

Committee:	Executive	Agenda Item No.:	8.
Date:	8 <sup>th</sup> April 2013	Status	Open
Category	3. Part of the Budget and Policy Framework		
Subject:	Local Taxation - Debt Recovery Policy		
Report by:	Assistant Director of Corporate Resources		
Other Officers Involved	Billing and Recovery Manager		
Director	Director of Corporate Resources		
Relevant Portfolio Holder	Councillor E. Watts, Leader of the Council and Portfolio Holder for Policy, Strategy, Finance, Customer Services and Human Resources		

### **RELEVANT CORPORATE AIMS**

CUSTOMER FOCUSED SERVICES – Providing excellent customer focused services

SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning.

The policy is formulated so that recovery is fair and consistent, ensuring that the recovery of local taxation is maximised, procedures and controls are adhered to and customers are respected and dealt with firmly but fairly.

### **TARGETS**

Not applicable.

### **VALUE FOR MONEY**

To maximise collection and minimise the arrears owed to the Council.

### **THE REPORT**

- 1.1 The Local Taxation – Debt Recovery Policy is attached at Appendix 1. The document lists the legislation and regulations that must be adhered to, in addition to the procedures that will be followed in the recovery of Council Tax and Non Domestic Rates. Whilst the document itemises the different stages and options available, individuals' personal circumstances, where known, are taken into account.

- 1.2 The Council has a Debt Collection Procedure in place which has been operating since 2008 however it was felt appropriate to review the procedure and to adopt a policy.
- 1.3 As part of the Council's partnership work with advice agencies the draft Debt Collection Policy was circulated to the Derbyshire Unemployed Workers Centre, North East Derbyshire Citizens Advice Bureau (CAB), Royal British Legion, Chesterfield Law Centre, Release and Mansfield CAB for their comments. The comments by North East Derbyshire CAB are incorporated in the Local Government Association Collection of Council Tax Arrears Good Practice Protocol, attached as Appendix 2.

### **ISSUES/OPTIONS FOR CONSIDERATION**

Whether to adopt a Debt Recovery Policy.

### **IMPLICATIONS**

Financial: It is important that the Council adopts a clear and transparent debt collection policy which optimises collection rates whilst recognising the support required by those facing financial hardship.

Legal: The Council has a statutory duty to collect local taxation.

Human Resources: None

### **RECOMMENDATION**

**That Executive approve the attached Debt Recovery Policy and recognises the Good Practice Protocol for the Collection of Council Tax Arrears and commits to continuing partnership working with advice agencies for the benefit of residents.**

### **REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION**

To adopt a Debt Recovery Policy.

ATTACHMENTS: Debt Recovery Policy and Good Practice Protocol for the Collection of Council Tax Arrears.

SOURCE DOCUMENT: The Council Tax (Administration and Enforcement) Regulations 1992 (as amended)  
The Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended)  
Internal records

# **BOLSOVER DISTRICT COUNCIL**

## **Local Taxation – Debt Recovery**

### **Policy**

April 2013

**This Policy addresses the following Corporate Aims (show those which are appropriate to this policy only):**



CUSTOMER  
FOCUSED SERVICES



SOCIAL INCLUSION



## Equalities Policy Statement

Bolsover District Council is committed to equalities as an employer and in all the services provided to all sections of the community.

The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with its Equality Policy.

The Council also has due regard to eliminate discrimination and to proactively promote equality of opportunity and good relations between persons of different groups when performing its functions.

### Access for all

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## CONTROL SHEET

<b>Document Details</b>	<b>Comments / Confirmation (To be updated as the policy progresses)</b>
Title	Local Taxation - Debt Recovery Policy
Document type – i.e. draft or final version	Final version
Author of Policy	Billing and Recovery Manager
Location of Policy – i.e. L-drive	
Member route for approval	Improvement Scrutiny Committee/ Executive
Cabinet Member (if applicable)	Finance
Risk Assessment completed (if applicable)	
Date Equality Impact Assessment approved	
Partnership involvement (if applicable)	Advice agencies have been consulted on the policy
Policy Approval i.e. Executive/ Council Planning Committee	Executive
Date Approved	
Date Policy due for review (maximum three years)	
Date forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

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## **1. Introduction**

This policy identifies the legislation and outlines the procedures for the recovery of Council Tax and Non Domestic Rates. It is formulated so that recovery is fair and consistent and in accordance with the regulations. It will ensure that:

- The recovery of local taxation is maximised
- Procedures and controls are adhered to
- Customers are respected and dealt with firmly but fairly.

## **2. Scope of the Policy**

To maximise collection and minimise the arrears owed to the Council. The Council recognises that some people face financial difficulties and, therefore, the policy operates within the context of social and financial inclusion and equal opportunities.

Poor performance in debt collection has an impact on cash flow and the reputation of the Council. If the debt cannot be collected it is unfair to those that pay their bills on time, income is lost and may have to be written off. It is important for action to be taken promptly.

## **3. Principles of the Policy**

There is a statutory duty on the Council to collect local taxation. The recovery system must be efficient and effective. The steps taken are in accordance with the regulations but officers should not adopt a blanket approach; they should give consideration to an individual's circumstances, in accordance with the Council's Equality Policy, whilst protecting the Council's position.

Council tax and non domestic rates should be collected as it becomes due and before the next amount is payable. Delays can exacerbate an individual's ability to pay and manage their debts. Debtors should be encouraged to contact the Council at an early stage.

Recovery officers are fully trained and can negotiate payments over the telephone. They promote various payment methods and check to ensure that an individual is aware of any discount or benefit they may be entitled to claim. Arrangements can be entered into at any time and are regularly monitored.

If recovery escalates to a summons and a hearing at the Magistrates' court, it is important that legal requirements are adhered to and are clearly explained to the debtor.

### **3.1. Legislation**

The rules for identifying and determining the recovery of council tax and non domestic rates are contained in the following legislation and regulations, as amended:

- The Local Government Finance Act 1992
- The Local Government Finance Act 1988
- The Council Tax (Administration and Enforcement) Regulations 1992
- .The Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
- The Council Tax (Deductions from Income Support) Regulations 1993
- The Insolvency Act 1986
- The Local Government Act 1972

### **3.2. Good Practice**

In addition to adhering to legal requirements, the Council gives consideration to the guidance issued from the Local Government Ombudsman when determining the best course of recovery action. The Council ensures that:

- All documentation is easy to understand and it is clear in what has to be paid and by when and includes the legal restraints that both the council and the payer are subject to.
- All documentation informs the debtor of the consequence of non-payment and gives the debtor the opportunity to contact the Council if they are experiencing difficulty in making payment or they need advice and guidance on what to do next.
- Unpaid amounts are followed up early to avoid the build up of arrears and to prevent the debtor having to manage large debts.
- At all stages payers are made aware of any benefits or discounts to which they are entitled or which may be available to them.
- People with payment problems are encouraged to come forward early to discuss their individual circumstances. However, staff are aware that some customers need more support and work to the Council's Code of Practice and Standards.
- Officers refer people facing financial difficulties to the advice and support agencies listed at Appendix 1.
- Officers are flexible and agree reasonable payment arrangements at all stages of the collection and recovery process, having regard to individual circumstances.
- Payment arrangements are regularly reviewed and monitored.
- Officers make use of the most appropriate recovery option, subject to legal restraints, by using a flexible approach to the recovery of monies due to the Council.

The Council recognises the LGA Collection of Council Tax Arrears Good Practice Protocol (Appendix 2) and is working in partnership with advice agencies to ensure that taxpayers are able to pay their council tax bills on time, get the benefits to which they are entitled and those in financial difficulty get high quality debt advice.



## 4. Policy Statement

### 4.1. Schedule

The recovery schedule is prepared for the next financial year in January of each year. It identifies the key dates for the issue of reminders, summonses and liability order hearings. Consideration is given to:

- The legal time restraints for the issue of recovery documents.
- The occurrence of Bank Holidays and when the Council offices are closed.
- Workload.
- The availability of court dates with Her Majesty's Court Service (HMCS).
- End of year requirements.

### 4.2. Reminders

If payment is not made by the due date a **1<sup>st</sup> reminder** will be issued, giving 7 days in which to pay. If payment is made, the right to pay by instalments will be retained. If payment is not made, the right to pay by instalments will be lost and a summons will be issued.

If, after bringing the account up to date, a payment is late for the second time a **2<sup>nd</sup> reminder** will be issued. The procedure is the same as for 1<sup>st</sup> reminder.

If a payment is late for a third time, a **final reminder** will be sent. The right to pay by instalments is lost and the whole amount must be paid within 7 days.

All reminders will clearly set out the amount due and the consequences of failure to comply with the notice. It will also give the debtor the opportunity to contact the Council and discuss their account.

### 4.3. Arrangements

An arrangement can be entered into at any time following the issue of the demand (bill). Arrangements can be weekly, fortnightly, 4 weekly or calendar monthly. A weekly direct debit arrangement is also available for Council Tax.

- Previous payment history is considered and, if a direct debit arrangement is requested, whether any payments have been returned unpaid.
- If an instalment is missed a reminder will be issued. If the arrangement is then brought up to date it will remain in force. If the arrangement is not brought up to date, or two payments are missed, it is cancelled and a default notice issued.
- Only 1 arrangement is allowed in any financial year. This is to ensure that bad payers do not continuously request an arrangement and thereby prevent any recovery action.
- After a summons has been issued, an arrangement can be set up that will include the court costs. A liability order will still be obtained but as long as the arrangement is adhered to no further action will be taken. If the arrangement is defaulted upon, a 14 day letter will be sent (Council Tax).
- All arrangements for payments are confirmed to the debtor by the issue of an arrangement notice.

#### **4.4. Summons**

If payment is not received a summons will be issued for the full amount.

- Summons should be issued at least 14 days before the Liability Court hearing. In practice, this will be between 21 and 28 days before the court date.
- The debtor will again be encouraged to contact the Council to pay the amount in full or to enter into an arrangement.
- If an arrangement is made a liability order will be obtained but no further action will be taken as long as the arrangement is maintained.
- Costs will be added to the account. These costs:
  - Cover additional work and resources needed to ensure that all local taxation debts owed to the Council are recovered.
  - Include the costs payable to HMCS (Her Majesty's Courts Service) for the awarding of the liability order.

#### **4.5. Liability Order Hearing**

- The debtor is not required to attend court but does have the right to defend the action if they wish.
- Officers will interview anyone who appears at court before the hearing to discuss their case and to try and agree payment.
- If the debtor is not satisfied they can make representations to the Magistrates.
- The Magistrates have limited power at this stage. There may be valid defences and there may be some instances where the case is adjourned on agreement of all parties for further investigation or discussion.
- A liability order will be granted if the court is satisfied that all legal processes have been followed. The liability order entitles the Council to enforce the debt in a number of ways including:
  - Distress i.e. bailiff action
  - Attachment of earnings (Council Tax)
  - Attachment of benefit (Council Tax)
  - Commitment to prison
  - Charging order (Council Tax)
  - Insolvency
- A 14 day letter (for Council Tax debts) will be sent after a liability order has been granted. This requests details of income. The debtor is legally obliged to return this form. Included with the letter will be a schedule of fees associated with distress and bailiff action.
- If the 14 day letter is returned, the next recovery stage will be dependent upon the income and status of the debtor i.e. whether employed, in receipt of JSA/ ESA.
- Any cases where the 14 day letter is not returned will be sent to the bailiff after 1 month, where the debt is over £250.00.
- Cases where the debt is less than this amount will be looked at on an individual basis and the best course of action determined. This may include the case being passed to the Recovery Visiting Officer.

#### **4.6. Bailiff Action**

- The Council employs an external bailiff company (Bristow and Sutor) to collect unpaid council tax and national non-domestic rates.
- Any fees charged are in accordance with the legislation; details of these are issued with the liability order notice (Council Tax).
- The bailiff company operates in accordance with the Council's agreement, the Enforcement Service Association Code of Practice and the National Standards for Enforcement Agents Guidelines.
- All bailiffs employed by the bailiff company are certificated by the County Court.
- If an account has been passed to the bailiff, the customer is encouraged to contact them direct with regards to payment of the arrears.

#### **4.7. Attachment of Earnings Orders (AEO)**

- Under Regulation 37 Council Tax (Administration and Enforcement) Regulations 1992 the council may make an attachment of earnings to secure payment. The Council Taxpayer's employer(s) details will be held and these will be used where this course of action is appropriate.
- Whenever an AEO is set up, the employer will receive a copy of the order and a booklet outlining the guidelines to be followed by the employer. Similarly, the employee will also receive a copy of the order.
- Under the regulations, the employer is entitled to deduct £1 for every deduction that is made.
- Where an AEO is set, it will remain in force until full payment of the arrears is made, whether this is through the deductions from earnings or through a direct payment to the council by the council taxpayer. An AEO will not be cancelled unless:
  - It has been issued in error by the Council
  - An acceptable alternative payment option is agreed between the Council and the Council Taxpayer
- The Council can set a maximum of 2 AEO's at any one time.
- AEO's will be monitored for payment on a regular basis and the Council will:
  - Contact employers where deductions are not being made and passed to the Council
  - Contact employers where the Council Taxpayer has paid the Council directly and an AEO is in force
  - Advise employers and employees of any changes in the legislation that will affect the administration of the scheme

#### **4.8. Deductions from Income Support/Job Seekers Allowance**

The Council Tax (Deductions from Income Support) Regulations 1993 allow the Council to apply to the Department of Works and Pensions (DWP) for deductions to be made from a person's income support or job seekers allowance providing that a liability order has been obtained from the Magistrates Court.

- The level of deductions is prescribed in legislation and only one deduction may be made at any one time. Whenever deductions are set the Council will serve a copy of the order on the DWP and on the Council Taxpayer.
- Where deductions are set, they will remain in force until full payment of the arrears is made, whether this is through the deductions from income support or through a direct payment to the Council by the Council Taxpayer.
- Deductions from income support will be monitored for payment on a regular basis and the Council will:
  - Contact DWP where deductions are not being made and passed to the Council
  - Contact DWP where the council taxpayer has paid the Council directly and deductions are in force
  - Advise DWP and the council taxpayer of any changes in the legislation that will affect the administration of the scheme
- If deductions cannot be made e.g. if there are already deductions in place for other priority debts, the Council will inform the Council Taxpayer and encourage the debtor to contact the Council and make alternative arrangements to pay the Council Tax at a similar rate to the prescribed rate of deduction, where appropriate.

#### **4.9. Attachment of Councillors' Allowances'**

Where a debtor is an elected member of the Council or relevant major precepting authority, an order may be made to secure payment from allowances paid to the member.

- The sum to be deducted will be 40% of the allowances payable to the debtor.
- Where an attachment to allowances is set the Council will serve a copy of the order on the elected member and the order will remain in force until the arrears are paid in full.

#### **4.10. Commitment to Prison**

This stage can only be instigated where the debt has been passed to the bailiff and the bailiff has returned a certificate of 'nil effects' (Nulla Bona) or attempts to distrain were frustrated by the debtor, either through lack of contact or by refusing the bailiff entry to their premises.

- When a liability order is returned to the Council in any of these circumstances the Council will write to the debtor and encourage payment of the arrears either in full, by a suitable payment arrangement or by making deductions from earnings, benefits or allowances. If this is successful and payment is either made or agreed, the Council will not initiate committal proceedings at that time.
- If no contact is made and no alternative method of recovering the arrears is made known to the Council, a justice of the peace or justice's clerk may issue a summons requiring a person to appear before the court for the purpose of a means inquiry to be held in the debtor's presence. This will decide whether the failure to pay is due to wilful refusal or culpable

- neglect. Wilful refusal is the deliberate avoidance of making payment. Culpable neglect is where the failure to pay is due to carelessness.
- The summons will be hand delivered to the debtor by the Recovery Visiting Officer. If on attempt of making service, the officer is unable to personally serve the documents, they will leave the documents in a sealed envelope, addressed to the debtor, at their last known place of residence. The Visiting Officer will complete a certificate of service detailing the visit they have made and this will be presented to the Magistrates at the hearing. This will satisfy the clerk to the Magistrates recommendation of good service.
  - Where a person does not appear in response to the summons the Council will make an application for a warrant of arrest with bail. The Recovery visiting officer will attempt to execute the warrant, thereby arresting the debtor and releasing them on bail to appear at Court on the date specified on the warrant. If the warrant is not executed by the date specified, the Council will return to Court to ask the Magistrates to re-date the warrant to allow further time for the visiting officer to try to execute the warrant.. If seven days prior to the date on the Warrant it has not been executed, the Council will write to the debtor advising him/her that they must attend Court on the date specified, otherwise a warrant without bail will be issued and passed to the Council's representatives for them to arrest the debtor and take them to the Magistrates Court in Chesterfield. If the debtor contacts the Council at any stage, the Council may decide (without appearing at the court) to accept payment over a fixed period or initiate deductions from earnings, benefits or allowances if reasonable and appropriate. These cases will be reviewed and if the conditions of the arrangement are not maintained or deductions end (for whatever reason) the Council can release the warrant for execution. If the warrant is paid before it can be executed the Council will inform the clerk to the Magistrates and the case will be marked withdrawn.
  - Where a debtor attends the court either in response to the summons or through the execution of the warrant of arrest, the Council's Court Officer will interview the debtor in private at the court and will determine the most suitable course of action having:
    - Discussed the matter with the debtor to identify if full payment can be made or an acceptable alternative method of recovery can be used
    - Conducted and recorded a full means inquiry, making inquiries into the income and expenditure of the debtor and their household
    - Discussed the case with the debtor's legal representative
  - The Council's Court Officer will use their experience and knowledge at the court and will decide on which cases should be heard before the Magistrates. However, in the following circumstances the cases will be either adjourned to a later date (in agreement with the clerk to the Magistrates) or withdrawn from the court list:
    - Offer of full payment before the proposed adjourned hearing.
    - An offer of payment to clear the arrears within a reasonable time period, supported by full employment details and a means inquiry.

- Where employment details are gained and an Attachment to Earnings can be set which will clear the arrears within a reasonable time period.
- Where deductions can be made from the debtors income support/job seekers allowance which will clear the arrears within a reasonable time period.
- Where there is doubt over the certainty of the debt and/or the liability and an agreed outcome is decided between the debtor, the Council's Court Officer and the court, before the adjourned hearing
- Where the personal circumstances of the debtor are such that it would be in the best interests of all concerned to handle the matter outside of the court
- The Court Officer will present all other cases to the Magistrates for the purpose of a means inquiry and will support the Council's application by providing the following evidence:
  - Certificate of nil effects
  - Copies of liability orders
  - Copies of all relevant documentation issued to the debtor to try and obtain payment
  - Copy of a signed certificate of service
  - A full case history, outlining details of the liability, recovery action taken prior to the hearing and the steps both the Council and the debtor have taken to try and resolve the matter without the intervention of the magistrate's court
  - A signed copy of a full means inquiry
- The Magistrates will conduct a full enquiry into means for each period of charge. If they find the debtor guilty of either wilful refusal or culpable neglect they can decide to:
  - To issue a warrant of committal forthwith in which case the debtor would go straight to prison
  - To issue a warrant of committal and suspend it on terms of payment which is set at a sum that the court considers reasonable taking into account the evidence heard
  - To dismiss the case
  - To remit all or part of the debt
- The Magistrates also have the power to remit the debt when wilful refusal or culpable neglect is not found. If they do not fix a term of imprisonment the case can be brought back to court on the grounds that the circumstances of the debtor have changed.
- The Court Officer will always behave in a professional and courteous manner to the court, its officials and the debtor whilst conducting their duties in the court arena. The Council will respect the decision of the court and where appropriate will challenge a decision through the formal appeals process.
- Following the court hearing the Council will:
  - Write to confirm the outcome of the court hearing to all debtors concerned and update the personal account of the debtor.

- Will inform the debtor by telephone if possible and also by post any notices of adjournment, unless the adjourned date was agreed in the presence of the clerk to the court or the magistrates, in which case the notice will be served in the ordinary course of the post.
- Will monitor progress of adjourned cases to ensure that the agreed course of action is taken.
- Will monitor suspended payment orders made by the court and where these are not maintained the Council will bring this to the attention of the court for the purpose of a further hearing.
- Accept full payment of any reduced amount of Council Tax and costs due under the order of commitment where the debtor has been committed to prison by the magistrates and serves only part of the sentence.
- Write off any Council Tax and costs due under the order of commitment where the debtor has been committed to prison by the Magistrates and serves the term of the sentence as no further recovery action would be suitable for the recovery of the debt.

#### **4.11. Further Hearing**

Where a debtor fails to pay as ordered by the court the Council will remind the debtor of the terms of the suspended order and of the consequences of failing to bring the order up to date. There will be no variation of the order unless the debtor appears before the Magistrates and that decision is made by the court on evidence of a relevant change in the debtor's personal circumstances identified through a full means inquiry.

- Where there is continued default, a justice of the peace or justices clerk may issue a notice requiring a person to appear before the court for the debtor to show good cause why the terms of the order have not been maintained.
- The notice and a covering letter will be hand delivered to the debtor by a Recovery Visiting Officer. If on attempt of making service, the officer is unable to personally serve the documents, they will leave the documents in a sealed envelope, addressed to the debtor, at their last known place of residence. The Visiting Officer will complete a certificate of service detailing the visits they have made and this will be presented to the Magistrates at the hearing.
- Where a person does not appear in response to the notice the Council will make an application for a warrant of arrest without bail, including additional costs.
- The Council will inform the debtor that the warrant has been issued and will invite them to contact the recovery team and make arrangements to surrender themselves to the court or make full payment of the amount.
- If the debtor does not make contact with the recovery team within 7 days the warrant of arrest will be released to the Council's bailiff who will execute it and escort the debtor to the nearest court.
- Where a debtor attends the court either in response to the summons or through the execution of the warrant of arrest, the Council's Court

- Officer will interview the debtor in private at the court and will determine the most suitable course of action having:
- Discussed the matter with the debtor to identify if full payment can be made or an acceptable alternative method of recovery can be used
  - Conducted and recorded a full means inquiry, making inquiries into the income and expenditure of the debtor and their household
  - Discussed the case with the debtors legal representative
  - The Council's Court Officer will take all cases before the magistrates unless payment in full is made. The Court Officer will present a summary of the first hearing to the Magistrates and the action that has been taken since that date by both the debtor and the Council. The court officer will also present:
    - A signed certificate of service.
  - Any action taken following the court hearing will follow the principles laid down earlier in this policy for commitment to prison.

#### **4.12. Bankruptcy/ Insolvency**

Council Tax debt and Non Domestic Rates debt are deemed to be debts for the purpose of bankruptcy and winding up, where a liability order has been made.

All potential cases for bankruptcy are to be considered by the Court Officer and the Billing and Recovery Manager. The Billing and Recovery Manager will review the details of each individual case and determine the course of action.

Consideration will be given to the following:

- The history of the case and what actions have already been considered/ tried/ aborted:
  - Liability orders have been obtained.
  - Arrangements have been tried at all stages of recovery.
  - Income/ personal circumstances of the debtor are known/ not known.
  - Attachments of benefit/ earnings have been considered (if relevant).
  - Case(s) have been passed to the Council's Bailiff to levy distress but returned as unable (for whatever reason) to find any or sufficient goods.
  - Committal proceedings have commenced but unable to serve warrant with or without bail.
  - A charging order has been considered.
- The amount of debt.
  - Bankruptcy proceedings can be taken for as little as £750.00. However, before cases are actioned, the debt should cover at least two or more years and the amount of debt should exceed £2000.00. Please note that these are minimum amounts and, depending upon the circumstances in individual cases, these amounts will mostly be exceeded.
- The circumstances of the debt.
  - How the debt arose
  - Whether the debt is ongoing or for a closed account



- Other liabilities the debtor has with the Council i.e. Business Rates, Sundry Debts.
- The circumstances of the debtor.
  - Income, earnings if known (Has 14 day letter been returned?)
  - Determine if any benefit application has been lodged, previously or currently and is there entitlement to benefit.
  - Review personal circumstances of debtor (if known): age, family situation, vulnerability of debtor and family.
- Obtain Land Registry search for all relevant properties.
- Obtain (Experian) search detailing financial circumstances of debtor and partner.
- If decision is made to proceed with bankruptcy, letter to be sent:
  - Advising debtor of situation.
  - Intention to take bankruptcy proceedings.
  - Enclose copy of Guide to Bankruptcy issued by The Insolvency Service.
  - Advising payment in full within 14 days will avoid action being taken.
  - Inviting debtor to contact and not to ignore the situation.
- If no contact received nor payment made, the case will be referred to the nominated agent specialising in bankruptcy proceedings. This can be after 14 days, but in practice a longer period will be allowed.

#### **4.13. Charging Orders**

A charging order is an order issued by the court and placed on a debtor's property for monies owed. The authority can make an application to the county court for a charging order for Council Tax debt. This is dependent upon liability orders. The charging order may only be obtained for the property in respect of which Council Tax is due.

All potential cases for charging orders are to be considered by the Court Officer and Billing and Recovery Manager. The Billing and Recovery Manager will review the details of each individual case and determine the course of action.

Consideration will be given to the following:

- The history of the case and what actions have already been considered/ tried/ aborted:
  - Liability orders have been obtained.
  - Arrangements have been tried at all stages of recovery.
  - Income/ personal circumstances of the debtor are known/ not known.
  - Attachments of benefit/ earnings have been considered (if relevant).
  - Case(s) have been passed to the Council's Bailiff to levy distress but returned as unable (for whatever reason) to find any or sufficient goods.
  - Committal proceedings have commenced but unable to serve warrant with or without bail.
- The amount of debt.
  - Charging orders can be obtained if the amount of debt is at least £1000.00. However, before cases are actioned, the debt should cover

at least two or more years and the amount of debt should exceed £2000.00. Please note that these are minimum amounts and, depending upon the circumstances in individual cases, these amounts will mostly be exceeded.

- The circumstances of the debt.
  - How the debt arose
  - Whether the debt is ongoing or for a closed account
  - Other liabilities the debtor has with the Council i.e. Business Rates, Sundry Debts.
- The circumstances of the debtor.
  - Income, earnings if known (Has 14 day letter been returned?)
  - Determine if any benefit application has been lodged, previously or currently and is there entitlement to benefit.
  - Review personal circumstances of debtor (if known): age, family situation, vulnerability of debtor and family.
  - Determine whether obtaining a charging order would unduly affect any other person e.g. joint owner, spouse, dependent children.
- Obtain Land Registry search for relevant property.
- Consider if the property is likely to be repossessed
- If decision is made to proceed with obtaining a charging order, letter to be sent:
  - Advising debtor of situation.
  - Intention to obtain a charging order.
  - Advising payment in full within 14 days will avoid action being taken.
  - Inviting debtor to contact and not to ignore the situation.

#### **4.14. Write Offs**

All recoverable local taxation debts, considered appropriate for write off, will be agreed and authorised.

- Where the debt is under £1000, the write off is authorised by the Joint Director of Corporate Resources.
- Where the debt is over £1000, a report is compiled and presented to Executive for authorisation.
- Write offs would normally be considered in the following cases:
  - The debtor has absconded
  - The debt is not cost effective to pursue
  - The debtor is deceased and there are no funds available in the estate
  - The debtor has ceased to trade
  - The debtor is bankrupt, in liquidation or receivership
  - A debt relief order is in force

Where a debt has been written off, the Council may still recover the debt if circumstances change and it becomes recoverable.

## **5. Responsibility**

Responsibility for implementing this policy lies with Revenue Services – Billing and Recovery Section. If the customer feels that the policy has not been adhered to they should contact the Section in the first instance. If they are still dissatisfied, a formal complaint can be lodged, in accordance with the Council's Corporate Complaint Policy. This can be via the website [www.bolsover.gov.uk](http://www.bolsover.gov.uk) to email [enquiries@bolsover.gov.uk](mailto:enquiries@bolsover.gov.uk).

## **Appendix 1**

### **Advice and Support**

#### **Bolsover District Council -Revenues and Benefits Service**

Website: [www.bolsover.gov.uk/housing-benefit-overview](http://www.bolsover.gov.uk/housing-benefit-overview) or [enquiries@bolsover.gov.uk](mailto:enquiries@bolsover.gov.uk)

Telephone: **01246 242443**

#### **Advice Derbyshire**

Website: <http://www.advicederbyshire.org/index.shtml>

Telephone: **08444 111 308**

Textphone: **08444 111 445**

Call from a mobile: **0300 3300 650**

#### **NE Derbyshire Citizens Advice Bureau**

Website:

<http://mymoney.nedcab.org.uk/moneyadvice/advicefrombureau.asp>

Telephone: **0844 8489800**

#### **Derbyshire Unemployed Workers Centre**

Website: [www.duwc.org.uk](http://www.duwc.org.uk)

Telephone: **01246 231441**

#### **2 Shires Credit Union**

Website: <http://www.2shires.org.uk/>

Telephone: **01909 500575**

#### **National Debtline**

Website: <http://www.nationaldebtline.co.uk/>

Telephone: **0808 808 4000**

#### **Release**

Pinxton and South Normanton residents only

Telephone: **01773 306289 Or 07854 296344**