

Business Rates and Business Improvement District Levy Recovery Policy

Version:	Approved
Date Reviewed:	20.7.2024
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Approved By:	Reibina McGlinchey
Date Approved:	30.7.2024
Date Reviewed	
Date Next Review Due:	30.7.2026

Introduction

Local authorities are responsible for the billing, collection and enforcement of Business Rates. Where there are also Business Improvement Districts (BID's) the same applies.

The Council determines who is liable to pay the business rates in accordance with the Local Government Finance Act 1988, Local Government and Rating Act 1997 and Local Government Act 2003. These acts determine who is liable. Generally, this is the occupiers of business properties or the landlord if unoccupied. The bills are based on the rateable value of the property, values set by the Valuation Office Agency (VOA) and a multiplier, set annually by central government.

The Council has a statutory duty to collect the Business Rates to provide revenue vital for the funding on local services.

All enforcement action taken by Birmingham City Council (BCC) is covered by legislation, The Local Government Finance Act 1988 (as amended) and the Non-Domestic Rating (Collection and Enforcement) (Local List) (Amendment) Regulations 1988.

Business Rates demands are sent to all liable persons (company or individual) detailing the instalments that need to be paid by the date shown. If unpaid, a reminder and if necessary, a final notice is sent. Continued failure to pay results in a summons for hearing for a liability order hearing at The Magistrates Court. A liability order entitles BCC to take various methods of recovery action to collect the debt. These include Enforcement Agent action, or insolvency action.

This policy is written to ensure the Council minimises det and Maximises rates of collection. Discretion as to the recovery method used to collect the balance due will be used once the liability order is granted. This is done considering the organisations or individual's financial circumstances into account. Where possible, flexibility is applied to always ensure that customers are treated fairly.

Vulnerability

Customers are invited to disclose information that may indicate vulnerability. Our aim is to help customers pay their debts and avoid getting into arrears. We recognise these customers may need additional help and support.

Officers within the revenues service and partner organisations involved in the collection of business rates and BIDs have a duty to identify citizens who may be vulnerable.

The guidelines followed by the service in identifying and dealing with potentially vulnerable citizens can be found here:

https://www.birmingham.gov.uk/downloads/file/13745/revenues_vulnerability_guidelines

Stages of recovery

Stage 1: Bill

In March each year, Business Ratepayers are sent a bill covering the 12 months from 1 April. There is a legal right to pay by ten- or twelve-monthly instalments (April to January, or April to March). The amounts and due dates are shown on the bill.

Payment should reach the account by the due date each month and should match the amount shown on the bill.

Direct debit is the most convenient and easy way to pay, and you are fully protected by the Direct Debit Guarantee. Payments by direct debit are made on 1st of the month.

Anyone who cannot maintain their payments may contact the council and ask to extend payment over the whole financial year.

Stage 2: Reminder If the bill is not paid on time, a reminder is sent, showing the overdue amount and advising that court action will follow if payment is not made.

If the account is brought up to date, the instalment plan remains in place.

If no payment is made within 7 days of the issue of a reminder, the remainder of the full year's charge becomes due automatically within a further 7 days and no final notice will be issued.

Stage 3: Final notice

Where only part of the amount due under a reminder notice is paid, or a subsequent instalment is not fully paid a final notice is sent requiring payment of the remainder of the year's charge in full within 7 days. If this is not done, a summons may be issued.

Stage 4: Summons

Where the full year's charge has become due and an amount remains outstanding, a summons will be issued advising that a liability order will be sought in the magistrates' court and costs (currently £112) are added to the amount due.

The summons includes a payment plan. If payment is made in accordance with this plan, or contact is made and an alternative plan is agreed and kept to, the council will still apply for a liability order, but no further action will be taken.

Stage 5: Liability order hearing

While there is a right to appear before the magistrates to challenge the council's application for a liability order, the court cannot refuse to grant a liability order because of an inability to pay, order payment at a set amount, or write off any of the debt.

Information for customers who wish to attend court:

There are no face-to-face interviews. Do not attend court without first contacting the council for a telephone interview. Do not attend court for disputes about valuation or ability to pay, as the court cannot consider these matters. If you have query regarding valuation or payment/payment arrangements, please contact the Council.

Business's must arrange a telephone interview using the contact details on the summons document. There is no need to attend court if a payment arrangement is in place and is up to date. We can help if you are struggling with debt.

Further information is available on this link [birmingham.gov.uk/helpinbrum](https://www.birmingham.gov.uk/helpinbrum)

Stage 6: Liability order

A liability order gives the council the power to:

- pass the debt to our enforcement agents.
- Take insolvency action: petition for an individual to be made bankrupt, or Liquidation of a company
- Committal to Prison

We cannot apply to the magistrates' court for someone to be committed to prison until our enforcement agents have tried and failed to collect the amount due and may only do so if all other options have been considered.

Methods of Enforcement

Enforcement agents (Bailiffs)

Cases are only sent to enforcement agents where no contact has been made to raise any issues, and/or an arrangement has not been made (or has been broken.)

As soon as the enforcement agents receive the account, they send a letter asking for contact. A statutory £75 compliance fee is payable and will be included in any arrangement. If someone does not make contact, the enforcement agents will try to contact them by phone, SMS or email, and send at least one further letter. If contact is still not made, or an arrangement is broken, the case may move to the enforcement stage and a further fee of £235 is added to the debt.

Where enforcement agent action is unsuccessful

Where appropriate, a second firm of enforcement agents may be instructed to collect the debt. They follow the same process as the first enforcement agents.

Any unpaid costs associated with the first enforcement agents cease to be due, and fresh costs are imposed as appropriate.

Debts that remain unpaid are sent back to us. We will look again at whether we can collect them, and may refer them to a debt collection agent, but where appropriate we can apply to the court for:

- where the ratepayer is an individual commitment to prison for up to 90 days
- a bankruptcy or winding up order

We will still consider offers of payment at this late stage but will need to take into account the legal process already underway and the likelihood that the debt will be paid if the proceedings are withdrawn.

Insolvency

An application may be made in the County Court for a person to be made bankrupt, or a company to be wound up. This means that any assets owned by those against whom the application was made - such as property, shares or savings - may be used to clear the debt.

Costs involved in this action can be substantial and may eventually exceed the amount owed.

Because of its serious consequences, such action is only taken where we believe there are enough assets for the council to expect payment in full, either before the hearing or once assets have been realised.

Committal to prison (applicable for Sole Traders only)

Where someone is over 18, our enforcement agents have been unable to collect the amounts owed, and there is no obvious alternative, we can ask the court to consider committing them to prison.

A summons is issued to a means enquiry hearing in the magistrates' court so they can explain why the amount remains outstanding.

The court can:

- set a term of imprisonment of up to 90 days, usually suspended on payment terms ordered by the court.
- allow the case to be withdrawn on payment terms agreed with the council, or for other options to be pursued such as attachment of earnings, insolvency or charging order proceedings.
- write off some, or all of the debt due to an ongoing inability to pay.

There are significant costs involved with such an application, and these may be payable by the debtor.

Help with money advice and debt management

We can help if you are struggling with debt. Further information is available on this link

[birmingham.gov.uk/helpinbrum](https://www.birmingham.gov.uk/helpinbrum) . You can also contact a debt advice service.

[moneyhelper.org.uk](https://www.moneyhelper.org.uk) 0800 138 7777