



Democratic Services

Location: Phase II
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CMD No: 1169

**To: COUNCILLOR MARTIN GODDARD
CABINET MEMBER FOR FINANCE**

c.c. All Members of the Corporate Resources &
Infrastructure Select Committee
c.c. Tiffany Boreham – Head of Revenues and
Benefits
c.c. Andy Evans – Corporate Director of Finance

Date: 12 July 2024

Non-Key Decision request

Form D

AGREEMENT OF THE COUNCIL TAX COLLECTION STRATEGY

Dear Cabinet Member,

Attached is a report requesting that a decision be made by you as an individual Cabinet Member. Democratic Services confirm that this is not a key decision, as such, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 notice period does not apply.

You should take a decision **on or after Monday 22 July 2024** in order to meet Constitutional requirements about publication of decisions that are to be made. You may wish to discuss the report with the Corporate Director before it is made. Please indicate your decision on the duplicate memo supplied and return it to me when you have made your decision. I will then arrange for the formal notice of decision to be published.

Liz Penny
Democratic Services Officer

Title of Report: Agreement of the Council Tax Collection Strategy

Decision made:

Reasons for your decision: (e.g. as stated in report)

Alternatives considered and rejected: (e.g. as stated in report)

Signed Date.....

Cabinet Member for Finance

AGREEMENT OF THE COUNCIL TAX COLLECTION STRATEGY

Cabinet Member(s)	Cllr Martin Goddard
Cabinet Portfolio(s)	Cabinet Member for Finance
Officer Contact(s)	Tiffany Boreham – Head of Revenues and Benefits
Papers with report	Council Tax Collection Policy

HEADLINES

Summary	This report recommends agreement of the Council Tax Collection Strategy, which consists of an updated Council Tax Collection Policy, a key document detailing our approach to the collection of Council Tax and the continued use of Enforcement Agents, which support us to deliver consistently strong collection rates.
Putting our Residents First Delivering on the Council Strategy 2022-2026	<p>This report supports our ambition for residents / the Council of: An efficient, well-run, digital-enabled council working with partners to deliver services to improve the lives of all our residents</p> <p>This report supports our commitments to residents of: A Digital-Enabled, Modern, Well-Run Council</p>
Financial Cost	This policy is expected to cost up to £12k per annum. Funding is available through existing base budgets of £200k within the Council Tax Recovery Team.
Relevant Select Committee	Corporate Resources and Infrastructure Select Committee
Relevant Ward(s)	N/A

RECOMMENDATIONS

That the Cabinet Member for Finance:

1. **Agrees the Council Tax Collection Policy which details all methods of collection and the stage at which each method will be considered; and**
2. **Authorises the Corporate Director of Finance to approve Service Level Agreements with the Enforcement Agent companies and solicitors used to recover revenues debt.**

Reasons for recommendations

The current Council Tax Collection Policy has been in place since 2014 and has provided a framework in which the Council has been able to perform strongly in the effective collection and

recovery of Council Tax income, with in-year collections rates of 97% against London Borough averages of 96%. From 1st June 2024, changes to the Revenues & Benefits service operating model have gone live, aligned to the transition from the previous outsourced delivery partner, providing an opportunity to refresh this policy and ensure it fully reflects a changing external environment and the opportunities afforded by emerging technologies.

Within both the existing and recommended Council Tax Collection Policies, the need to proactively pursue recovery of sums owed is recognised and the use of Enforcement Agents and solicitors supports these aspects of collection activities. To ensure that any Enforcement Agents working on behalf of the Council are fully aligned to policy requirements, it is recommended that refreshed Service Level Agreements are entered into at this stage.

Alternative options considered / risk management

While there is scope to maintain the existing Council Tax Collection Policy, this is not recommended as the proposed update ensures that activities are aligned to current best practice and reflects within a single document new responsibilities such as those contained within the “Breathing Space” framework. In addition, the refresh updates terminology where appropriate, such as reflecting the change from Bailiffs to Enforcement Agents.

There is scope for a recovery strategy which does not use Enforcement Agents; however, this would significantly degrade the Council’s ability to recover sums properly due under Council Tax and therefore result in a reduction in funds available to support delivery of services to residents.

Select Committee comments

None at this stage.

SUPPORTING INFORMATION

Background information

The Council Tax Recovery function has been split between our outsourced provider Liberata and an in-house team since 2017. This split makes it difficult to show accountability / responsibility of the current arrears position.

The Council’s current contract with Liberata in the Revenues & Benefits Service expired on 31st May 2024. This has provided an opportunity to review the effectiveness of the split recovery function.

It has been agreed that, in line with the Liberata contract ending, the Council Tax Recovery Team is brought back in house, with the priority being collection. Specifically, the team will focus on recovery and the new team is being recruited to and should be fully operational by July 2024 as this work is now back with Hillingdon.

The Recovery Team has a new structure, and this change is designed to address the recent increase in debt requiring recovery. Due to the pandemic and the recent Cost of Living crisis recovering the debt and engaging with residents has become more complex. The Council Tax

debt stands at £33 million. Pre-Covid, this figure (March 2020) was static at £17 million. During Covid, the Council Tax debt increased by £16 million, the additional capacity within the team will be tasked with tackling this increased debt balance over a three-year period.

New Council Tax Collection Policy

To be able to recover the maximum Council Tax debt, the Council will need to use all available collection methods. During the pandemic the Council followed Central Government advice to put recovery action on hold. As a result, most local authorities, with Hillingdon being no exception, have a large amount of debt to tackle and in that context, it is the right time to review the Council's recovery practices.

In most cases effective collection of council tax debt can be achieved using the following methods – attachment to benefits, attachment to earnings, payment arrangements (which are reviewed periodically) – but there are some persistent debts where these methods do not work.

The new policy lists all the collection methods that could be used, including the more specialist methods of recovery such as charging orders, bankruptcy and committals. These methods would only be considered when all other recovery methods had been exhausted and where the financial benefit outweighs the time and costs involved.

New Service Level Agreements with the Enforcement Agent Companies

The new Council Tax Collection Policy confirms that the Council will continue to use the enforcement agents for recovery. During 2023/24, £2,807,526.91 was recovered using this method.

Enforcement Agent Recovery totals over last 3 years:

Enforcement Agent Company	2021/2022	2022/2023	2023/2024
Bristow and Sutor	£175,794.55	£911,771.67	£1,424,627.88
CDER	£175,311.09	£865,459.13	£1,284,935.47
Stanford and Green	£76,475.24	£89,674.12	£97,963.56

The 2023/24 collection figures are higher than usual. This is due to recovery being restarted after Covid-19 and higher volumes of cases being sent to the enforcement agents for collection.

Stanford & Green's figures are lower as they collect the cases returned by CDER & Bristow & Sutor. As these cases are recycled, it can mean it is slightly more difficult to get payment.

The Debt Recovery Enforcement Agent Service Level Agreements have expired, so this report is requesting to renew the Service Level Agreements with the 3 enforcement agents for a 2-year period.

The following enforcement agent companies are used within Revenues (Council Tax and National Non-Domestic Rates), Housing Benefit Overpayments and Sundry Debtors: CDER Group, Bristow & Sutor, and Stanford & Green. There are no costs to the Council regarding the Council

Tax and National Non-Domestic Rates work as these costs are passed onto the customer based on the relevant legislation. The costs to Hillingdon are linked to Housing Benefit Overpayments and Sundry Debts.

The enforcement agents are given cases which have exhausted standard recovery processes. The enforcement agents have sophisticated technology allowing them to analyse the data, providing detailed information on our customer base and the contact outcomes. These companies are compliant with enforcement legislation and vulnerability is considered as part of the documented agreements. They are a fundamental part of Hillingdon's collection action.

Transactional Finance & Revenues are projected to spend less than £10K per annum on the 3 suppliers. Whilst the cost to Hillingdon is relatively low, our 3 suppliers could benefit from between £20k - £250k per annum from fees remitted, making the 2-year contract value up to £500k benefit to each Enforcement Agent.

Given that tackling debt is a priority for our Local Authority, it is vital that enforcement is utilised (where suitable) as a method of collection and Hillingdon should continue to benefit from the advanced technology the enforcement agents operate with.

Financial Implications

The new policy is expected to cost a maximum of £12k per annum and will be contained within the existing revenue budgets of £200k. Note that Enforcement Agents will recover most costs from liable charge payers alongside sums due to the Council in line with standard practice.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities

Efficient revenues collection is essential for the daily running of the Council as approximately 70% of the Council's income is generated through this (Council Tax and Business Rates).

Having a clear collection policy which details all collection methods available supports the team to consistently achieve a Council Tax collection rate of 97%, meaning that essential Council services are better protected.

We have a local Council Tax Reduction scheme, which is a banding scheme that supports financially vulnerable residents.

Consultation carried out or required

None.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance have reviewed this report and concur with the Financial Implications set out above, noting the recommendation to agree the Council Tax Policy and approve for delegated authority to be granted to the Corporate Director of Finance to agree an SLA Enforcement Agent companies and solicitors used to recover revenues debt. The cost of the enforcement action is forecast to be up to £12k per annum.

The Council's budget strategy is predicated on the recovery of Council Tax generating an additional £800k of one-off funding in 2024/25, with a further £2,800k over 2025/26 and 2026/27, this policy and continued use of Enforcement Agents will assist in securing this benefit for the Council.

Legal

Legal Services confirm that the Council is responsible for levying and collecting council tax in the Hillingdon area pursuant to section 97 of the Local Government Finance Act 1992.

The Council, in its Council Tax Collection Policy and wider collection strategy, must not contravene any of the rules imposed by laws relating to council tax collection, enforcement agents and enforcement methods, such as:

- Part 1 of, and Schedules to, the Local Government Finance Act 1992, concerning core council tax principles
- Council Tax (Administration and Enforcement) Regulations 1992, concerning administration and enforcement of council tax
- Council Tax (Demand Notices) (England) Regulations 2011, concerning the content of demand notices for council tax
- Magistrates' Court Rules 1981, concerning magistrates' court processes, including summons
- Part 9 of the Insolvency Act 1986, concerning bankruptcy proceedings
- Part 3 of, and Schedule 12 to, the Tribunals, Courts and Enforcement Act 2007, concerning enforcement by taking control of goods

There is no such contravention in the wording of the recommended Council Tax Collection Policy. In any event, the Policy itself states that, if it is not compliant with a legal requirement, then the legal requirement has ascendancy. Thus, there are no legal implications to the Council following the recommendations set out in this report, although any contract that the Council enters into complies with its Procurement & Contract Standing Orders.

Following implementation of the recommendations, the Council, and the enforcement agents it instructs, must ensure that they, in practice, continue to comply with the laws relating to council tax collection and enforcement. In particular, all enforcement agents used must be certified in accordance with section 64 of the Tribunals, Courts and Enforcement Act 2007 and there are further procedures under Schedule 12 to that Act that must be complied with when seizing goods. Service level agreements between the Council and each enforcement agent company it uses are

legally prudent as they can mandate proper conduct of enforcement agents. This is recognised within this report, which recommends delegation of authority to approve such service level agreements to the Corporate Director of Finance. Furthermore, the Council Tax Collection Policy itself indicates that the Council instructs solicitors to take conduct of certain enforcement options, which will assist with ensuring compliance with the legal framework.

The Council must also ensure that it complies with its public sector equality duty on an ongoing basis under section 149 of the Equality Act 2010 in its collection and enforcement strategy by having due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. An equalities impact assessment may be carried out for this purpose. The Council Tax Collection Policy itself includes provisions that give scope for discernment based on vulnerabilities and to support those who may be under financial pressure. This report also states that the documented agreements with enforcement agent companies require them to consider the resident's vulnerability in their enforcement approach. In addition, the report states that the Council has a local Council Tax Reduction Scheme pursuant to section 13A of the Local Government Finance Act 1992 in order to support financially vulnerable residents.

BACKGROUND PAPERS

NIL.

London Borough of Hillingdon

Council Tax Collection Policy

This policy is intended to comply with the legal requirements of the Local Government Finance Act 1992, The Council Tax (Administration and Enforcement) Regulations 1992; and other relevant law and case law. For clarity if this policy is not compliant with a legal requirement, then the legal requirement has ascendancy.

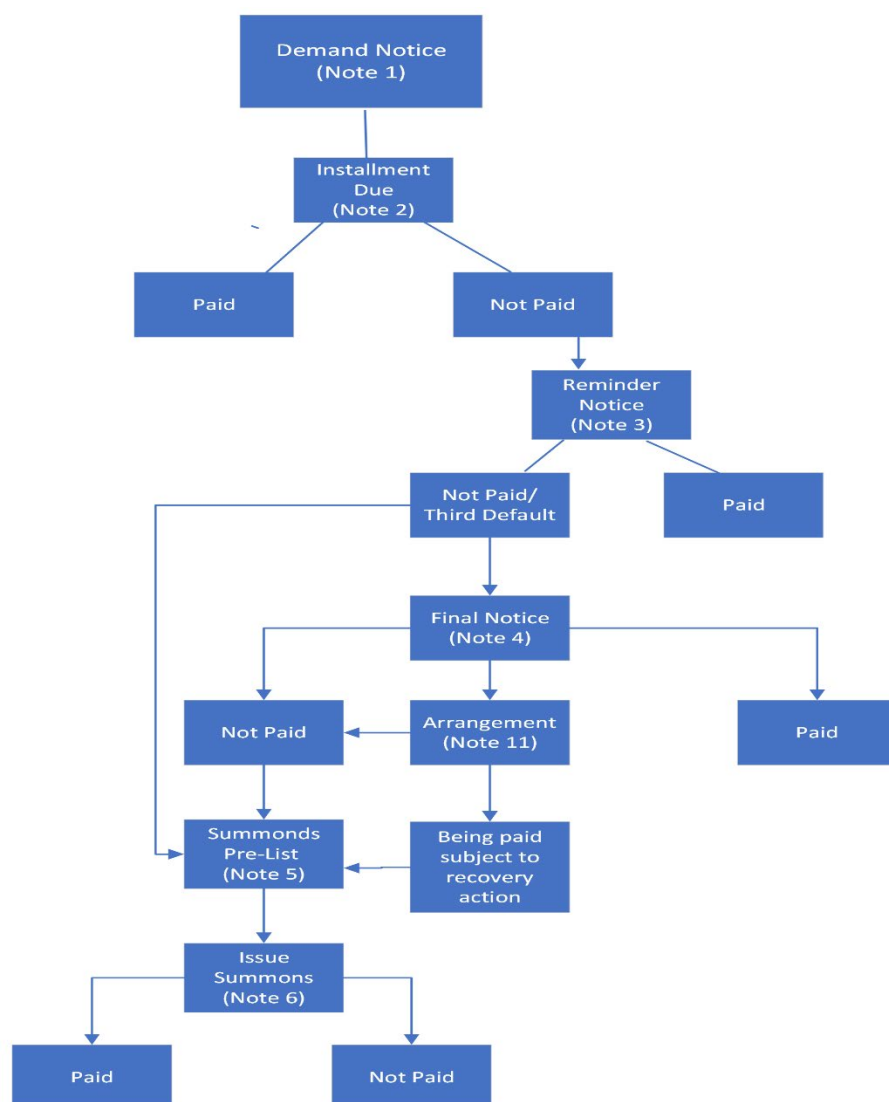
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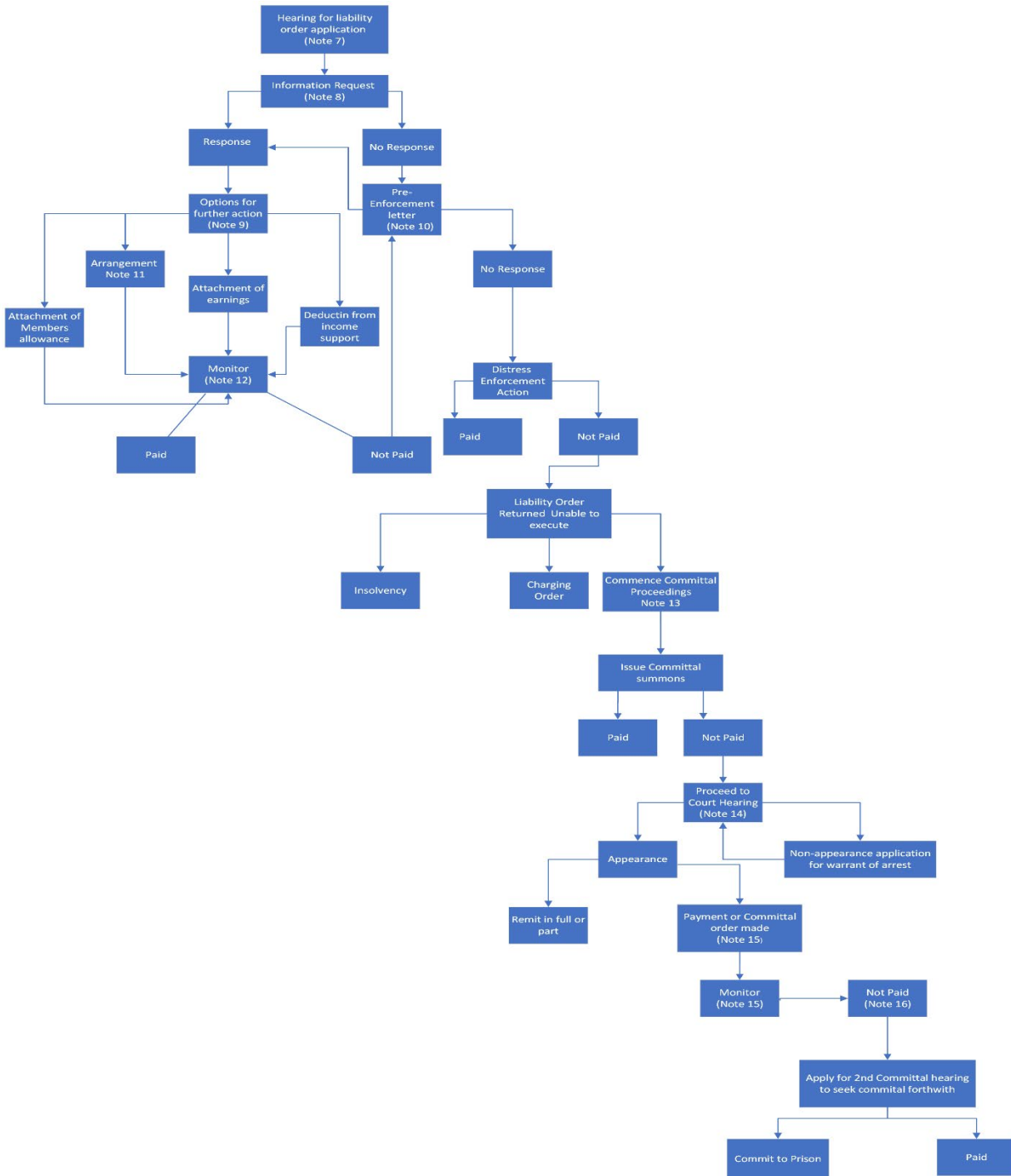
1. Introduction
2. Collection Flow Chart
3. Collection Flow Chart – accompanying notes
4. Enforcement Agents
5. Tracing
6. Debts to be written off
7. Maximising Benefit take up, Exemptions, Discounts and Discretionary Reduction
8. Maximising Direct Debit take up.
9. Complaints
10. Changes in Economic Climate
11. Breathing Space – Debt Respite Scheme

1. Introduction

This policy identifies the legalities of the collection of council tax as set out by the Local Government Finance Act 1992. It details the responsibilities of how it will be collected and how support can be given to those suffering financial hardship or vulnerability.

2. Council Tax Collection flowchart





3. Accompanying Notes to Flowchart

Note 1- Annual Billing

Demand notices are issued by 11th March in each financial year to allow for the first instalment to be paid on 1st April and to ensure the appropriate notice is given under the Direct Debit scheme.

Note 2 – Instalment Payment

Instalment payments are due on 1st each month for those paying by all methods other than Direct Debit.

The Council has the facility to operate Direct Debit for 4 dates within the month: 1st, 10th, 18th and 25th designed to accommodate most pay dates for customer convenience.

If required instalments can be paid over 12 months via all available payment methods this must be requested in writing.

Note 3 – Reminder Notice

Reminders can be issued immediately after an instalment is not paid – in practice they are issued in accordance with the recovery timetable drawn up in February/March each year.

The regulations outlining the requirements for the reminder notice stipulate the following:

1) If a demand has been served by an Authority and instalments due under that notice, in accordance with the instalment scheme, are not complied with, then a first **reminder** notice shall be served.

2) The reminder must state:

- a) The instalments unpaid at the time of the notice, including any instalments, which become due within seven days of the notice;
- b) That this amount is due to be paid within seven days
- c) That after a further seven days (i.e. a total of fourteen from the issue date) the right to pay by instalments will be lost
- d) That if a **second reminder** is issued within the year, (the first issued having been complied with) any further failure to pay any instalment on or before the date it is due, shall result in the right to pay by instalments being lost.
- e) No reminder notice is required where all the instalments have fallen due.

3) These reminder provisions and the recovery provisions following are provided for the recovery of the standard instalment scheme

Good practice dictates that the reminder should be issued between seven and 21 days from the date of the instalment. The Hillingdon recovery timetable takes this into account.

At Hillingdon where a second reminder is issued the following phrase information is added
“This is the Second Reminder Notice the Council has issued to you this year.”

Accordingly, the Council is obliged by law to inform you that **NO FURTHER** reminder notices will be issued this year.

This means that if any subsequent payment is not made on or by the due date, the remaining balance of this year's council tax will become payable in full.

Failure to pay will result in legal proceedings and additional costs payable by you. “

Note 4 – Final Notice

These are issued in accordance with the recovery timetable. Provisions relating to the service of a **final notice** are as follows

1. No final is required if a reminder or a second reminder is not complied with within the statutory time limits.
2. A final is required for recovery for accounts that do not qualify for instalments (e.g. ended accounts, accounts issued after 31 December).
3. A final is required where the amount due has changed between the outstanding reminder or second reminder (as the case may be) and after the issue of the relevant adjustment notice.
4. A final notice need only be served where:
 - a. There was **NO** right to instalments, or
 - b. Two reminder notices have previously been issued and paid and this is the **THIRD** occasion in the relevant year that an instalment has not been paid on time, or
 - c. All instalments have fallen due

Note 5 – Summons Pre-List

This is prepared following the issue of the reminder notices and /or Final Notice where the sum due under the notice remains unpaid. The purpose of this list is to allow the manual human scrutiny of potential summons cases (notes pages etc) to sift any cases where a summons should not be issued. The list should be scrutinised as soon as possible to ensure information is up to date and to avoid the issue of unnecessary summonses. The prelist checking will also consist of the use of technology to issue automated text messages and emails to prompt payment and avoid the issue of a summons.

Note 6 – Summons Issue

Summonses are issued in accordance with the recovery timetable agreed in Feb/March of the previous financial year

The **Summons** is issued, subject to the following rules:

- 1) A Summons may be issued to two or more taxpayers jointly liable for a debt. The practice at Hillingdon is to serve each liable person with an individual summons.
- 2) The summons will be reviewed and then electronically agreed via email by the Clerk to the Court, agreeing the complaint for that particular hearing. A summons at Hillingdon will be printed and posted after prior emailed agreement from the Clerk to the Court confirming the Complaint.
- 3) The summons will not bear a signature as it is no longer a legal necessity.
- 4) The Summons must state:
 - (a) The reason for its issue – unpaid Council Tax
 - (b) Make reference to the address concerned
 - (c) The Council Tax outstanding together with any amount in respect of costs reasonably incurred
 - (d) The date and time of the hearing.

The Summons may be served as follows:

- 1) Delivering it to the person
- 2) Leaving it at the usual or last known abode of the liable person, or in the case of a limited company, at its registered office
- 3) Leaving it at or sending it by post to an address given by the liable person as one where service will be accepted.

Good practice dictates that at least 21 days should be allowed from the issue of a reminder to the issue of a summons.

The summons is served with costs currently £125.00.

If the amount due, plus costs is received prior to the date of the hearing the Council will not apply for a Liability Order.

If the customer is not able to pay in full prior to the hearing the Council will continue to proceed with the application for a Liability Order.

At this stage the customer may negotiate a payment arrangement. Any such arrangement will include costs. The normal arrangement will be over three months, or to the end of the tax year, whichever is the soonest. However, in some cases it may be possible to extend the arrangement

further than three months to the end of the financial year, if a customer agrees to payment by Direct Debit. (See also Note 11)

A summons and associated costs will only be withdrawn if it can be shown that the Council had erroneously issued the summons.

Application for a Liability Order begins with the complaint made by the authority to a Clerk of the Court requesting that a summons be issued to the liable person to show why the sum outstanding has not been paid.

Note 7 Liability Order Application

The Court Hearing takes place in accordance with the dates agreed with the Uxbridge Magistrates Court which are detailed on the recovery timetable.

An interval of at least 14 days must be allowed between the issue of the summons to the defaulter and the hearing, as a liability order cannot be made unless 14 days have elapsed between issue and hearing.

The usual practice at Hillingdon is to serve the summons 21 days before the Hearing.

At the Hearing an authorised officer of the Council will make an application to the Court for Liability Orders for a number of cases on the bulk list. The Magistrates will hear the defence of persons wishing to prevent the issue of a Liability Order.

Note 8 – Information Request (14-day letter)

Notices requiring certain information from the debtor are issued within 7 days of the hearing to all cases where no arrangements to clear the debt have been made since the issue of the summons. Whilst there is no legal requirement to send this, any information received will help in deciding the next course of action to take.

By virtue of the liability order the Authority may request the following information from the liable person, which must be supplied within 14 days, provided the information is in their possession or control:

- 1) The name and address of their employer
- 2) The amount earned
- 3) Amounts deducted for Income Tax, N I or Superannuation
- 4) Any payroll or works reference
- 5) Any other attachment orders in place
- 6) Other sources of income
- 7) Whether any person is jointly liable for the debt

The Magistrate's Court is able to impose fines for either:

- 1) The supply of false information (level 3 fine)
- 2) The failure to supply information (level 2 fine)

The Authority would make application for such a fine by laying a complaint to a Justice of the Peace for the issue of a summons.

The Authority may ask for other information other than that listed above but there is no compulsion on the debtor to provide it.

Note 9 – Options for further Recovery Action

Where information is received from the debtor about their financial circumstances officers can make the decision as to which option should be adopted next. If information is already held such as by the team administering Housing Benefit and Council Tax Reduction, then that data may be used. Data sharing with HMRC and DWP has been trialled and is being rolled out nationwide, this data sharing may be used to establish an appropriate method of enforcement. In Hillingdon that decision should be taken in accordance with the following hierarchy.

Option 1 Attachment of Earnings Order - Where a debtor is employed then an Attachment of Earnings should be sought.

The Authority is able to serve Attachment to Earnings Orders for unpaid Council Tax. These orders act under the following provisions:

- 1) An order, once served will remain in force until the balance for which it is served is clear, or if the Authority withdraws it.
- 2) The content of the order is prescribed, as follows:
 - (a) It must be addressed to the debtor's employer
 - (b) It must specify the sum outstanding
 - (c) It must include details of the deduction tables and rules as prescribed in the regulations
 - (d) It must be signed by the "proper Officer" of the Authority.
- 3) The amount is deducted on the basis of the tables contained in the regulations which gives percentages to be applied to "net earnings" after Income Tax, NI, Superannuation, deductions for advances of salary and other Council Tax attachment to earnings deductions are considered.
- 4) Attachable pay includes wages/salary, overtime, holiday pay, other fees, bonus, commission, or SSP.
- 5) Complicated rules allow multiple attachments and prioritise some order over others. For details of these consult the Recovery Manager
- 6) The service of an attachment order gives the following duties to the debtor and their employer.

- 7) The Employer must notify:
 - (a) The Authority of the employment of a person who they know is subject to attachment
 - (b) Of receipt within 14 days of the order
 - (c) The Authority within 14 days of the employee leaving
 - (d) The debtor of the deductions made
- 8) The Debtor must notify:
 - (a) The Authority within 14 days of a change in employment
 - (b) The Authority of a change in their earnings or deductions.
- 9) Offences are committed and fines may be imposed for non-compliance with the regulations. Both the employer and the employee may be subject to the following fines:
 - (a) **The employer** may be fined for: -
 - (1) Failure to comply with an order (Level 3)
 - (2) Supply of false information (Level 3)
 - (3) Failure to give all notifications required (Level 3)
 - (b) **The employee** may be fined for: -
 - (1) Supply of false information (Level 3)
 - (2) Failure to supply information (Level 2)
- 10) When the debtor is employed by the Crown, the Chief Officer of the department in which the debtor is employed shall be treated as the employer. Although the pay of those in the armed services is specifically exempted from the definition of earnings, where the debtor is employed by the armed forces, the army may make deductions under the Army Act 1955 on request by the Local Authority.
- 11) A Local Authority may serve Attachment Orders on itself as employer for a debtor.

Where a defaulter is in receipt of Universal Credit/Income Support/Job Seekers Allowance/Employment Support Allowance/Pension Credit then a deduction from their Benefit should be sought.

The Authority is able to apply to the Department for Work and Pensions (DWP) to make deductions from the above Benefits for unpaid Council Tax. A Liability Order **MUST** be obtained for this purpose and there are no voluntary powers to otherwise agree such deductions.

The deduction takes place under the following rules:

- 1) An application is made to the DWP who is currently paying the debtor benefits whether or not that office is in the Authority area.
- 2) The DWP must make deductions for only one Council Tax liability at a time, even where more than one liability exists. The DWP must also consider any other deductions they are already making and together with their own rules which cap the total deduction which may be made from the claimant, work out whether any deduction for Council Tax may be made. Deductions for fuel, water, rent are prioritised above Council Tax and in turn above Court fines.
- 3) Deductions can only be made where the DWP claimant's name appears on the Liability Order.

Option 3 Attachment of Members Allowances – Where the debtor is a Member of the Council then attempts should be made to make an attachment of his/her Member's Allowance. This should only be undertaken after consultation with the Head of Revenues and Benefits.

These Attachments operate under the following rule:

- 1) 40% of an allowance is attachable.
- 2) The allowances of members of any of the following authorities may be attached:
 - Billing Authority
 - County Council
 - Certain Police Authorities
 - London & Metropolitan Fire & Civil Defence Authorities

These provisions operate separately from the rules excluding Council Members in arrears with payment from voting on certain matters.

Option 4 Enforcement Agent Action – (See note 10 below and chapter 3).

Note 10 - Notice of Enforcement Agent Action (Pre Action letter)

1. Where no information is received from the debtor, or where the other recovery options outlined above have failed then the liability order should be passed to the Council's enforcement agents for action.
2. Before this action can be undertaken the debtor will be given prior notice by the Council of at least 14 days.
3. This Council sends "pre-enforcement action letters" notifying taxpayers who have broken arrangements, or not made contact since the Liability order hearing, that the Council is considering passing the Liability Orders to the Council's certified enforcement agents.
4. The letter warns that should the matter be passed to the Council's enforcement agents there could be considerable extra costs and the enforcement agents can legally take goods to clear the debt and charge for the sale of such goods.
5. Information regarding the enforcement agent charges is detailed within each letter. The letter also contains a link to the online form, which is a demand for statutory information, to be returned within 14 days, to again allow the Council to consider alternatives to enforcement agent action.
6. Alternatively, the debtor is encouraged to contact the council to make a payment arrangement.
7. These notices are issued regularly picking up any cases where arrangements have been made following the issue of a Liability Order, or where the other options for recovery have not been possible.

Option 5 Insolvency

1. Where none of the above recovery methods are applicable and the Council has ascertained that the debtor is the owner of the liable property the Council may consider applying for bankruptcy proceedings. At this stage, if the information on the debtor is insufficient on which to decide about appropriate action, an equity position report will be requested from the solicitors.
2. The council will pass the solicitors information relating to the property address, liable party name and any other property with which the liable party is known to be associated, including any business addresses and trading names known.
3. The equity report gives an overall view of the debtor's financial status and anticipated level of equity in any property, in which they have a financial interest and the liquidity of any business interest that they may hold.

4. The equity report is compiled with copies of Land Registry documents, credit reference reports, and Company House reports, if applicable.
5. Once in receipt of all relevant information a decision is taken regarding the possibility of recovering the debt using bankruptcy action. The detail of the level of equity available in any property interests of the debtor is a primary factor in this decision. However, social considerations may also dictate that the Council will consider a charging order more appropriate.
6. Bankruptcy is a procedure available to the Council in the enforcement of unpaid Council Tax and NNDR and will be considered where it is deemed more appropriate than other methods of enforcement.
7. Bankruptcy, as a course of action, should only be used with the prior authority of the Head of Revenues and Benefits. Background details on each case will be supplied to the Head of Revenues & Benefits in a written summary. The Head of Revenues & Benefits will use this information to determine whether the case is suitable for a Bankruptcy Petition or request alternative action or further information. The Head of Revenues & Benefits will sign and authorise the action on the covering pro-forma issued to the acting solicitors. A copy of which will be kept on file.
8. On receiving an enforcement agent return, consideration is given as to whether there are employment details and the account can be set up for an attachment of earnings, or whether the person is on a suitable benefit and can be set up for deductions from that benefit.
9. Bankruptcy is usually considered after cases have been returned as unsuccessful by the enforcement agents, alongside the other available options. Bankruptcy is considered an effective method of recovering the debt where there is equity in the property.
10. Accounts considered suitable for bankruptcy are selected from cases that have previously been passed to enforcement agents and have been returned either unable to gain entry, unable to gain access or returned no goods. Normally cases are targeted where there is more than one financial year's debt outstanding, or where there is a debt over £5,000 made up from debts outstanding on different accounts for one taxpayer.
11. When selecting if the accounts are suitable the following factors must be taken into consideration:
 - The level of potential equity available in relation to the liable property and any other associated properties where the debtor has a financial interest and whether this is sufficient to cover the debt outstanding and any potential costs.
 - Is the total of debts outstanding more than one financial year's value, or in the case of multiple accounts more than £5,000 (Band A in Hillingdon now exceeds £1,242.58)

- Have the NEC and Civica systems been checked to see if employment details can be found, or if the person is on suitable benefit for deductions to be made.
 - Is there any documentary evidence on file to suggest that the debtor could be vulnerable? If so, have attempts been made to substantiate or clarify the debtor's position.
 - Is there any evidence or local knowledge to suggest that the property is already up for sale, or may be up for sale soon, in which case a charging order may be appropriate?
12. A warning letter is sent to potential cases once the liability order(s) have been returned from the enforcement agents as an unsuccessful case. The warning letter is accompanied by a bankruptcy guide, outlining the purpose of a statutory demand and the implications, risks and costs associated with bankruptcy including the possibility of a forced sale of their home by the Official Receiver /Trustee to pay their creditors
 13. The Council will allow at least 14 days from the issue of the letter warning of the possibility of bankruptcy proceedings before passing cases to the Council's bankruptcy practitioners.
 14. The Council will issue a pro-forma document to the practitioner. The document will include the date that the instruction is passed to the practitioner, the name of the debtor, the property address to which the charge relates and the debtor's current address if different, the property reference number, the council tax account number (s) and the total amount being pursued.
 15. The information will supply a breakdown of each liability, date the liability order was issued and the period covered together with the amount of council tax and costs still outstanding per liability order.
 16. This is repeated for each separate account held.
 17. There is an opportunity to provide further relevant information under comments e.g. any aliases, copies of land registry details and confirmation of the date of the "bankruptcy warning letter"
When a case has been issued to the bankruptcy solicitors a note is placed on the council tax account to ensure that all further contact from the debtor is referred to the solicitors.
 18. On receipt of the pro-forma the solicitors will serve their own letter before action giving 7 days. If no payment or contact is made, then a statutory demand is served on the debtor under Section 268(1)(A) of the Insolvency Act 1986.
 19. On service of the statutory demand the solicitors have been given guidelines to make arrangements (if offered) not exceeding 3 – 4 months.
 20. The solicitors may contact the Council to seek authority for any arrangement that falls outside of these guidelines.
 21. If no contact is received from the debtor, the solicitors will contact the Council to seek authority to issue the bankruptcy petition.

22. Whilst it is usual to consider bankruptcy proceedings once attempts have been made to recover the debt using enforcement agent action the Council do not need to have issued the liability order to the enforcement agents prior to considering the action. The Council will consider bankruptcy at an earlier stage if circumstances dictate that this would be a more effective and appropriate method of recovery action, or if a further liability order is obtained once the Council has commenced proceedings at an early enough stage to include the sum in any planned proceedings.

Option 6 Charging Order

1. Where the Council holds information to suggest that the circumstances of the debtor would indicate that payment of the debt is unlikely to be achieved through bankruptcy, or where the current address of a debtor is either unknown or overseas, preventing service of a statutory demand, a Charging Order may be more appropriate.
2. The Council may also consider this action more appropriate where the debtor is on a low income such as in receipt of DWP benefits, resident owner of the liable property and vulnerable or elderly. (In such cases it is unlikely the Council would proceed to force a sale once a Charging Order was obtained). Each case will be regularly reviewed for a change in circumstances which may effect the decision to progress to a forced sale.
3. The Council will only proceed with a Charging Order once the Head of Revenues & Benefits has approved such action, in writing. Background details on each case will be supplied to the Head of Revenues & Benefits in a written summary. The Head of Revenues and Benefits will use this information to determine whether the case is suitable for a Charging Order, or request alternative action, or further information.
4. The Head of Revenues & Benefits will sign and authorise the action on the covering pro-forma issued to the acting solicitors. A copy of which will be kept on file.
5. For all cases where the decision has been taken to proceed with a Charging Order, a pro-forma will be issued to the solicitors dealing with the matter on behalf of the Council.
6. The pro-forma instruction will show;
 - The date that the instruction is passed to the practitioner,
 - the name of the debtor

- the property address to which the charge relates and the debtor's current address, if different,
 - the property reference number
 - the council tax account number (s) and the total amount being pursued.
7. The information will supply a breakdown of each liability order, date the order was issued, and the period covered together with the amount of council tax and costs still outstanding per liability order.
 8. This is repeated for each separate account held.
 9. There is an opportunity to provide further relevant information under comments e.g. any aliases, copies of land registry details and confirmation of the date of the "bankruptcy/charging warning letter", detailing periods of liability, dates of the liability orders obtained by the Council and in each case the council tax outstanding and the costs incurred.
 10. When a case has been issued to the solicitors a note is placed on the council tax account to ensure that all further contact from the debtor is referred to the solicitors.
 11. At any stage in the procedure the department will use local authority records available to it under the terms of the UKGPDR, and the Data Protection Act 2018 to attempt to gain relevant information for an assessment to be made and may also contact other agencies e.g. Social Services.
 12. Once a Charging Order has been obtained and where it has been confirmed that a debtor or his/her partner is aged 60 or over, or if under 60 but with dependent children under 18, then no further action in relation to a Charging Order will be taken i.e. the Council will not proceed to enforce an order for sale at that point. Each case will be regularly reviewed for a change in circumstances which may effect the decision to progress to a forced sale.
 13. This procedure will also apply where there is strong evidence of mental illness, mental incapacity, severe disability, and blindness or terminal illness affecting any permanent residents at the property. This will safeguard the most vulnerable from the effects of losing their home but will ensure that the Authority has the ability to recover the debt on behalf of the taxpayers in the Borough, in the event of a sale, or transfer upon the death of the taxpayer.
 14. This procedure will also apply where there is strong evidence of mental illness, mental incapacity, severe disability, and blindness or terminal illness affecting any permanent residents at the property. This will safeguard the most vulnerable from the effects of losing their home but will ensure that the Authority has the ability to recover the debt on behalf of

the taxpayers in the Borough, in the event of a sale, or transfer upon the death of the taxpayer.

15. The Head of Revenues & Benefits may use his/her judgement at any time in the process to refuse authority for a Charging Order or to withdraw an instruction for an enforced sale where in his/her opinion the best interests of the authority would be served by this action.
16. Where the solicitors are instructed to apply for a Charging Order they will be given full authority to deal with the case. If a forced sale is contemplated, they must seek further written instructions from the authority on whether the forced sale will be approved.
17. The Head of Revenues & Benefits will receive a full updated report on the case and use this report to determine whether to authorise the forced sale of the property.
18. Written instructions will be issued to the Solicitors on behalf of the Head of Revenues & Benefits.
19. Where the forced sale is not considered appropriate, the Charging Order will remain on the property until it is sold. The department may still seek recovery by other methods for any debt not covered by the Charging Order.

Note 11 – Arrangements

Arrangements can be made at any time of the proceedings. The aim of the arrangement is to ensure the debt is paid within the financial year. Ideally arrangements need to be made using Direct Debit as a payment method.

Once a Liability Order has been issued the dates available for Direct Debit are the 5th and 21st. Customers will also be encouraged to sign-up to one of the 4 Direct Debit dates available for normal instalments for the following year.

Where possible all debt should be collected by the end of the year it is due. However, in exceptional circumstances of hardship/financial difficulty, (demonstrated by the provision of income and expenditure details) it may be possible to extend this further, up to 6 months into the next financial year. All arrangements must be confirmed in writing.

Note 12 – Monitoring of Payment Arrangements

Payment arrangements are monitored regularly by the system. Where payments are not made, as agreed, cases will be moved to the next stage of recovery, with the appropriate notice for the next stage being sent. e.g. pre-enforcement agent letter

Note 13 – Commence Committal Proceedings

Where the debt remains unpaid and enforcement agent action has proved unsuccessful the Council will need to consider the available options. Where a Charging Order, or Bankruptcy are not considered viable options (i.e. where the debtor does not own the property in question or any other property) the Council will consider an application for a Warrant of Commitment.

[NB before this course of action can be undertaken it is essential that enforcement should have been attempted and a certificate confirming this provided to the Council by the enforcement agents].

There is no legal requirement for the Council to attempt other recovery options, **good practice dictates that other recovery options be tried. Previous experience at Uxbridge Magistrates Court has been that Magistrates like to satisfy themselves that the Council has explored other recovery options prior to proceeding to a Means Enquiry.**

Proceedings in Hillingdon are always commenced with the issue of a committal summons.

Note 14 – Committal Hearing

This is effectively an inquiry by the Magistrates into a debtor's means and conduct, with a view to whether the failure to make payment is due to wilful refusal or culpable neglect. Such an inquiry can only be conducted in the presence of the defaulter. If the defaulter fails to appear the Council will apply for a warrant for the arrest of the debtor. This would normally be a warrant with bail, but if there is a further non-appearance the Council will consider application for a "no bail" warrant.

The council will normally request a person is arrested on a day of a hearing to ensure that a person is not held for an excessive time.

Note 15 – Payment Order

If Magistrates are satisfied that the Council has complied with the legislation and have also taken steps to try to recover the debt through distraint they will consider the issue of whether payment has not been made through wilful refusal or culpable neglect. If they find either present the options available to them are:

- issue a warrant of commitment for a period not exceeding 3 months
- fix a term of imprisonment postponed under terms (usually an order for payment)
- refuse to issue a warrant or fix a term of imprisonment.

Payments under an order are to be made directly to the Council and the Council will monitor to ensure that the order to pay is being maintained.

The Magistrates on hearing the evidence presented at the Inquiry into the means of a debtor also have the option to remit the debt in full or part.

Note 16 – Non-payment of Court Order

Where the court order is not maintained the Council will bring the debtor back before the Magistrates to seek committal to prison forthwith

4. Enforcement Agent

The London Borough of Hillingdon Council Tax Service uses three firms of external enforcement agents to act on Liability Orders that have been obtained at the Magistrates Court against non-payers. The enforcement agents are instructed to act against debtors who have not made a satisfactory arrangement for payment, or who have not provided financial details to enable an attachment of earnings, or a deduction from benefit to be set up.

If an account has been issued to the enforcement agents, it becomes their responsibility to collect the outstanding Council Tax monies on behalf of the council. The Council has issued each enforcement agent with a Code of Conduct. Any debtor who contacts the department to discuss payment must be told to negotiate with the enforcement agents and make payments directly to them.

Cases will only be withdrawn from the enforcement agents in the following circumstances:

- 1) Justified dispute in liability
- 2) Issued in error
- 3) Recently bereaved (as a guide within the last 6 months)
- 4) There is an AOE or DOB in force
- 5) Debtor is bankrupt
- 6) At the discretion of the Council Tax Recovery Manager or more senior managers in an ascending scale.

Cases can only be withdrawn from the enforcement agent under the instruction of Senior Revenues Officers, or Revenues Managers. All requests for this course of action must be directed, or endorsed by the Senior Revenues Officers, in the first instance.

Only one enforcement agent will be appointed to deal with the account of a particular debtor when it's the first instance the liability order is to be collected by the enforcement agents. If the debtor has more than one Liability Order against them these will be issued to the same enforcement agent.

Where a liability order has been returned from the enforcement agent and no other method of recovery can be taken. The liability order will be issued to Stanford & Green enforcement agents.

The enforcement agents pay monies collected on behalf of the council on a weekly basis. They send the monies via bacs payable to LBH together with paid or returned instructions.

The performance of the enforcement agents is reviewed at formal review meetings at which their collection levels are compared with their competitors and any queries complaints or issues are raised. Notes are taken at these meetings to ensure a record of any changes /decisions. The enforcement agents currently being used are:

Bristow and Sutor
CDER
Stanford & Green

5. Tracing

Where correspondence is returned by the Post Office as 'Gone Away' or we become aware that a person has absconded, we will first attempt to trace the person in-house by interrogating the internal system. If these enquiries fail further enquiries can be made using access to the Equifax database, which the Council is contracted to use. Access to this database is controlled and monitored to prevent abuse.

The Council also has access specifically for tracing absconding taxpayers. There are reciprocal arrangements in place with other authorities. We may contact other Local Authorities to confirm if a former charge payer with a debt is living at a specific address in their administrative area. To prevent unnecessary costs being incurred tracing work should take place on the Council Tax data base systems in the first instance.

6. Debt to be written Off

Except for cases where a payer has been declared insolvent or there is a case of exceptional hardship and or severe health considerations, a debt cannot be written off where there is an ongoing liability.

Withdrawing Discounts and Exemptions.

In view of the statute of limitation, discounts and exemptions should not be withdrawn going back further than the current and last preceding years. Section 32 of the Limitation Act 1980 grants exceptions in the cases of fraud, concealment or mistake.

7. Maximising Benefit Take Up, Exemptions, Discounts and Discretionary Reduction

When dealing with cases of unpaid Council Tax, officers often become aware of the financial circumstances of the people who have the arrears, especially when dealing with 'statement of means' or "Income and Outgoings" forms.

It is imperative that people on low incomes apply for council tax reduction, because if it is due, and payable, it reduces the balance outstanding and relieves the financial burden on the individual. There is also a positive impact on collection rates if those taxpayers experiencing difficulty receive any reduction to which they are entitled.

At all times, if it is thought that a person may be entitled to a reduction, officers are required to send out the link to make an online application unless the individual doesn't have access to the internet then a paper application form can be sent to encourage the person to apply.

Some of our residents are elderly and/or vulnerable and may require assistance. Referrals can be made to relevant internal departments where applicable, and we can sign post to organisations such as Citizen Advice or Money Helper.

Officers when determining liability will look for opportunities to correctly grant exemptions and discounts. Most common are Single Occupancy Discount, Severe Mental Impairment, Student etc

To a small number of charge payers we grant further assistance through a discretionary Council Tax Reduction. An application is not required in all cases. Whilst any charge payer can ask for assistance the test bar will be high. If you encounter a charge payer with acute financial distress (relative to other low-income charge payers), or who's ability to pay the Council Tax is affected by exceptional circumstances then these charge payers have an increased chance of receiving an award.

8. Maximising Direct Debit Take Up

Payment by Direct Debit is the easiest way to collect council tax. Services can be provided more efficiently if the receipt of the council tax on a given date is certain as this helps to keep down costs. As well as being a convenient way to pay, it benefits everyone.

Staff are reminded that whenever discussing payment, or payment methods, with a customer they must always promote the advantages of paying by Direct Debit (no more reminders finalises summonses court costs, the choice of four payment dates etc).

Hillingdon regularly considers ways of improving Direct Debit take-up, particularly around the issue of reminders. On specific recovery runs Hillingdon sends flyers offering extra instalments if a Direct Debit is set up.

The benefits of paying by Direct debit is regularly promoted on the council web site and has easy links for online set up. It is also promoted on posters throughout the Borough and in the Borough's Magazine "Hillingdon People"

9. Complaints

The definition of a complaint in the Council's Customer Care standards is:

"an expression of dissatisfaction made by telephone, personal visit or in writing about the standard of service, action or lack of action by the Council or its staff affecting an individual or group."

All complaints should be dealt with in line with the Council's complaints procedure which are logged and dealt with by the Appeals and Team.

It is important that complaints (whether justified or not) are identified, logged and recorded on the complaints log held within the Revenues shared drive. This will enable the Revenues Team to contribute information to the Quarterly monitoring of complaints to the Departmental Management Team. Complaints must be responded to within 10 days.

10. Change in Economic Climate

In recent years we have seen pandemics/inflation/cost of living crisis affect the economic situation of the country and in turn a resident's ability to pay their Council Tax. These external influences that cannot be controlled are creating financial pressures for household budgets impacting both those living on fixed benefit incomes/pensions and those who work.

Despite this the task of collecting Council Tax must continue, however the Council must also respond sensitively to the events occurring in the economy and try to minimise any hardship, whilst working to collect the target level of tax to ensure that the Council is able to continue providing essential services and keep future increases in Council Tax to a minimum.

11. Breathing Space – Debt Respite Scheme

The Government introduced the Breathing Space debt respite scheme on 04/05/2021. This scheme is available to individuals who require a moratorium from creditors for a period of time to allow them time to seek assistance from debt advisors. There are two types of Breathing Space moratoriums, Standard & Mental Health Crisis. The Standard Breathing Space allows all recovery action on hold for 60 days. A Mental Health Crisis Breathing Space allows all recovery action on hold for 90 days and can be extended subject to the individuals' circumstances. Applications for a Breathing Space will be via a debt agency such as Citizen Advice or Step Change.

What the Council Tax Team Can Do to Help Taxpayers

It is vital that anyone experiencing financial difficulty is contacted /identified quickly in order that they may be given Benefits advice at the earliest opportunity. The aim is to maximise income by ensuring customers have access to the appropriate advice and assistance.

Customers who advise that they have other financial difficulties should be advised to seek independent advice. In addition to the Citizen Advice www.citizensadvice.org.uk another agency offering free advice is the Money Helper www.moneyhelper.org.uk

Where council tax arrears have been identified, customer will need to disclose their current circumstances and complete an income and expenditure form. This information provided will be used to ensure that payment arrangements are designed to enable the customer to pay an affordable amount within a reasonable period of time.