

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 [this page](#).

Help with debts or money problems can be sought from the council's Debt Advice Team by calling **0121 303 2087** or contacting other agencies such as those listed at the end of this document. We will place a hold on council tax accounts for at least 21 days to allow for this to be done.

Anyone having difficulty paying should let us know as soon as possible.

Where bills remain unpaid and agreement is not reached on how they are to be paid, the council will 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.

Information on the different stages of enforcement, and actions the council may take to collect the amounts due, are shown below.

Vulnerability

Officers within the revenues service and partner organisations involved in the collection of council tax and business rates 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](#).

Stages of recovery

Stage 1: Bill

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

Council tax payers have a statutory 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 cheapest and most secure way to pay. Payments can be made monthly on the 1st, 8th, 15th, 21st or 28th of the month, half-yearly, or annually in advance.

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

Stage 2: Reminder

If an instalment is not paid on time, a reminder notice will be sent advising of this and making it clear that court action will follow if payment is not made.

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 a final notice is issued requiring payment of the remainder of the year's charge in full within 7 days.

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

When outstanding council tax liability is only part paid for the amount due under a reminder notice or when two reminders have been received within a financial year and instalments fall behind a third time, a final notice will be issued requiring payment of the remainder of the year's charge in full within 7 days. If full payment is not received, 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 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. It also cannot deal with disputes about liability, discounts or exemptions, or council tax support, as these must go before the Valuation Tribunal.

There are no face-to-face interviews held at the Court. Do NOT attend court to dispute liability, benefits, discounts, exemptions, or banding. The magistrates court cannot consider these issues.

Instead arrange a telephone interview using this link [birmingham.gov.uk/counciltax-summons](https://www.birmingham.gov.uk/counciltax-summons) as soon as you receive the summons or contact us 0121 303 1113 to discuss the nature of any dispute so that you may be may advised or signposted accordingly.

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:

- seek information about someone's income via a means enquiry;
- 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 may 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 if payment is not made or agreed.

It 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. Where employment details are not known, we may apply to HMRC for this information so that deductions can be made.

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 certain state benefits, we can ask the Department for Work and Pensions (DWP) to deduct payments direct from their benefit.

A set amount can be deducted each week from benefits such as jobseeker's allowance, income support or pension credit, but deductions from Universal Credit may vary.

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 seek to make a payment arrangement with them.

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 (plus 7.5% of the amount outstanding if over £1,500) 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 via attachment of earnings or deductions from benefit, and may refer them to a debt collection agent, but where appropriate we can apply to the court for

- commitment to prison for up to 90 days;
- a bankruptcy order;
- a charging order on the property for which the debt is owed;
- an order for possession and sale of the property for which the debt is owed

We will still consider offers of payment at this late stage, but will need to take into account the legal process then 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.

Due to the serious consequences of insolvency, 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 realized, or, the person or company is involved in activity to prevent, delay or avoid the recovery or payment of tax.

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 of this action, 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 may not 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. Once the costs of the legal action and the debts to the council have been repaid from the sale proceeds, the surplus will be remitted to the original owner(s) of the property or paid to the Court.

Committal to prison

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;
- remit 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 . You can also contact a debt advice service.

Council Tax Support



If your income is low or you get Universal Credit you might qualify for Council tax Support. For further information please visit birmingham.gov.uk/CTS



Birmingham
bcabs.org.uk
0300 330 2130



nationaldebtline.org
0808 808 4000

Money Helper

moneyhelper.org.uk
0800 138 7777