Revenues recovery policy

Introduction

This document sets out Birmingham City Council’s policy in relation to the recovery of unpaid council tax.

Its powers to collect council tax are set out in the Council Tax (Administration & Enforcement) Regulations 1992 (SI 1992 No. 613, as amended).

Overall policy

Birmingham City Council is committed to assisting all customers to pay their council tax bills. This includes:

- maximising benefit take-up;
- providing accurate bills as soon as possible; and
- assisting people to make affordable payment arrangements based on their means.

To make a claim for benefit, visit: https://www.birmingham.gov.uk/info/20017/benefits_and_support/301/make_a_new_housing_benefit_or_council_tax_support_claim

Help with debts or money problems can be sought from the council’s Debt Advice Team (by calling 0121 303 2087), Citizens Advice (contact details are at http://www.bcabs.org.uk/page/contact-us), or other similar agencies. We will place a hold on council tax accounts for at least 21 days to allow for this to be done.

Where bills remain unpaid and agreement is not reached on how they are to be paid, the council will and does use all appropriate powers to pursue these debts, including direct deductions from earnings or benefits, collection through enforcement agents (bailiffs), charging orders against property, bankruptcy and in some cases even commitment to prison.

This document provides full information on the different stages and actions the council will consider.

Revenues statement on potentially vulnerable persons

There is a need for officers within the revenues service and partner organisations involved in the collection of council tax and business rates to identify council tax payers who could be identified as possibly being vulnerable and so require an approach which takes into account all viable options. Whilst there is no national standard or legal definition of a vulnerable, the revenues service has always recognised the need to be mindful of such instances and has had in place for some time, guidelines for its enforcement agents (bailiffs). These are contained within the council’s code of conduct for enforcement agents.
The following indicate situations in which individuals may be considered as potentially vulnerable under this statement:

- ongoing mental illness;
- severe depression;
- potentially suicidal;
- longstanding health conditions;
- learning disabilities;
- terminal illness;
- recent bereavement;
- the elderly, where it is clear the person is unable to deal with payment.

The intention is not to produce a prescriptive list, but to identify potential categories/indicators. Each case will be considered on its own merits.

Where a person is proven to be vulnerable, we will ensure no enforcement action is taken before consideration is given to all aspects of the case. If an account is with an enforcement agent it must be recalled immediately.

Where an enforcement agent becomes aware of a person who is potentially vulnerable, they will return the account to the revenues service for investigation.

**Stages of recovery**

**Stage 1: Bill**

In March each year, council tax payers are sent a bill covering the 12 months starting 1 April. This includes information advising how to claim council tax support and other reductions.

There is a legal right to pay by ten or twelve instalments (April to January, or April to March) and details of the payment plan are included in the bill.

For people paying by a payment card, payments should reach the account by the 1st of each month and should match the amount shown on the bill.

Anyone who cannot maintain their payments in line with the statutory instalment scheme may contact the council at this point and ask to extend payment over the whole financial year, or into the following year where appropriate.

For direct debit payments we are able to offer 4 dates – the 8th, 15th, 21st or 28th of the month. This is because direct debits are the most secure and cheapest way of making payments. Payment can also be paid half-yearly, or annually in advance.


**Stage 2: Reminder**

If someone does not pay on time, they will be sent a reminder notice advising them of this and making it clear that court action will follow if payment or contact is not made. The council’s Contact Centre telephone number is provided, as are addresses for written correspondence. Where appropriate, the payment plan can be extended.

If the account is brought up-to-date, the instalment plan remains in place unless two reminders have already been issued during that year, in which case the right to instalments is lost and the remainder of the year’s charge becomes due in full.

**Stage 3: Final notice**

Where someone does not pay the full amount due following a reminder notice, or having caught up falls behind again, a final notice will be sent requiring payment of the remaining charge for the year in full within 7 days, as failure to pay will lead to the issue of a summons.

In appropriate circumstances, a payment arrangement may be agreed at this stage.

**Stage 4: Summons**

Where the right to pay by instalments has been lost and an amount remains outstanding, a summons will be issued advising that a liability order will be sought in the magistrates’ court and costs of £69 are added to the amount due.

Whether contact is made with the Contact Centre or in writing, the person has the opportunity to explain any financial difficulties they may have and to negotiate a realistic arrangement based on these circumstances.

There is a further opportunity at this stage to explain any financial difficulties, with the option to negotiate an arrangement - an income and expenditure form is enclosed to help with this. The liability order application will generally still go ahead, but no action will be taken to enforce the debt if payments are maintained.

**Stage 5: Liability order hearing**

There is a further opportunity at this stage to make a payment arrangement or raise any other issues. Council officers attend the magistrates’ court to interview those attending the hearing to discuss payment and any other issues that may be raised.

Individuals may choose to go before the magistrates, but this is generally not necessary. In most cases, the court has no powers to address the issues raised and is required to grant the liability order.
Stage 6: Liability order

A liability order gives the council the power to:

- seek information about someone’s income;
- ask for deductions from earnings through an attachment of earnings order;
- ask for deductions from benefits;
- pass the debt to our enforcement agents;
- petition for someone to be made bankrupt;
- apply to the county court for a charging order against the property council tax is owed on.

(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 will only do so if all other options have been considered.)

Stage 7: 14-day letter

Once a liability order has been granted, we send a notice (known as a “14-day letter”) stating that the liability order may be passed to an enforcement agent within 14 days unless an payment arrangement is agreed.

This notice incorporates an income and expenditure form, and invites the person to contact us to make a payment arrangement or provide information so that deductions can be made direct from their benefits or earnings.

Methods of enforcement

Attachment of earnings orders (AEOs)

Where employment details are known, consideration will be given to deducting instalments direct from wages or salary.

The amount to be deducted is worked out by the person’s employer as a percentage of net earnings, and may vary from week to week or month to month - for instance if overtime is worked. The percentages are set out in law and neither the council nor the employer can change these levels.

Different percentages apply depending on the band the person’s income falls into - the higher the net earnings, the higher the percentage. Where earnings are low, the amount that can be deducted may be very small or even zero.

Councils are not allowed to have more than two such orders in place at any one time. Our policy is to apply for the maximum of two, unless it is clear from the information available that this would cause hardship.
Deductions from benefit

Where someone is receiving benefits we can ask the Department for Work and Pensions (DWP) to deduct payments direct from benefit.

A set amount can be deducted each week from benefits such as jobseeker’s allowance, income support or pension credit.

If making deductions would leave a person without enough money to live on, the DWP will write to the council stating that they are unable to make a deduction. We will then contact or write to the person with a view to making a payment arrangement.

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); and
- council tax support is not in payment, and alternatives such as deductions from benefit, attachment of earnings or a charging order are not viable or appropriate.

Immediately the enforcement agents receive the account, they send a letter requesting 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, 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 will 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 returned to the council, and letters are sent asking people to contact to discuss payment or any issues they may have. This letter makes it clear that failure to do so may lead to an application being made to court for

- their commitment to prison for up to 90 days; or
- a bankruptcy order; or
- a charging order on the property they owe council tax for.

Where one of these options is used, notices are issued offering a further opportunity to discuss payment, but of course by this late stage any proposal for payment has to take into account the legal process then underway.
**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 the party/ies subject to the application - such as property, shares or savings - may be used to clear the debt.

Costs involved in this action can be substantial, but can be recovered from the party/ies subject to the order.

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

**Charging order**

We may make an application to the County Court for a charging order where the owner owes at least £1,000 in liability order debt for that property. The costs, and any interest payable, will also be charged to the owner.

Once an entry is made at the Land Registry confirming that the debt has been secured, the property cannot be sold without the council tax debt being addressed first.

Payments can still be made to reduce the debt. If the debt is paid in full, including costs and interest, the charge will be removed.

**Enforced sale**

Where a charging order has been made, we may go on to apply to the County Court for an order for possession and sale which gives us the power to sell the property at auction.

We only seek such an order where the property is not anyone’s sole or main residence.
Committal

Where a person is over 18 years of age, our enforcement agents have been unable to collect the amount owed, and there is no obvious alternative, an application can be made to commit that person to prison.

A summons is issued to attend a means enquiry hearing in the magistrates’ court to 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 substantial costs involved with such an application and these may be payable by the debtor.