

GREAT YARMOUTH BOROUGH COUNCIL



INCOME AND DEBT RECOVERY POLICY

This document sets out the Council's Policy for the collection of Council Tax, Non-Domestic Rates and Sundry Debts.

The Revenue Services Department is responsible on behalf of the Council for the collection of Council Tax, Non-domestic rates (otherwise known as Business Rates) and Sundry Debts.

The Department has a legal duty to seek to recover all outstanding debts.

It is the Council's policy not only to ensure that money owed to the Council is recovered so far as possible but also that people receive benefits to which they are properly entitled. Wherever possible the Council will distinguish between those who cannot pay their debts and those who will not pay them. Where genuine hardship exists, the Council's officers should adopt a sympathetic and reasonable approach. This policy is intended to ensure that all taxpayers and debtors are treated in a fair and consistent way, taking account of individual circumstances. At all times the Council's customer care and anti-poverty strategies must be operated within the collection environment. Those people with serious debt problems should be referred to debt counselling agencies as appropriate

The Council recognises that prompt, firm but fair action in collecting money is essential to ensure efficient and cost effective collection of money due.

COUNCIL TAX

Legislation provides for payment of Council Tax by up to 10 monthly instalments and sets out the steps that the Council must follow in order to enforce payment through the Courts.

At all times the Council will seek to act legally and promptly in all cases where payment is in default.

Liability Changes

- Council Tax bills must be issued promptly setting out the statutory instalments required to discharge the tax on the appropriate dates.
- Annual bills will should be sent out by mid-March each year so that the first instalment can be made on 1 April.
- The Revenue Services target for processing Council Tax liability and payment plan changes is within 21 days of receipt of receiving the necessary information.

Methods of Payment

- The Council will actively promote payment by Direct Debit, which is the easiest and cheapest method of collection and is in accordance with the principles outlined in the Social Strategy document. Application forms should be enclosed with Council Tax bills and reminder notices. Periodically, the scheme should be promoted through advertising or other means
- Officers should ensure that there is no deliberate manipulation of method of payment changes to avoid or delay payment. Only one request should normally therefore be accepted in any one financial year.
- The following payment facilities will be offered;
 - Via the Post Office (at no cost to the taxpayer),
 - By Debit or Credit cards (from 2003/4 out of hours payments by this method through touchtone dialling),
 - Via our Great Yarmouth and Gorleston cash offices,
 - Via the internet from 2003/4 onwards.

Missed instalments- Reminder and Final Notices

- Revenue Services will provide clear information about recovery procedures with every notice sent out.
- In the event of instalments not being paid by the due date a reminder notice will be issued within 21 days.
- If payment is made within the specified time of 7 days and there is a subsequent default a second reminder notice will be issued.
- If a taxpayer pays within the specified time but subsequently defaults again a final notice will be issued.
- Throughout this period, recovery action may be held where appropriate where there is outstanding correspondence or benefit claims. However these cases should be in the minority. Such action must be monitored by the Customer Services Supervisor to ensure appropriateness.

Summons and Liability Orders

- In the event of non-payment of the amount overdue following a final notice a summons will be issued within 21 days for the full amount due for the remainder of the year incurring additional costs.
- Where pre-summons arrangements fail, a further final reminder will be sent before a summons is issued. Summonses wherever possible will not be issued to people who are awaiting the outcome of a new benefit application
- Where customers offer acceptable instalments after the issue of a summons but before the Court hearing, proceedings will continue in order to protect the Council's interests. The costs incurred will remain payable but any award of a liability order by the court will not be acted upon unless the arrangement is broken. If full payment including costs is not made before the hearing date a liability order will be applied for.
- The Recovery Manager will represent the Council at the liability order hearing. He will seek to obtain liability orders in all appropriate cases.
- Notification must be issued to the taxpayer that an order has been made requesting payment in full. In the case of financial hardship a realistic instalment arrangement may be agreed.
- The taxpayer will be required to supply information about their employment situation so that arrangements to recover money due may be made from earnings or income support as appropriate.
- Any such notice requiring this information must make it clear that if an arrangement is not forthcoming or the above information is not supplied the debt will be passed for recovery by the Council's bailiffs.
- Liability orders will be issued to the bailiff in all cases where no contact is made.

Throughout the process the Council's officers should always be prepared to discuss payment arrangements. Where granted by the Court, costs will be added to the debt. Any Court costs imposed for the issue of a summons where a taxpayer subsequently receives Council Tax benefit will be cancelled where the Council Tax debt is fully discharged by the award of the Council Tax Benefit.

The Court costs may be cancelled in other exceptional circumstances with each case being considered on its merits. This is to ensure that those who fall into arrears for reasons other than hardship properly bear additional costs. At the same time, vulnerable and low-income cases should be sympathetically treated.

The issue of a **Liability Order** provides the authority with the following powers:

- Power to obtain financial information from the taxpayer. Failure to supply such information can lead to prosecution as a criminal offence.
- Attachment of earnings.
- Deduction from Income Support or Job Seeker's Allowance.
- Deduction from Councillors' attendance allowance.
- The registering of a legal charge.
- Distress using bailiffs (at this stage substantial costs would be payable).
- Bankruptcy and winding-up powers.

The ultimate sanction will be an application for committal to prison following a Bailiff's return (at this stage substantial costs would be payable). Committal action should be regarded as a deterrent and only used as such.

- The most efficient way to collect unpaid tax once a liability order has been obtained is through attachment of earnings or deductions from income support and these should be used in preference to distraint of goods.
- If the defaulting taxpayer does not complete the required financial information form, prosecution action should be considered in appropriate cases.
- Those cases returned by the bailiff should be considered for processing through the Courts for committal only after the person has been given a final opportunity to make an arrangement for payment either direct to the Council or by means of an attachment of earnings.
- Where possible proceedings will be for consolidated debts of Non-Domestic Rates and Council Tax.

Committals and Bankruptcies

If all other options have been exhausted the Council's policy is to seek payment through application to the Court for committal to prison as a last resort.

The Council may also apply to have a debtor made bankrupt. The debt must be at least £750. The Council recognises that such proceedings are very serious and if a bankruptcy order is made the taxpayer could lose their assets and home.

The initial stage will be to serve a statutory demand notice. At that stage, officers should still enter into an arrangement with the taxpayer provided a substantial part of the debt is initially cleared with a lump sum and then instalment payments made thereafter.

If the taxpayer does not then contact the Council or make sufficient payments, a petition for their bankruptcy may be issued. Officers will not, at this stage, normally enter into a financial arrangement with the debtor, as the Council will not be a preferential creditor for the purposes of bankruptcy. This means that if the person were to be made bankrupt, there would be no guarantee that the Council would receive any dividends. Therefore bankruptcy should be used to encourage payments from the taxpayer.

NATIONAL NON-DOMESTIC RATES

Legislation provides for payment of non-domestic rates by up to 10 monthly instalments and sets out the steps that the Council must follow in order to enforce payment through the Courts.

At all times the Council will seek to act legally and promptly in all cases where payment is in default.

Liability Changes

- Rates bills will be issued promptly setting the statutory instalments required to discharge the tax on the appropriate dates.
- Annual bills are to be sent out by mid-March each year so that the first instalment can be 1 April.
- The Revenue Services target for processing rates liability and payment plan changes is within 21 days of receipt of all the necessary information.

Methods of Payment

- The Council will actively promote payment by Direct Debit, which is the easiest and cheapest method of collection and is in accordance with the principles outlined in the Social Strategy document. Application forms should be enclosed with bills and reminder notices. Periodically, the scheme should be promoted through advertising or other means
- Officers should ensure that there is no deliberate manipulation of method of payment changes to avoid or delay payment. Only one request should normally therefore be accepted in any one financial year.
- The following payment facilities will be offered;
 - By Debit or Credit cards (from 2003/4 out of hours payments by this method through touchtone dialling).
 - Via our Great Yarmouth and Gorleston cash offices,
 - Via the internet from 2003/4 onwards.

Missed instalments- Final Notices

- Revenue Services will provide clear information about recovery procedures with every notice that is sent out. This is to ensure that ratepayers know where they stand at each stage.
- In the event of instalments not being paid by the due date a reminder notice will be issued within 21 days.
- If payment is made within the specified time of 7 days and there is a subsequent default a second notice will be issued.
- If a ratepayer again pays within the specified time but subsequently defaults again a final notice will not be issued.
- Throughout this period recovery action may be suspended on accounts where there is outstanding correspondence. However these cases should be in the minority. Use of these recovery stops should be monitored by the Income Manager to ensure they remain appropriate.

Summons and Liability Orders

- In the event of non-payment of the amount overdue following a final notice a summons will be issued within 21 days for the full amount due for the remainder of the year incurring additional costs.
- Where pre-summons arrangements fail, a further final reminder will be sent before a summons is issued. Summonses wherever possible will not be

issued to people awaiting the outcome of an application for rate relief. Where a ratepayer offers an acceptable instalment arrangement after the issue of a summons but before the Court hearing, proceedings will continue and costs will stand. However any award of a liability order will not be acted upon unless the arrangement is broken. If full payment including costs is not made before the hearing date a liability order will be applied for.

- The Income Manager will represent the Council at the liability order hearing. He will seek to obtain liability orders in all appropriate cases.
- Notification will be issued to the ratepayer that an order has been made requesting payment in full.
- The notice must make clear that if an arrangement is not forthcoming or the above information is not supplied the debt will be passed to the Council's bailiffs for further action.
- Liability orders will be issued to the bailiff in all cases where no contact is made.

Throughout the process the Council's officers should always be prepared to discuss payment arrangements. Where granted by the Court, costs will be added to the debt. The court costs may be cancelled in exceptional circumstances, each case being considered on its merits.

This is to ensure that those who fall into arrears for reasons other than hardship properly bear additional costs but cases of genuine hardship will be sympathetically treated.

The issue of a **Liability Order** provides the Authority with the following powers:

- The registering of a legal charge.
- Distress using bailiffs (at this stage substantial costs would be payable).
- Bankruptcy and winding-up powers.
- Returns by the bailiff will be processed through the Courts for committal only after the ratepayer has been given a final opportunity to make an arrangement for payment..
- Where possible proceedings will be for consolidated debts of Non-Domestic Rates and Council Tax.

Committals and Bankruptcies

If all other options have been exhausted the Council's policy is to seek payment through application to the Court for committal to prison as a last resort.

The Council may also apply to have a debtor made bankrupt or for a company to go into liquidation. The debt must be at least £750. The Council recognises that such

proceedings are very serious and if a bankruptcy order is made the taxpayer could lose their assets and home.

The initial stage will be to serve a statutory demand notice. At that stage, officers should still enter into an arrangement with the taxpayer provided a substantial part of the debt is initially cleared with a lump sum and then instalment payments made thereafter.

If the ratepayer does not then contact the Council or make sufficient payments, a petition for their bankruptcy may be issued. Officers would not, at this stage, normally enter into a financial arrangement with the debtor. The Council is not a preferential creditor for the purposes of bankruptcy or liquidation and there is therefore no guarantee of dividends being paid. Liquidation or bankruptcy is therefore used as a last resort.

SUNDRY DEBTS

At all times the Council will act legally and promptly in all cases where payment is in default.

Liability Changes

Sundry debts are to be issued daily, setting a date 14-21 days hence for the payment due date depending on the type of date

Methods of Payment

- Officers should ensure that there is no deliberate manipulation of method of payment changes to avoid or delay payment. Only one such request should be accepted in any financial year.
- Payment cannot be made by direct debit. However, standing orders can be set up for all debts. Instalment arrangements should not be generally encouraged where payment can reasonably be made in full.

Missed instalments- Final Notices

- Revenue Services will provide clear information about our recovery procedures with every notice we send out. This is to ensure that people know where they stand at each stage.
- If an invoice is not paid by the due date a reminder notice should be sent within 21 days of the payment due date. If payment is still not made then a memorandum requesting a visit by the Council's bailiffs is to be raised within 21 days. For particular services the originating department may be advised to stop their service at this stage. If payment is still not made then a letter should be sent within 21 days telling the debtor that legal action may be taken.
- Throughout this period, recovery may be temporarily suspended because of outstanding correspondence. However these cases should be in the minority.

Use of these recovery stops should be monitored by the Income Manager to ensure they remain appropriate.

LEGAL ACTION

If payment is still not received then depending on the type of debt, the matter should be passed to the Legal Services Department to send a further letter requesting payment in full or a reasonable offer of payment by instalments. If no response is received then a Claim Form to the County Court may be issued. This will add costs to the debt. Further costs are added if judgement is obtained and enforcement is undertaken.

Throughout the process the Council will always be prepared to discuss payment arrangements, but where granted by the Court, costs will be added to the debt. The Court costs may be cancelled in exceptional circumstances with each case being considered on its merits.

This ensures that those who fall into arrears for reasons other than hardship properly bear additional costs whilst cases of genuine hardship should be sympathetically treated.

The above action provides the Authority with the following enforcement powers:

- A warrant of execution. This is the preferred cost effective option.
- An order to obtain information.
- An attachment of earnings order.
- A charging order.
- A garnishee order.

Where possible proceedings will be consolidated with debts for Non-Domestic Rates and Council Tax.

Bankruptcies

If all other options have been exhausted the Council's policy is to seek payment through bankruptcy action. The debt must be at least £750. The Council recognises that such proceedings are very serious and if a bankruptcy order is made the person could lose their assets and home.

The initial stage will be to serve a statutory demand notice. At that stage, officers should still enter into an arrangement with the person provided a substantial part of the debt is initially cleared with a lump sum and then instalment payments made thereafter.

If the person does not then contact the Council or make sufficient payments, a petition for their bankruptcy may be issued. As with other debts, officers will not, at this stage, normally enter into a financial arrangement with the debtor as the Council

will not be a preferential creditor for the purposes of bankruptcy. This means that if the person were to be made bankrupt, there would be no guarantee that the Council would receive any dividends. Therefore bankruptcy should be used to encourage payments from the person concerned.

Customer Care

Officers should aim to raise the awareness of recovery procedures and available assistance by:

- Actively encouraging people with problems to contact the Council early in the recovery process.
- Providing information, help and advice, including benefits.
- Readily accepting alternative payment arrangements including consolidating other arrears.
- Acknowledging and respecting the person's obligations to their dependants.
- Aiming to achieve a fair balance between the claims of competing creditors and recognising that customers need to maintain an acceptable standard of living.
- Providing and making widely available clear and concise information about the statutory sanctions which the authority will use in the recovery process and what these mean to the person in terms of costs, etc.

Bailiffs

The Council recognises that there will always be cases where people will not pay until positive external action is taken. In all cases where the person makes no payment, where recovery cannot be made by an attachment of earnings order or deduction from Income Support (Council Tax only) and the debtor does not contact the Council then bailiffs should be instructed to act. Prior to bailiff action a person should have received:

- A bill.
- A reminder / final notice.
- A summons.
- Notification of the granting of a liability order and (for Council Tax only) a request for employment details.

At every opportunity, payers in difficulties should have been actively encouraged to contact the Council.

The following sets out the guidance and expectations of the Council in working with bailiffs in the enforcement of debts.

- It is recognised that the bailiff has to use a degree of discretion. They are employed to do a specific job and anything that hinders their work affects value for money.

- At any time the bailiff will be prepared to enter into a payment arrangement if the taxpayer cannot pay in full. The arrangement will normally be to clear the debt within 3 months.
- In the cases of:
 - Long term sickness or people with disabilities
 - Recent unemployment
 - Severe financial difficulties
 - Single parent families
 - Low income - just above benefit limit
 - Payers in receipt of other welfare benefits

the period of arrangement can be extended.

- Before agreeing an arrangement in excess of 3 months the person's circumstances should be investigated.
- Where a payment arrangement is broken a letter should be sent to the person in arrears before goods are removed.
- Where the person in arrears is suffering from a serious illness or mental impairment the case should be referred back to the Council's recovery staff.
- The bailiff should also be aware of any other sensitive issues such as recent family bereavements. If there is any doubt regarding the action to be taken in a particular case it should be referred back to the Recovery Manager.
- The bailiff calling at a property must show to the person in arrears a copy of the letter of authority issued by the Recovery Manager and their identification pass.
- The bailiff must be able to verify the amount outstanding, explain fully the opportunity for making payment, make clear that full payment will stop further proceedings and explain what will happen in the case of non-payment.
- Bailiffs should report back where the person alleges that payment has been made. The bailiff must also report back if it is suspected that a hardship case has inadvertently been referred, or in suspected cases of error or difference of information
- The following goods are exempt from levy and seizure:
 - Such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him in his employment business or vocation.
 - Such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic needs of the debtor and his family.
- In order to minimize costs to the person in arrears where possible bailiffs should arrange for van calls to be scheduled per area.
- Where there are no, or insufficient goods on which to distrain, the bailiffs should immediately inform the Recovery Manager.
- The bailiffs should also inform the Recovery Section regarding the employment situation or other relevant financial circumstances that become known.

- The internal bailiff should remit payment to the Council's cashiers on a daily basis. The external bailiff should remit payment to the council for monies collected at agreed intervals normally on a 14-day cycle.

The amount of charges that a bailiff can levy is determined by Regulations as set out below.

Statutory Instruments - 1992.

SI 1992 No.613 - The Council Tax (Administration and Enforcement)

Regulations 1992.

Schedule 5 - Regulation 8 - Charges Connected With Distress.

Statutory Instruments

SI 1989 No.1058 – Non-domestic Rates (Collection and Enforcement)

Regulations 1989.

Schedule 3 - Charges Connected With Distress.

Internal Bailiff Management

In 1998 the bailiff function was brought in-house for all debts where the taxpayer resides in the borough. The internal bailiffs therefore now operate as such for all cases located within the borough. The external bailiff company will be given all cases where the person resides outside the borough. The management of the internal bailiffs and the monitoring of the external bailiffs is carried out by the Recovery Manager.

This means that the internal bailiffs will deal with the majority of cases. Their target is to deal with each case within 90 days by taking the following action :

- achieving a realistic payment arrangement
- attaching earnings(for Council Tax)
- setting up deductions from income support (for Council Tax)
- removing goods
- recommending committal or bankruptcy proceedings

according to the individual circumstances of each case.

This target is managed via the Council's document management system. In some cases the debts will be written off because the whereabouts of the debtor cannot be traced.

The effectiveness of the bailiff's performance was reviewed as part of a Best Value Review in 2001. It was shown that the internal bailiffs had collected more money over a year than external bailiffs over a similar period had when they were bailiffs for all the debts.

External bailiff monitoring

The external bailiff company will be given all cases where the person resides outside of the borough. The management of the internal bailiffs and the monitoring of the external bailiffs are carried out by the Recovery Manager.

The targets for the external bailiffs will be the same as the internal bailiffs in respect of dealing with cases within a specified time

The contract for the external bailiffs is renewed every three years.

Write Offs

GUIDANCE ON THE WRITE OFF OF ARREARS

Introduction

The Council will always be flexible in its approach to recovery of arrears. Each case will be considered on its own merits.

The Council has a duty to minimise any loss to public funds. In seeking to recover arrears it will have regard to:

- a) The period of time that the debt may take to be recovered;
- b) The effect of recovery on the affected person from whom recovery is sought;
- c) The ability to repay of the affected person from whom recovery is sought
- d) The practicality of recovery of the debt and the cost of doing so.

Cases for write-off

Under the law, there is an obligation to take reasonable steps to collect debts. There are however many situations where there is justification for writing off debts provided reasonable steps have been taken regarding each individual case.

Head of Revenue Services and Head of Financial Services Authorisation.

If the overpayment is less than £1000 and is considered for write off because of one of the circumstances below, then the debts are submitted to the above for approval. Both of the above have to sign an authorisation to write off the debt(s). The write offs are presented on a schedule for this purpose. Write off schedules are presented on a monthly basis wherever possible. Once debts have been authorised by the above they are actioned on the computerised accounts system.

Elected Member authorisation for write offs

If the debt is greater than £1000 and it needs to be authorised for write off because one of the circumstances below, then the debts are submitted for formal consultation to the Executive Member Resources. These are presented on a quarterly basis.

Once the debts are approved for write off they are actioned on the computerised account system. Under the Council's call-in procedure the schedule of debts for write off is circulated to all elected members which enables them to identify any cases where they may have personal knowledge of the whereabouts of a person in arrears.

The main circumstances where debts can be authorised for write off

Listed below are the main circumstances where an unrecoverable debt will be considered for write off.

- 1) Where the person is made insolvent (bankruptcies, insolvencies and administration orders).
- 2) The person dies and there are no funds within the estate to pay the debt.
- 3) The person has left the borough and we are unable to trace their whereabouts.
- 4) Where the cost of collection will be greater than the amount of the debt (e.g. recommendations from the legal section).
- 5) Where other information obtained makes it clear that it is uneconomical /impractical to recover the debt.
- 6) Hardship cases where the individual circumstances of the debtor may lead to a decision to write off a debt.

Records and checks

Appropriate records including recommendations must be kept to show that reasonable steps have been taken before write off is considered. This will involve notation on the person's notes screen (using the reasons above) giving the reason for write off and action taken. The exception to this will be where legal/bailiff recommend a write off and in this instance the paper record will be kept with the schedule. Spot checks should be made on a quarterly basis to ensure debts are written off appropriately.

Approved and adopted in accordance with the Council's Constitution on Wednesday 24 September 2003

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Derek Baker, Head of Revenue Services