

Collection of council tax code of practice

1. Introduction

1.1 This document covers the collection of unpaid council tax in respect of Cheshire West and Chester Council. The Council is committed to using the most effective recovery methods available to it. This policy will ensure that any use of recovery is consistent and complies with best practice and the relevant legislation.

2. Collection of Council Tax

2.1 The Council believe that payers have a right to full information and this code of practice sets out the approach which was adopted in 2009/10 and subsequent years.

2.2 Any tax recovery system must be efficient and effective. It is widely accepted that early recovery action benefits the person in arrears. It highlights the problem and can prevent further arrears mounting up by agreeing a satisfactory repayment plan at an early date.

2.3 Local taxes have to be paid and the Council expects them to be paid by every liable person. We want to ensure that all residents in our area only pay the amount that they have to. We actively promote available discounts and exemptions and council tax reduction provides help up to 100% of the charge (75% if of working age). If a person is having difficulty paying the amount due, the Council will encourage them to come to an acceptable agreement to repay arrears. However, once an agreement has been made, the Council will expect the agreement to be kept and it will not hesitate to take further action against people who do not fulfil their obligations.

3. The recovery process – an explanation

3.1 Once a person falls into arrears, they will receive a reminder notice. If the amount on the reminder is not paid within seven days the whole amount for the year will become payable within a further seven days. If the amount is not paid within a reasonable time the reminder will be followed by a court summons. During any financial year a maximum of two reminder notices are issued, should a third instalment become overdue a final notice requesting full payment of the account is issued. These notices will show the amount outstanding and explain clearly the consequences of not bringing the payments up to date. It explains in plain English why the notice has been sent and encourages people to apply for council tax reduction if they have not already done so.

3.2 If the instalments are not brought up to date as per the reminder or final notice, or an arrangement made with the Council, then the right to pay by instalments is forfeited and the full balance is due for payment. The full balance will be shown on the notice.

4. The summons

4.1 If the balance is not paid, then the Council will make complaint to the Magistrates' Court and send a summons for the total outstanding amount. The summons gives the time, date and venue of the hearing. It explains that proceedings will be stopped if the "total amount due" is paid. The "total amount due" is the combined amount of council tax together with court and authority fees. The level of fees should be reviewed annually and agreed with the Magistrates' Court.

4.2 If an arrangement has been accepted following the issue of the summons, their appearance at court is not necessary. The Magistrates can only determine liability for council tax; they cannot hear other matters nor make arrangements for payment. If the Court is satisfied that the person named in the complaint is liable for the debt, it will grant the Council a liability order.

4.3 The summons urges people to get in touch with the council. It explains that no action will be taken to enforce the liability order if an arrangement to repay the arrears has been made and is followed. Guidance notes are provided which will explain the situation if the amount due is not paid and how to make an arrangement.

5. The liability order

5.1 This is an all-purpose order, which allows the council to take further recovery action in a number of ways. The main three are as follows –

- Attachment of earnings (for persons in employment)
- Attachment of benefit (from Income Support, Job Seeker's Allowance, Pension Credit Guarantee and Employment and Support Allowance)
- Taking control of goods by enforcement agents

5.2 In addition to the above measures the legislation also allows bankruptcy proceedings, attachment to allowances and charging orders to be issued.

6. Post-liability order action

6.1 The liability orders that the council are granted by the court will be divided into 3 broad categories –

- Those where people have made contact and have made a satisfactory arrangement for payment
- Those where no contact has been made
- Those where people have made contact, but no satisfactory arrangement has been made

6.2 People in the first category will be informed in writing that providing their payments are made as previously agreed, then no further action will be taken to enforce the liability order. If however the arrangement breaks down further notices will be issued advising of the amount required to prevent the enforcement of the order. All those in this category will receive a notice of liability order that will specify the remedies available to the council to enforce payment.

6.3 Those in the second category, documentation will be sent (notice of liability order) advising them that a liability order has been granted. This will ask for payment of the full amount immediately. If the person is unable to make payment the notice will urge them to contact the council with a view to making an arrangement to repay the debt by instalments.

6.4 A questionnaire will be included explaining the remedies available to the council and requesting details of all types of incomes for the purposes of establishing whether an attachment to either earnings or certain benefits is possible. This questionnaire also provides the opportunity to request a payment arrangement. It will also explain that failure to complete the questionnaire or provide false information could lead to a possible fine of up to £500.

6.5 Documentation will also include notices relating to fees connected with taking control of goods which provides a detailed breakdown of enforcement agent costs and fees that may be incurred should the liability order be passed to an enforcement agent company.

6.6 People who fall into the third category will also be sent documentation advising them that a liability order has been granted. They will also be required to complete the questionnaire with their income details.

7. Satisfactory repayment arrangements

7.1 Ideally, arrears should be cleared by 31 March of the year of the account. In exceptional circumstances this repayment period may be extended into the following financial year. It is important however, that ongoing council tax liability be taken into account when determining a repayment plan. Unless this is done, arrears will continue to mount.

Whenever possible, arrangements to pay are accepted after taking into account personal circumstances. Income and expenditure forms can be completed and referrals made to the Citizens Advice Bureaux or other non-fee paying organisation in cases of difficulty.

8. Enforcing the liability order

8.1 In cases where no satisfactory arrangement has been made or agreed payments have not been made, further action must be taken to enforce the order. The Council has the option of direct deductions from wages/salaries, certain benefits or by taking control of goods by an enforcement agent.

8.2 Of the three remedies available the use of an enforcement agent will be regarded as a last resort. That is to say where it is possible to operate an attachment of earnings or benefit, that method of recovery will take priority over taking control of goods. Details of a person's earnings or benefits will have to be obtained by the use of the questionnaire as referred to above. Where the relevant information is provided by the person action will

be taken to set up deductions with the debtor's employer or benefit office. Where it is not possible to make an attachment of earnings or benefit or where the questionnaire is not returned within 14 days the council will instruct the enforcement agent for further action. The questionnaire will state clearly that the liability order will be sent to the enforcement agent on failure by the debtor to provide the requested information.

9.0 Appointment of enforcement agents

The council recognises that it is important to select only organisations that will carry out its enforcement agent services in an efficient, transparent and professional manner. Therefore the Council from time to time will provide guidance on the matters, which must be considered in the selection process. It will however be left to the Billing and Debt Manager to make the appointment having considered all the issues.

For the purpose of complying with this Code of Practice the Billing and Debt Manager will have regard to the following:

1. Can they provide the service required?
2. Do they have the resources (bank references etc)?
3. Do they have the expertise?
4. Do they have a good reputation?
5. Who are their main local authority clients?
6. Have at least two references been received from other local authorities?
7. Are they members of a professional body?
8. Do they have a code of practice for their own employees?
9. Do they have proper operational procedures?
10. Has a senior member of Billing and Debt seen the organisation's offices?
11. Are they fully transparent?
12. Will the Council have some control over their strategies?
13. Do they have proper indemnity and insurance arrangements?
14. Do they operate a "client account" for Cheshire West and Chester Council payments?
15. Do their enforcement agents hold a current enforcement agents certificate issued by a County Court?
16. How are their staff paid, salaried or commission?
17. Are their staff bonded?

The above should be seen as a checklist to good practice only. It will however be for the Billing and Debt Manager to satisfy themselves that any organisation appointed will act properly on behalf of the Council.

Cheshire West and Chester Council reserve the right to terminate the enforcement agent firm's services for unreasonable behaviour or for any other reason as it sees fit. In this event all outstanding work and monies collected will be passed to the council within 14 days.

10. Monitoring enforcement agents

10.1 Three enforcement agent companies are currently appointed in the collection of council tax and each is monitored on its performance. Whilst collection rates play a significant part in this process, value for money and customer care is also of significant importance.

10.2 Quarterly review meetings are held between senior representatives from both the council and each enforcement agent company. Billing and Debt staff are welcome to visit the enforcement agent firm's premises and accompany enforcement agents in the performance of their duties.

For further details on the standard of service and code of conduct required by appointed enforcement agents please see annexes 1 and 2 to this document.

11. Hearing - commitment to prison proceedings

11.1 The final stage and last resort in the recovery of unpaid council tax is commitment to prison. If no other method of recovery has been successful then the council will have no alternative but to consider this action.

11.2 It is only at this stage that the magistrates have the power to remit all or part of the debt on the grounds of hardship. Only the Court can write-off debt. If they remit part of the debt they are unable to commit the defendant to prison. The council has no power to remit the debt.

11.3 The court can only commit a person to prison if they are satisfied that non-payment has been due to "wilful refusal or culpable neglect". It is a duty of the magistrates to make this determination having considered all relevant details of the defendant including a thorough means enquiry.

11.4 Even at this late stage, the court will normally make an order for repayment after conducting the means enquiry and suspend any term of imprisonment on condition that the order is complied with.

12. Executing arrest/committal warrants

12.1 If in the course of committal proceedings, a warrant of arrest or committal warrant is issued by the magistrates, the following will be adhered to at all times:

- The arrest of a female debtor will be actioned by a female enforcement agent or if a male makes the arrest a female colleague will accompany him.
- Special arrangements must apply where children are involved. Each case will be treated on its own merits and the Billing and Debt Manager will direct enforcement agents accordingly after consultation with the Head of Finance.

13. Other ways to recover outstanding council tax

13.1 Prior to considering committal to prison proceedings the council will always endeavour to recover outstanding council tax through a variety of alternatives providing we have information to indicate that any of the following would be applicable.

Attachment of earnings (AEO)

Attachment of benefit (AOB) (from Income Support, Job Seeker's Allowance, Pension Credit Guarantee and Employment & Support Allowance)

13.2 The first two options (AEO & AOB) will be utilised on a regular basis, the other options will be enforced only when careful consideration has been given to the circumstances of individual cases.

Charging order (minimum £1,000 debt and have a beneficial interest in the property where the council tax debt was accrued).

Bankruptcy proceedings (minimum £5,000)

13.3 The use of Charging Orders and Bankruptcy proceedings by Cheshire West & Chester Council is covered by a separate operational procedure document to ensure that the Council's use of these recovery methods is consistent and complies with both relevant legislation and best practice. For further information please refer to the Cheshire West and Chester Council procedure for insolvency.