

# East Hampshire District Council

## Council tax debt recovery policy

East Hampshire District Council believes in treating its customers fairly and equitably. We have a duty on behalf of all our residents and businesses to collect council tax and business rates to pay for the services we provide and collect on behalf of other precepts. We recognise that most residents pay their council tax promptly.

However, 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 businesses.

This collection and debt recovery policy sets out simply and clearly what our customers can expect from us and in turn, what we expect from them when we set about collecting money.

We recognise that people can get into financial difficulties for many reasons, often due to unexpected circumstances.

Our approach is built around tackling 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.

### **General recovery policy**

The revenues service wants to make sure that when it takes recovery action it does so in a fair, consistent, transparent way that acts within the law.

This recovery policy is intended to give guidance to both businesses and members of the public within the district about when and how we will recover council tax and business rates.

It sets out what you can expect from our officers and in return what we expect from you, regarding your duties and responsibilities to pay your council tax and business rates arrears.

### **What you can expect from our recovery officers**

- a courteous manner
- experience
- transparency
- clear communications
- available between 9am-5pm, Monday to Friday to answer questions

## **What we expect from you in return**

- to recognise that you have a duty to pay your council tax and business rates.
- to work with our officers to resolve problems.
- to talk to us about any concerns you have or if you are unsure about your obligations.
- to be co-operative.

The purpose of this policy is to demonstrate how we collect council tax debts; informing debtors of our processes, clarifying what is happening and why. Whilst assuring those who pay their council tax promptly that we are committed to recovering money owed to us.

## **We will**

- Always promote accessible payment methods and flexible payment dates, to try and avoid recovery action being necessary in the first instance
- Be clear and inform the charge payer at each stage of the process; explaining why action is being taken and the next steps if the debt is not paid. This information will be included in all documents we send requesting payment and a summary of all our recovery methods (this document) will be published on the East Hampshire District Council website.
- We will avoid legal jargon, using clear and simple terms.
- Consider individual circumstances including vulnerabilities and ensure that we are consistent and fair in our actions.
- Be aware of and work in conjunction with debt advice agencies- advocating their services, where appropriate.
- Have a working knowledge of legislation and review our policies in line with any changes.

## **Background**

All recovery action is undertaken following statutory regulation. The primary legislation is the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992.

There are two main stages of the recovery process-

### **Stage 1**

Initial billing and the recovery process up to and including the issue of a liability order by a Magistrates court.

### **Stage 2**

The recovery processes beyond the grant of a liability order.

If these two stages are unsuccessful, we can consider further recovery options and a third stage in the process. The measures undertaken to recover a debt will become more serious the further along the recovery process the debt is taken.

We will always take into consideration affordability and the individuals' circumstances when creating a payment arrangement. Ideally all amounts will be recovered within the tax year to which they apply, to avoid balances being carried forward into subsequent years.

However, if this is not possible the payments for the continuing liability will be taken into consideration when agreeing an affordable payment plan on any outstanding arrears.

## **Stage 1- initial billing and the start of the recovery process**

### **Bill**

Annual bills are sent out in March each year, with payments starting from April. The bill will set out an initial payment arrangement, either over a 10 or 12-month term - 12 months can only be offered if the bill is generated before the end of April of the relevant year. If any changes are made to the account during the tax year, then an amended bill will be issued.

We will give 14 days' notice before the first payment is due.

### **Reminder and final notice**

A reminder and final notices are issued, at least 7 days after an instalment is missed. This gives the charge payer 7 further days to bring the account up to date.

### **Cancellation notice**

If a further instalment is missed, or the account is not brought up to date following the reminder, then a cancellation notice will be issued.

This removes the charge payers right to pay by instalments, meaning that the full remaining balance for the tax year is now due, within 7 days. However, if the charge payer is able to pay the outstanding balance within this time, this notice will be removed, and the instalment plan reinstated.

A summons will be issued and additional costs incurred if you do not act on this notice or bring the account up to date.

### **Summons and liability orders**

If the account has not been paid in full, or all outstanding payments have not been received after the Cancellation Notice is issued, then a summons is issued following approval from the Magistrates court.

Costs of £90.00 are added to the total outstanding, upon production of the letter.

At the court hearing, the recovery manager/council representative must satisfy the Magistrates that all recovery has been taken in accordance with legislation. If they

are satisfied with the evidence provided, the bulk liability order application is then granted.

No further costs are added at this stage.

This does not affect your credit rating.

## **Stage 2: Recovery processes beyond the grant of a liability order**

### **14 Day request for information notice**

Once a liability order has been granted by a Magistrates court, we send out a request for information notice. This letter details the next steps in recovery and gives the charge payer 14 days to contact us to come to a payment arrangement.

This letter includes a financial information form, which asks for the charge payers' income and expenditure, employment or benefit details. We can use this information to make an affordable payment arrangement.

The letter also details the costs that can be added, should the account be sent to enforcement agents for collection.

If a payment arrangement is not agreed, we can undertake any of the following options;

### **Deductions from benefits**

We can request that the Department of Work and Pensions set up deductions from universal credit, pension credit, income support, jobseekers allowance or employment support allowance.

This is a standard amount, which is set in legislation.

### **Attachment of earnings**

If we have your employment details, we can request that your employer takes money directly from your wages, until the debt is paid. The amount deducted is set in legislation and is a sliding scale percentage of net earnings.

### **Enforcement agents**

We instruct two enforcement agents to recover balances - Ross & Roberts and Chandlers Ltd. Both are certified through the County Court and follow a national code of conduct.

When a balance is sent to enforcement agents for recovery, they add their own fees - a summary of which can be found in appendix 1.

When the agents receive our instruction, they will initially contact the charge payer by letter a compliance fee is added at this time (see appendix 1).

They may also obtain alternative details as a point of contact (e.g. telephone or e-mail).

If this does not elicit a response, the account will be allocated to an officer, and they will visit the home or business address.

A further fee will be added for the visit (see appendix 1).

If an agent visits you, they will ask for payment in full, including all their costs. If you cannot pay the amount due in full immediately, they may agree a payment arrangement.

The enforcement agent will make an inventory of goods that can be sold to repay the debt if you do not keep to your arrangement. This is called a 'controlled goods agreement'. If your goods are subject to a controlled goods agreement, you cannot move or sell them without the enforcement agent's permission.

If you fail to pay as arranged and you have signed a controlled goods agreement, the enforcement agent may re-enter your property to take the goods listed on the inventory, including any un-financed vehicles.

You will be charged a sale fee if goods are removed and sold plus other costs such as auctioneer's fees. This can add a significant amount to the costs that you will be liable for.

Enforcement agents have the powers to clamp and remove vehicles.

If a debt has been passed to enforcement agents and you pay us without including their fees, then they can continue to recover their costs from you.

If the enforcement agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to your property, they will send a certificate to us to confirm that they have been unable to recover the debt.

We will then consider one of the remedies detailed below in stage 3.

### **Stage 3: Further recovery options**

The following three recovery options will be considered if the remedies above have proven ineffective -

- committal to prison proceedings
- charging orders
- bankruptcy or insolvency action

Before we consider one of the three options we will have: -

- made all reasonable efforts to check that you are not entitled to any discounts, exemptions, reductions, or benefits;
- made all reasonable efforts to contact you by letter, phone, e-communications, or visits to your address;

- provided contact details of free independent debt advice agencies
- Investigated your financial situation by checking the following:
  - council held records, including enforcement agents records and any history of payment arrangements or payments received.
  - HM land registry records.
  - a credit reference agency, for information about outgoings and requests for finance, credit, or mortgages.
  - any known or potential employment details.
  - companies house records.

In addition, we will also consider if the recovery option is appropriate due to the following factors:

- severe mental illness, severe disability, or extensive learning difficulties you cannot be expected to deal with your own affairs.
- the main carer for a disabled dependent person.
- whether you are in receipt of council tax support or outstanding benefit claims.
- assessing that there is no realistic prospect of recovering the debt by other means in a reasonable timescale.

In all cases, we will advise you to seek independent legal/debt advice if we contact you about any of the three following processes.

### **Committal to prison proceedings**

We will issue a summons to attend a means enquiry hearing at the Magistrates Court. At the hearing, you will be asked questions about your income and expenditure and the reason(s) why you have not paid your council tax bills.

The Magistrates Court will consider if you are guilty of either:

- wilful refusal - refusing to pay when you could have done; or
- culpable neglect - not taking appropriate action when you were billed, and recovery action was being taken.

At the hearing, the Magistrates or District Judge may sentence you to a term of imprisonment. The sentence can be suspended on whatever terms the Magistrates consider appropriate.

Usually this would be an agreement to pay a weekly or monthly amount. If no agreement can be reached the Magistrates will then consider committing you to prison for a maximum of 90 days for each year's or part-year's charge unpaid.

If the Magistrates decide that failure to pay was not due to wilful refusal or culpable neglect, they have the power to write off all or part of the debt.

If you fail to appear in court, we will ask the Magistrates Court to issue a warrant for your arrest without bail. This will be passed to our process servers for execution. This means you can be arrested at a time which may be very inconvenient to you and delivered into custody.

There you will be held until such time that the Magistrates are able to convene to hear your reasons for non-payment. Additional costs will be incurred at this stage (see appendix 1).

It is important that you clearly understand that committal proceedings are very serious and that if you do not pay in full you could be imprisoned. Your prison sentence is only suspended while your payments are made on or before their due dates.

Should you default on the terms of the suspended sentence, or any payment is missed or late, you will not be sent any further reminder notices; preparation will be made without further notice for you to be committed to prison to serve your sentence.

### **Charging orders**

If the combined balance of your debts owed to us is over £1000 and you own a property, we can apply to the County Court for a charging order to be placed on it.

#### **This affects your credit rating.**

You will also incur additional costs and court fees. If a charging order is granted it gives us two options:

- recover the debt and interest from the proceeds of sale if the property is sold at a later date; or
- ask the County Court to evict you from the property and enforce its sale to recover the money owed

### **Bankruptcy or insolvency action**

We may decide to take insolvency/bankruptcy action against you in the County Court if the total debt you owe us is more than £5000.

If the Court declares you bankrupt, you could lose your home and possessions to pay the debts and have to pay significant additional costs on top of the debt owed to us.

#### **This affects your credit rating.**

We will send you a letter warning of the proceedings we are going to take and give you a last chance to pay. If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, we will serve a statutory demand on you.

This is the first formal stage in a process that may lead to bankruptcy. If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement after the service of a statutory demand, or if the court does not set your case aside, we will then serve you with a bankruptcy petition.

The official receiver will then be appointed, and you will no longer have control over your assets. You may find it extremely difficult to obtain credit in the future.

## Appendix 1: Costs

We charge fees because it costs us to take legal action to recover debts.

These costs are added to your council tax debt. We then recover them together with your original debt.

The costs we charge are made up of payments we have to make to either the Magistrates Courts or County Courts, and what it costs us to carry out the recovery work.

External companies such as enforcement agents charge their own costs, which are payable to them.

Enforcement agents are regulated and have to charge set costs.

| Type of costs  | Amount  |
|--|---|
| Summons  | £90.00  |
| Enforcement agent compliance (on receipt of our instructions & compliance fee)   | £75.00  |
| Enforcement agent visits (one fee is charged regardless of the number of visits) | £235 plus 7.5% of any balance over £1,500                               |
| Enforcement agent sale of goods  | £110 plus 7.5% of any balance over £1,500 plus storage fees, which vary |
| Committal summons costs  | £305.00   |
| Warrants of arrest   | £145.00   |
| Charging order   | These vary  |
| Bankruptcy or insolvency petition  | These vary  |