.

- 10.8 Where legally permissible, the provision of future services to the debtor may be suspended until outstanding debts are settled.
- 10.9 Ownership of all sundry debts rests with the originating services and they can issue an instruction to cancel an invoice. It is the responsibility of the originating services to correspond with or discuss with the debtor issues relating to the validity of the debt.
- 10.10 The Income section will provide reports to the originating services on a regular pre-agreed basis as to the value of their outstanding accounts.

## **11. Overpayment of Housing Benefits**

- 11.1 All necessary invoices, reminder and final notices will be raised using the Council's revenues & benefits system.
- 11.2 The Council believes that prevention of overpayment debt is better than cure. Therefore every effort is made to avoid overpayments occurring. These will include:
- Using a well laid out application form to collate accurate information which contains an unambiguous statement that failure to provide correct information could lead to overpayments of benefit and to prosecution.
  - Ensuring all benefit notification letters and relevant correspondence advise the people affected of their responsibility to tell the Council of any change of circumstances that may affect their claim.
  - Using checks for identity, residency and National Insurance numbers.
  - Ensuring all staff involved with overpayments receive enough training with comprehensive access to overpayment recovery procedures and an awareness of problems relating to debt.
  - Providing regular fraud awareness training for staff who have contact with claimants.
  - Using and developing information technology to automate the identification and recovery of overpayments and to reduce error.
  - Including publicity material, for example posters, guidance pamphlets sent with application forms and landlord undertakings, information on responsibilities for reporting changes of circumstances.
  - Dealing quickly with reported changes of circumstances.

- Participating in various data matching exercises with external agencies and cross matching against internal databases whilst adhering to principles laid down by the Data Protection and Human Rights Acts.
- 11.3 The Council aims to calculate overpayments quickly and accurately and to provide quality information to the people affected, ensuring it recovers the correct amount.
- 11.4 The Council aims to ensure the correct classification of overpayments for subsidy purposes is always used in order to prevent loss of subsidy.
- 11.5 Where the Council decides an overpayment is recoverable, recovery arrangements will be put in place via the following mechanisms:
- From arrears of Housing Benefit.
  - From continuing Housing Benefit. This includes direct payments to a landlord for that claimant even if that claimant has moved or changed landlord. The Council will base recovery rates on DWP guidelines and will always initially apply the maximum recovery rate permissible. However officers will be empowered to consider applications from debtors to reduce the recovery rate where applying the maximum rate is causing demonstrable hardship.
  - Council Tax Support overpayments will, apart from in exceptional circumstances, be debited to the respective Council Tax account.
  - If there is no continuing Housing Benefit and no likelihood of continuing benefit or reduction by underlying entitlement, an invoice will be raised on the Debtor's system and issue with a Schedule 6 compliant letter within 14 days. At this point the Council will seek to recover the overpayment in full by a single payment. However, where this is not possible, due to the debtor's financial circumstances the Council may agree a payment plan involving instalments.
  - By deductions from other Social Security Benefits managed by the Department of Work and Pensions. Section 75(1) of the Social Security Administration Act 1992 allows recovery of overpaid Housing Benefit by deduction from prescribed benefits which are defined in Regulation 105 of the Housing Benefit Regulations 1987.
- 11.6 Where a sundry debtor account has been raised and payment is not received after the issue of a final notice, the Council will pass the debt to its Recovery Agents. If the debt remains outstanding the Council may issue a claim against the debtor in the County Court with a view to obtaining immediate payment or failing which, to enter judgment against the debtor.
- 11.7 Where a claimant has been overpaid rent rebate and there is a credit balance on their rent account, the Council will recover all or part of the overpayment from the

credit provided it is for the same period as the overpayment. The Council will not recover more than the amount of credit shown on the rent account.

- 11.8 The Housing Benefit (Recovery of Overpayments) Regulations 1997 provide for the Council to recover overpayments from landlords from their current tenants' entitlement. The Council will, in appropriate circumstances, reduce payments to landlords for their current tenants to recover overpayments that arose for former tenants. It will take this action when the original tenant has no continuing Housing Benefit and when there was a misrepresentation or failure to disclose a material fact.

## **12. Restrictions on Voting – Members of Local Authorities**

- 12.1 Section 106 of the Local Government Finance Act 1992 provides that where an elected member of a Local Authority fails to pay an amount of Council Tax within 2 months of the due date their ability to vote on financial matters will be restricted.
- 12.2 The Council Tax accounts of elected members will be monitored on a monthly basis and where the accounts are in arrears the Revenue Services Manager or The Senior Revenues Officer will inform the monitoring officer of the appropriate authority. The monitoring officer should then inform the member of their responsibilities under section 106.

## **13. Maximisation of Income**

- 13.1 The Council is committed to helping its residents to be financially independent and supporting businesses to be successful.
- 13.2 Where possible we will assist the customer in maximising their income by:
- Ensuring that all customers are receiving their full entitlement to Council Tax discounts, disregards and reductions.
  - Ensuring that NDR payers are receiving the rate relief they are entitled to.
  - Ensuring that the arrangement that we make with customers are affordable, that they can be maintained and that the customer is aware of who to contact if their circumstances change.
  - Considering what, if any, additional support might be appropriate and helping customers to access support through advice agencies, welfare advisors or other Officers and organisations
  - Training all staff on the availability of welfare benefits, grants and other schemes of financial support.
  - Ensuring that our financial assessments indicate whether a customer is receiving all of the available support.
  - Where appropriate taking a complete view of the customer's indebtedness to the Council and agreeing a consolidated payment arrangement.
  - Promoting the availability of welfare benefits, grants and other schemes of financial support in information provided with recovery notices.

## 14. Holistic View of the Debtor

- 14.1 As a general principle the collection of debts owed to the Council will be more successful if individual debt streams are monitored and recovered on a separate basis. The existence of distinct recovery mechanisms for the collection of Housing Rents, Sundry Income, Council Tax, Non-Domestic Rates and Housing Benefit overpayments supports this non-generic approach.
- 14.2 Where a customer has multiple debts and they are experiencing difficulties in making payments then it is not effective, either for the customer or the Council, for separate sections and departments in isolation to pursue the debtor and negotiate payment of their individual debt stream.
- 14.3 Where a customer makes contact regarding Council Tax or Non-Domestic Rates arrears and has been asked to complete a financial circumstances form they will be asked to declare all debts owed to the Council.
- 14.4 A single arrangement will be made in respect of the overall indebtedness. The intention of the arrangement will be to ensure that individual's overall indebtedness to the Council does not worsen.
- 14.5 In practice this will mean that on-going liabilities will be prioritised and the minimum payment that can be accepted will clear all on-going liabilities as they accrue. Payment towards arrears will be prioritised according to principles agreed between departments.
- 14.6 This approach will ensure that the customer is not subjected to conflicting demands from different Council departments and that priority debts are tackled on an individual basis.
- 14.7 The Revenue Services Section will accept arrangement negotiated by other Council departments and on a reciprocal basis arrangements will be made in respect of other Council debts.

## 15. Vulnerability and Mental Health

- 15.1 We recognise that our recovery procedures must protect vulnerable people and people with mental health problems. The OFT research paper *vulnerable consumer groups: quantification and analysis* identified seven categories of the population which might be considered vulnerable. The categories are:
- Those on a low income.
  - The unemployed.
  - Those suffering from a long term illness or disability.
  - Those with a low level of educational attainment.
  - Members of ethnic minorities.
  - Older people.
  - Younger people.

- 15.2 It is not practicable to avoid taking recovery action against all customers who may fall into one of these groups. However, we will work to minimise the adverse impact that recovery action may have on people within these groups. We will do this by:
- Ensuring that information on the recovery process is available and can be easily understood.
  - Explaining to individuals why we have taken a specific action and explaining how they can prevent further recovery action being taken.
  - Where we are aware that a person is vulnerable the impact of the action on the customer and the impact on the customer of a failure to take action will be assessed and a balanced decision on whether to proceed will be taken.
  - Agreeing with our enforcement agents when they will stop action against vulnerable people.
- 15.3 When deciding on the appropriateness of commencing recovery action against a vulnerable person we will consider the potential harm that the action may have on the individual and the possibility that it may be appropriate to write off all or part of a debt rather than to continue with the action.
- 15.4 Write off will only be considered in line with the Council's write off policy.
- 15.5 As every household within the Redditch Borough has a potential liability for Council Tax it is evident that from time to time we will be deal with customers who have mental health problems.
- 15.6 We will take particular care when dealing with individuals with mental health difficulties where we are made aware of them.

We will do this by:

- Working closely with any advice agencies acting on behalf of the debtor
- Promptly carrying out any agreed actions and being flexible in responding to offers of payment.
- Managing communications in a sensitive way by aiming to prevent unnecessary mailings.
- Sharing information with other departments to ensure that they are aware of any mental health issues and prevent unnecessary action.
- Ensure that organisations acting on our behalf comply with codes of conduct and are sensitive to any mental health issues.
- Record relevant information on accounts so that debts are managed appropriately.
- Ensure that appropriate time is provided for relevant evidence of the effects of any mental health problems to be collated and forwarded to us.
- Where we are aware of mental health problems enforcement action will be taken as a last resort and when it is appropriate and fair to do so. We will seek to prevent;

- Unnecessary action that might further harm vulnerable people in debt.
- Action that exacerbates problems arising from temporary financial difficulties.
- Action where other alternatives have not been considered.

15.7 In order to carry out these actions we may require:

- Evidence to confirm a customer's mental health status and the effects that their mental health problems have on their ability to manage money and debt. Evidence will be obtained using the Money Advice Liaison Group's debt and mental health evidence form.
- Consent from the customer to process data relevant to their mental health.
- Evidence of mental health status and the effects of mental health problems will be accepted from appropriate practitioners including:
  - Care co-ordinators.
  - Clinical Psychologists.
  - General Practitioners.
  - Mental Health Nurses.
  - Occupational Therapists.
  - Psychiatrists.
  - Social Workers.

## 16. Write offs

16.1 We will exercise our discretion when deciding whether to write off debts, in general write off is only considered as a final option.

16.2 It is acknowledged that there will be some circumstances in which vulnerable people or those with mental health problems who are in debt should not proceed through all of the recovery options available. In these circumstances we will consider whether it is appropriate to write off some or all of the debt

16.3 The Council's write off policy contains full details of the circumstances in which debts may be written off.

## 17. Monitoring the policy

17.1 It is the responsibility of the Revenue Services Section to ensure that this policy is effective. This will be achieved through monitoring of the complaints procedure and through understanding impacts through a number of strategic and operational measures, such as:

- Rate of in-year collection for Council Tax and Non-Domestic Rates
- Number of cases held at each recovery stage
- The comparative success rates of each recovery method
- The level of arrears outstanding.