

Wandsworth Council

Council Tax Collection Guidance

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1. Introduction

- 1.1 The purpose of this document is to describe the various methods and ways to be adopted for the collection of Council Tax liabilities.
- 1.2 It also gives advice on gathering information on contact with the customer so that entitlement to relief's, discounts, benefits etc can be brought to the customer's attention.

2. Bills

- 2.1 Two types of bills are issued, these are annual bills despatched every March for the forthcoming financial year and amended bills that are issued as a result of changes to the Council Tax database or as a result of adjustments to Council Tax Benefit.
- 2.2 An annual bill is issued to each person shown in the Council Tax database as being the current primary liable person. Amended bills are sent out overnight whenever there is a change in liability or Council Tax Benefit.
- 2.3 Where two or more persons are shown as being "jointly and severally" liable for payment of Council Tax the bill will show all the names that are held by us as jointly & severally liable.
- 2.4 In March annual bills are sent out to all taxpayers, whatever the value, to inform them of their liability for the forthcoming year including any benefit entitlement. Annual bills are sent for zero balances to taxpayers in receipt of 100% Council Tax Benefit or exemptions. Credit documentation is also issued.
- 2.5 Amended Bills are issued in all cases where the change in liability results in a revised amount of tax being due or payable.
- 2.6 Where 100% benefit is awarded, a NIL bill is always issued to confirm benefit entitlement.
- 2.7 If, at the time the bill (annual or revised) is issued the property is subject to a time-limited exemption, a notation will be included on the bill indicating that a liability will exist from the end of the exemption.

3. Payment of Bills

- 3.1 The bills are payable in accordance with the Statutory Instalment Scheme with the annual bills having 10 or 12 instalments and the amended bills having the number of whole months left in the year as at the date of billing, less one. i.e. Instalments on the scheme will end in January for Annual Bills and February for amended bills.
- 3.2 The Council's preferred method of collection is direct debit as the charges incurred by the Council are far lower than those incurred from collection by any other method. Customers should therefore be encouraged to pay by direct debit wherever possible. Provided their bank/building society account remains in credit, the customers will not normally incur any charges with their bank.
- 3.3 Customers adopting Direct Debit as a method of payment can opt for one of a choice of five payment dates in the month.
- 3.4 Payment can also be made by the following methods:
- Debit or Credit card via the Website
 - Debit or Credit card by telephone line
 - Internet through the Council's Website
 - Telephone banking by the customer telephoning his/her bank and quoting the Council's relevant sort code and bank account number
 - Cash only by Pay-Point at any shop displaying the symbol, using payment barcode on bill
 - Cash or cheque at the Post-Office, using payment barcode on bill
- 3.5 Payment methods and dates are set out below.

Method of Payment	Dates
Direct Debit	4 th , 11 th , 15 th , 18 th & 25 th
Standing Order	1 st
All others as shown in 3.4 above	1 st (apart from annual bills where 1 st instalment is the 5 th April)

4 Action taken in cases of non-payment

- 4.1 Where a taxpayer fails to make payment in accordance with the instalments shown on their most recent bill, recovery action is taken in accordance with the statutory procedures contained in the Local Government Finance Act 1992 and subsequent regulations.
- 4.2 Reminder notices are issued approximately 10 days after default to all taxpayers failing to pay an instalment.
- 4.3 On the first occasion of default in any financial year a reminder will be sent requesting that the taxpayer pays the unpaid instalment within 7 days and informing the taxpayer that if not paid the whole balance for the year will become due after a further 7 days.
- 4.4 If the taxpayer pays the missed instalment and pays subsequent instalments as they become due no further action will be taken.
- 4.5 If the taxpayer ignores the reminder or fails to pay within the prescribed time then the debt moves on to a Summons.
- 4.6 Where a second default occurs a further, differently worded, reminder document is issued.
- 4.7 If the taxpayer pays the missed instalment and makes all subsequent payments as they become due no further action will be taken.
- 4.8 If the taxpayer ignores the second reminder or fails to pay within the prescribed time then the debt moves on to a Summons.
- 4.9 If a third default occurs a Final Notice is issued requesting payment of the total amount remaining unpaid. Final Reminder Notices are also issued where there are no remaining instalment payment dates e.g. where the taxpayer fails to pay the final instalment of the year.
- 4.10 Where a taxpayer leaves a property the closing account shows one instalment date. Approximately 10 days after the instalment date a final notice will be issued.
- 4.11 Payment of the outstanding amount detailed in the Final Notice will terminate any action.
- 4.12 Where the taxpayer fails to pay the amounts requested on a Reminder 1, Reminder 2 or Final Notice and no contact is made the account will progress automatically to Summons stage.
- 4.13 The right to pay by instalments is only forfeited in the year of default and will automatically be reinstated for subsequent years.
- 4.14 At all times, staff should encourage taxpayers to pay by direct debit. If they transfer to direct debit, recovery action will be temporarily suspended and they will be given another chance to pay by instalments (unless direct debit has already been cancelled causing reminders to be issued).
- 4.15 If a customer subsequently claims Council Tax Benefit the Council tax Instalments should still be paid and recovery action will continue as necessary regardless of the outstanding benefit claim.

5 Summonses

- 5.1 By agreement with the Magistrates Court hearings against defaulters take place at regular intervals.
- 5.2 At least four weeks prior to the hearing the Complaint is made to the Magistrates and summonses sent to the taxpayers named on the complaint.
- 5.3 Summons Issue incurs the customer costs of £92.50. This figure represents the costs incurred by the Council in administering the collection and recovery of council tax arrears through the courts and includes the apportioned staffing and running costs necessary within the council tax teams, customer services and system support staff necessary to handle council tax arrears. This figure is included by agreement with the Clerk to the Magistrates.
- 5.4 The summons states the date when the Council will apply for a liability order. Where full payment of the Council Tax liability including costs is received, after the issue of a summons but before the date of the application for a Liability Order, all action will be terminated.
- 5.5 If a person contacts and agrees to pay, an arrangement can be given that is outside of the statutory scheme but that is acceptable to the Council, this will include the court costs of £92.50 and will also include the Liability Order Costs if the repayment time goes beyond the hearing date of the summons. Payment by Direct Debit should be encouraged wherever possible. Where payment is to be made by direct debit, the payment will be taken on the 2nd of the month.
- 5.6 If no response is received by the date of the Court the Magistrates will be requested to issue a Liability Order for the outstanding debt plus an additional £28 costs.
- 5.7 All summonsed taxpayers have the right to attend the hearing and to enter a valid defence against the issue of a Liability Order. The valid defences are:
 - That the Council Tax has not been charged in accordance with the Valuation List
 - The Tax has been incorrectly set
 - The Tax has not been demanded in accordance with Statutory provisions
 - That the Council Tax has been paid
 - The application for the summons is made more than six years after the sum became due
 - Demand notices have not been served as soon as practicable
 - The person is not liable
 - Bankruptcy proceedings have been initiated
- 5.8 Where it is necessary to issue more than one summons in a year because of changes in liability, costs will be payable for each occasion.
- 5.9 Reports will be produced of all arrangements not kept for further action to be taken.

6 Liability Orders

- 6.1 Where no valid defence is offered the Magistrates will issue a Liability Order for the amount of the unpaid Council Tax plus costs as described above. The Liability Order provides a range of further powers in order that the Council can continue its efforts to collect the unpaid debt.
- 6.2 Following the issue of every Liability Order a letter is sent to the defaulting taxpayer, together with a form on which the taxpayer is required to provide income details and requested to provide expenditure details. This form also gives the taxpayer a further opportunity to make an offer of payment.
- 6.3 Recovery staff will determine further action based on the information given on the form.
- 6.4 The following options are available:
- a) Issue an Attachment of Earnings Order;
 - b) Issue a Deduction of Income Support/Job Seekers Allowance;
 - c) Pass collection of the debt to an Enforcement Agency firm appointed by the Council;
 - d) Accept a payment arrangement with the customer;
 - e) Committal to Prison;
 - f) Bankruptcy;
 - g) Charging Order.
- 6.5 For persons who are employed or in receipt of Income Support/Job Seekers Allowance, collection is normally by way of an Attachment of Earnings or Benefit Order where that information is known. However, if an offer of suitable direct payments is made either on a financial circumstances form or other communication these will be reviewed and if accepted set up within the Council Tax System.
- 6.6 An Attachment of Benefit will not normally be used if the ongoing liability (accrual rate) exceeds the standard amount payable under the Department of Work & Pensions regulations.
- 6.7 In cases where the taxpayer fails to return the financial circumstances form and does not pay or enter into an agreed arrangement the liability order will be passed to an enforcement agent appointed by the Council for collection.
- 6.8 The taxpayer will be advised in writing that the matter is being referred to an Enforcement Agency within 14 days if the debt is not paid in full within that time.
- 6.9 Where for whatever reason payment is not made, the Council can change to another method and can use each method several times as necessary to obtain payment. e.g. if a defaulter on Job Seekers' Allowance is paying by way of an Attachment of Benefit Order and finds employment, collection can continue by way of an Attachment of Earnings Order.
- 6.10 If the offer of payment will not clear the debt within the current financial year, but having regard to the information supplied on the financial circumstances form and the accrual rate, it will result in the debt being paid by the end of the third month in the following financial year the offer can be accepted as long as there is no history of previously broken arrangements.
- 6.11 System reports will be produced of all arrangements made that fall into arrears for the agreements to be terminated and further action to be set up without further contact with the debtor, unless required by statute.

6.12 Valid defences against a Liability Order are set out in point 5.7 above





7 Information Gathering/Financial Advice

- 7.1 At all times during contact with customers following the receipt of any documentation sent to them, Council Staff will actively seek to establish if the customer is entitled to any Relief, Discount, Exemption or Council Tax Benefit and Housing Benefit, that would help alleviate any financial difficulties that they may be facing and reduce the customers Council Tax Liability. They will also be given advice as to where to seek financial help on a non-commercial basis.
- 7.2 If the Council already hold a Liability Order, this then gives the powers to ask for financial information concerning Income and Expenditure so that an informed decision can be made on what method, length and type of recovery would be best suited to both the customer and the council. Again this information will be used to see if there is any potential entitlement to Relief's, Discounts, Exemptions and Council Tax and Housing Benefit.

8. Attachment of Earnings Orders

- 8.1 Attachment of Earnings can only be used following the granting of a Liability Order.
- 8.2 Where the debtor's employer is known and an order will result in payments at a greater rate than the debt accrual rate and where there has been no acceptable offer by the debtor, an Attachment of Earnings Order should be set up. A maximum of two Liability Orders can be set up at any one time.
- 8.3 The debtor will be advised that the order has been issued at the same time as the necessary documentation is sent to the employer.
- 8.4 The amounts to be deducted from the debtor's wages are set by the Government and a form/letter setting out the employer's responsibilities under the order and the rate of deduction to be made is sent with the order.
- 8.5 Attachment Orders are monitored and a report generated where payment has not been forthcoming.
- 8.6 If the order is cancelled for whatever reason the next step would normally be to instruct an enforcement agent. If enforcement agents have already been used to collect this debt and we have evidence of enforcement agent activity, other action such as committal, charging orders or bankruptcy proceedings can be commenced.
- 8.7 Consideration will be given to a specific written request from a customer to obtain payment by this method once a Liability Order is obtained.
- 8.8 Attachment of Earnings cannot be used on accounts whose names are not personal, i.e. Ltd or PLC Companies.

9. Attachment of Benefits

- 9.1 Attachment of Benefits can only be used following the granting of a Liability Order. It cannot be implemented at the request of customers. This method of recovery excludes any other action on other Liability Orders on the same account whilst the AOB is in force.
- 9.2 The powers to issue an Attachment of Benefit (AOB) Notice are restricted to Income Support, Pension Credit, Income and Contribution Based Job Seekers' Allowance and ESA only.
- 9.3 In the case of couples where the person named as responsible for payment of Council Tax is not the Benefit claimant, an Attachment cannot be actioned. However, if all parties are jointly and severally liable for Council Tax, then an Attachment can be made.
- 9.4 Before attaching benefits, the accrual rate should be checked to ensure that the deduction rate is greater than the accrual rate. If the accrual rate is greater (e.g. due to non-dependants living in the household), an attachment of benefits will not normally be set up.
- 9.5 Information that a taxpayer is in receipt of Income Support/Job Seekers Allowance may only be received from the enforcement agent after he has called at the property. The enforcement agent Code of Practice gives guidance to enforcement agents on this.

10. Enforcement Action

- 10.1 Enforcement agent action is taken where there has been no positive response to the letter advising the debtor that the Liability Order has been granted or when one of the options given above has previously failed.
- 10.2 Liability orders with debts outstanding of below the agreed low cut-off amount are not normally sent to enforcement agents.
- 10.3 A letter advising the debtor that the enforcement agent has been instructed to collect the debt will be sent at least 14 days before the enforcement agent first calls at the debtor's address. Details of enforcement agent fees are included with the letter.
- 10.4 The debtor will incur costs as follows:
Single fee of £75.00 at point of issue
- 10.5 The enforcement agents will also charge further costs as listed below if payment is not forthcoming and it is necessary to take further action.
An Enforcement Fee of £235.00 for the first and any subsequent visits
£110.00 if goods are removed and taken to a place of sale
- 10.6 Where there is joint and several liability; enforcement action should be set against the primary liable person on the computer system. This means that enforcement agent instructions will be created against all J & S people. Action should be set against the secondary liable person only in very exceptional circumstances and clear notes should be entered of the reason for doing so.
- 10.7 Enforcement activity is subject to and governed by a Code of Practice approved by the Revenues Manager.
- 10.7.1 This includes a duty to identify any potential vulnerable parties and report back to the Council accordingly, before any action takes place to remove goods.
- 10.7.2 The Council will then determine if alternative payment methods are feasible before authorising removal of goods.
- 10.8 If payment is not made, the enforcement agent is entitled to take possession of goods belonging to the debtor and to remove those goods for sale by public auction.
- 10.9 If the Enforcement agent is unable to locate goods or where the goods are of insufficient value to pay the debt, the liability order will be returned to the Council endorsed to that effect and either committal or bankruptcy proceedings started.

11 Note of Caution for items 12, 13 and 14.

Bankruptcy, Charging Orders and Committal to Prison

The above three options for recovery of Council Tax debts are the subject of individual procedures and should only be undertaken once those procedures have been read and thoroughly understood.

In the case of Bankruptcy and Charging Orders these can lead to debtors losing their homes and whilst both methods of recovery are useful they do not provide a one size fits all approach and must be taken on an individual case basis by an experienced officer and in line with the specific recovery procedures. There is not a requirement to use these methods of recovery in a specific order but especially with Bankruptcy the action needs to be taken with a view to the Local Government Ombudsman's guidelines.

All action undertaken for items 12, 13 and 14 will be authorised by one of the following authorised officers:

Graham Russell - Assistant Director of Resources (Revenue Services)

Gaven Downton IRRV - Head of Council Tax and Business Rates

12. Instigating Bankruptcy Proceedings against a Debtor

- 12.1 Where the total debt is £5,000 or more, the Council can take action to have the debtor declared bankrupt (or in the case of a company take winding up proceedings).
- 12.2 Cases are sent to an insolvency practitioner.
- 12.3 Debts to be referred for bankruptcy are those where we have a liability order (not legally necessary but good proof of debt) and the liable person is the owner. This can be either an owner occupier or a landlord where there can be several properties involved.
- 12.4 A letter must be sent to the taxpayer advising them that the debt is being considered for recovery by one of three methods (Bankruptcy/Charging Orders or Means Enquiry/Committal to Prison and asking for income & expenditure figures. If no reply is received the debt is moved to one of the three options.
- 12.5 For potential Bankruptcy cases, checks are made with other Council Departments to establish any other debts with the council that may be included in a combined action
- 12.6 Once selected for bankruptcy the debt is passed to an Insolvency Company who will first issue a warning letter and then proceed (if no positive response) to issue a Statutory Demand that gives a set period of time for the debtor to pay or refute liability. If not paid or refuted after this set period proceedings will commence along normal Bankruptcy lines. (See Bankruptcy Procedure)
- 12.7 The costs of applying for a bankruptcy petition are substantial and are born mainly by the debtor, although in some circumstances the Council will have to pay them.

****See Section 15 regarding vulnerable parties****

13 Charging Orders

- 13.1 A Charging Order can be an effective method of recovery in some limited cases and should not be overlooked at the post enforcement stage of debt recovery.
- 13.2 Debts that are considered for this recovery method must be of an aggregate of £1,000 and have Liability Orders.
- 13.3 Type of debtors to be considered are
- a) Those that own their own home and are elderly, in care or receiving care. For these cases the charge would normally be left on the property until a sale occurs.
 - b) Non-resident landlords where a letting agency is managing the property on behalf of an owner and the debt is not the responsibility of the tenants (HMO) and where other collection methods have failed to obtain payment. In this instance a charge can be put on the property and may proceed to stage 13.4 below:
- 13.4 In certain circumstances as in 13.3(b) the sale of the property can be forced where a Charging Order is on the property, this is at the discretion of the County Court and may be refused for example if the debt is small compared to the value of the property. Remember a Charging Order does not automatically bring payment. A Billing Authority is under a duty to collect the tax and it could be argued that this method does not necessarily produce payment.

14 Committal to Prison

- 14.1 In cases where the enforcement agent has been unsuccessful in obtaining payment and has provided proof of Enforcement Agent Activity the Council can apply to the Magistrates Court for the debtor to be committed to prison for non-payment.
- 14.2 When this occurs the defaulter can either be summonsed to appear or where appropriate the Magistrates can issue a warrant for the defaulter's arrest in order to secure attendance.
- 14.3 The standard procedure is for the debtor to be summonsed to Magistrates' Court. Where the debtor fails to appear a warrant of arrest will be applied for, this is likely to be issued with bail in the first instance and then without bail on a second or subsequent failure to appear.
- 14.4 There is no minimum value for which committal action can be taken.
- 14.5 Committal action is not taken in cases where the current address of the debtor is not known.
- 14.6 When a debtor attends a Court hearing, Recovery staff will interview him/her before the hearing in an attempt to reach a payment arrangement and obtain full details of the financial circumstances. The debtor will be advised that the case will be adjourned to a future date for payments to be made.
- 14.7 Committal action will not normally be considered where the debt is for a balance of less than the relevant tax year's band charge for the property.

****See Section 15 regarding vulnerable parties****

15 Vulnerable Persons

- 15.1 A vulnerable adult is a person aged 18 or over and receiving care either in a residential care home or at home, as well as those who require assistance in conducting their affairs and those who have been detained.
- 15.2 A vulnerable adult is or may be unable to take care of him or herself, or is unable to protect him or herself from significant harm or serious exploitation.
- 15.3 How do we recognise a Vulnerable Adult?
- A vulnerable adult may be a person who:
- Has a physical or sensory disability
 - Is physically frail or has a chronic illness
 - Has a mental illness or dementia
 - Has a learning disability
 - Is old and frail
 - Misuses drugs and/or alcohol
 - Has social or emotional problems
 - Exhibits challenging behavior
- 15.4 A person's vulnerability will depend on their circumstances and environment, and each case must be considered individually.
- 15.5 The Equality Act 2010 lists the following groups of people that may face discrimination and therefore be shown as vulnerable persons:
- Age (including children and young people),
 - Disability,
 - Gender reassignment,
 - Pregnancy and maternity,
 - Race,
 - Religion or belief,
 - Sex and sexual orientation,
- 15.6 Whilst a persons age does not automatically make them Vulnerable for this purpose "Old" is deemed to be someone who is over the age of 68 being the future planned retirement age set by the government in its last review which also means that the retirement age will be the same for both Men and Women reflecting the changing role of Women in the workplace. Age itself does not mean that a person is necessarily vulnerable but does indicate that a cautious approach needs to be taken along with other identifiable indicators. Further enquiries and caution should be taken when dealing with someone over 68 years old.
- 15.7 Other examples of vulnerable cases which are not listed above may be identified as the above list is not exhaustive. Therefore, both caution and discretion must be used when information regarding a person and or their circumstances comes to light. In these cases the Council Tax Manager and/or Head/Deputy Head of Service must be consulted
- 15.8 Before recovery action in the form of Bankruptcy or Committal is taken each

case is subjected to a series of stringent checks to ensure the correctness of the debt in line with the collection policy. These checks include those shown below in relation to vulnerability.

- 15.9 Any linked Council Tax Benefit/reduction record is checked for the date of birth of the debtor to establish that they are not of retirement age.
- 15.10 Correspondence is checked for content again to pick up the age of the person or any vulnerability. All known active Council Tax and Housing Benefit claims result in the debtor being excluded from the Bankruptcy processes and Committal work.
- 15.11 Information gained by our enforcement companies and entered onto their case reports is also screened for picking potential vulnerable and vulnerable people
- 15.12 Before either Bankruptcy or Committal action is taken two warning letters with a minimum of 2 weeks between are sent to the debtors advising them that they are being selected for potential recovery action and asking for details of Income and Earnings on a "Statement of Means", the correct completion of the "Statement of Means" form will again indicate vulnerability by means of any Benefit entitlement or other comments written on the form.
- 15.13 Potential cases are checked against the Social Services caseload to establish if the debtors are known cases on the Social Services Department Register. If they are known active cases these debtors may be excluded from both Bankruptcy and Committal proceedings.
- 15.14 For potential Bankruptcy cases, checks are made with other departments to establish any other debts with the council that may be included in a combined action.
- 15.15 During the Bankruptcy process checks will be made with Social Services at the Key points in the process to make certain that there have been no changes in mental or physical health that would have an impact on the recovery action.

16 Independent Debt Advice

The Council will do all it can at every stage of the recovery process to help ease the burden of local taxes by making sure that from the information given by the debtor that all possible discounts, benefits and allowances are made known to the debtor and that application forms are sent for completion where appropriate. However, the Council is not in a position to offer a debt advise service and would normally suggest that a customer in financial difficulties consults with one of the following organisations:

The National Debt Helpline www.nationaldebtline.co.uk

National Debtline

Tricorn House,
51-53 Hagley Road,
Edgbaston,
Birmingham
B16 8TP

Telephone 0808-808-4000

Citizens Advice Wandsworth <http://cawandsworth.org>

Bureau name & address	Opening Hours
Battersea Library Drop-in 265 Lavender Hill LONDON SW11 1JB	Monday 10.00-16.00 Tuesday 10.00-16.00 Wednesday 10.00-12.00 Thursday CLOSED Friday 10.00-16.00
Tooting Library 75 Mitcham Road London SW17 9PD Call 0208 767 0543 for an appointment	Monday 10.00-12.00 Tuesday No Service Wednesday No Service Thursday 10.00-12.00 Friday No Service
Roehampton Centre Drop-in 166 Roehampton Lane LONDON SW15 4HR Telephone 020-8333-6960	Monday 10.00-12.00 Tuesday 13.00-15.00 Wednesday 10.00-12.00 Thursday 13.00-15.00 Friday Closed
Telephone Advice 0207 042 0333	Monday No phone service Tuesday 10.00-16.00 Wednesday No phone service Thursday 10.00-16.00 Friday No phone service



Signatures and Change Control

Signed by Gaven Downton IRRV
Head of Council Tax and Business Rates

Dated this 27th July 2018

Signed by Graham Russell
Assistant Director of Resources (Revenue Services)

Dated this 27th day of July 2018

Change control

Date	Description/Update
1.7.2008	Initial draft
30.4.2009	Sections 11 and 15, regarding vulnerable persons added
18.5.2012	Point 3.4 no longer states cash payment by payslip with bill, but using barcoded bills instead at Paypoint or Post Office. Table of payment methods and dates added at 3.5 Points 10.7.1 and 10.7.2 added regarding duty of enforcement agent to identify potential vulnerable person before removal of goods Reference to Section 15 (Vulnerable persons) added to Section 12 (Bankruptcy) and Section 14 (Committal)
24.5.2012	Updated Citizen Advice Information
12.2.2014	Updated Section 15 re the Equality Act

	2010 Discrimination and Vulnerable Persons.
20.4.2014	Updated according to relevant changes contained within the Taking Control of Goods Act 2013.
27.4.2015	Review and sign off – no changes.
21.4.2016	Updated 12.1 to show new minimum debt for bankruptcy of £5,000 CAB details updated at Section 16
18.12.17	5.5 amended to show d/d on l/o can only be taken on 2 nd of month. 9.2 amended to include Contribution based JSA and ESA. 9.3 amended to make j/s liability clearer for AOB cases. 11 Graham Russells name added and Kevin legs name removed. 16 CAB website address amended to CAW website address.
27.07.18	3.4 amended to remove credit card fees.
27.07.18	5.3 & 5.5 amended to show summons costs now £92.50.