

NEWARK AND SHERWOOD DISTRICT COUNCIL

CODE OF PRACTICE FOR COLLECTION AND ENFORCEMENT OF LOCAL TAXATION

1 Introduction

- 1.1 The purpose of this document is to outline the policies of Newark and Sherwood District Council in relation to the collection of Local Taxation.
- 1.2 This Code of Practice aims to ensure that the collection of Council Tax and Business Rates is undertaken in a manner which is humane, fair and firm. In particular it will aim to:-
- a) Ensure that its systems distinguish between those who **cannot**, and those who **will not** pay.
 - b) Ensure that the recovery process does not cause severe financial hardship.
 - c) Recognise that non-debtors need to be protected.
 - d) Recognise that some debts are uncollectable.
 - e) Recognise that where debt recovery work is performed by non-council staff under contract or service level agreement, the Council have a continuing responsibility for their actions.
 - f) Respect an individual's Human Rights.

2 Collecting Local Taxes

- 2.1 The Council recognise that most Newark & Sherwood residents and businesses pay their Council Tax and Non-Domestic Rates (Business Rates) promptly. It is the Council's duty to collect all Taxes as they fall due.
- 2.2 To ensure that our collection is fair and gives customers confidence in our practice, we will
- Promote easy payment methods and payment dates to prevent recovery action.
 - Treat individuals consistently and fairly.
 - Assist customers to make affordable payment arrangements based on their means.
 - Publicise all debt advice to all customers.
 - Ensure that we take account of vulnerabilities and recovery measures are proportionate to individual circumstances, where known.
- 2.3 Where bills are not paid and agreements can not be reached on how they will be paid, we will use all appropriate powers to pursue and enforce payment.

3 Billing processes

- 3.1 A demand notice (bill) is issued before the start of the year (1 April) and there is a right to pay by monthly instalments (up to a maximum of 12). We also send out amended bills throughout the year if there have been changes to the account.

- 3.2 Instalments are due on the first day of each month. If you choose to pay by direct debit, we will offer a range of different dates each month for you to choose from
- 3.3 If an instalment payment is missed and remains unpaid for 7 days, we will issue a reminder notice. The amount reminded must be paid within 7 days of the notice date.
- 3.4 If the amount on the reminder remains unpaid, you will lose the right to pay by instalments and no further reminders will be sent.
- 3.5 If you pay the amount on the reminder but miss a further instalment a second reminder will be issued. A maximum of 2 reminders will be sent in each year.
- 3.6 If you miss a third instalment, a final notice will be issued to you. Your right to pay by instalments will be cancelled and the remaining balance on your account will be due for payment in full.
- 3.7 If you have not paid a reminder or final notice within 7 days of it being issued, the Council will ask the Magistrates Court to agree the issue of a summons.
- 3.8 The summons is a legal document asking you to appear at the Magistrates' Court, however, you are only required to attend if you dispute your liability, or the Council Tax amount owed. If you do not pay the full amount shown on the summons before the Court date, the Court will be asked to grant a liability order against you, together with reasonable costs sought in connection with the application.

4 Recovery Action Prior to Instructing Enforcement Agents

- 4.1 Enforcement Agent action to recover Local Taxation arrears should only be implemented if all other appropriate methods, have been considered and/or exhausted.
- 4.2 Following an application in the Magistrates Court, a debtor must be notified, where appropriate, that a Liability Order has been obtained.

4.3 Deductions from Income Support/Job Seekers Allowance

If a debtor is on Universal Credit, Employment and Support Allowance, Jobseekers Allowance, Income Support and Pension Credit or any other third-party deductible benefit a request to the Department for Work & Pensions may be made to make deductions from benefits. In cases of multiple arrears, the Council will also suggest to the debtor that debt counselling is sought from the Citizens Advice.

4.4 Attachments of Earnings Orders

Where the Council are aware that a debtor is in employment, an attempt may be made to obtain an Attachment of Earnings Order. In accordance with the relevant legislation, where applicable, the Council will apply to operate two Attachment Orders at a time. If an Attachment of Earnings Order is implemented, and a debtor asks for it to be cancelled, the Council will consider the request, and make a full assessment of income and expenditure. If it is proven that the Attachment of Earnings Order is causing severe financial hardship, consideration may be given to reducing the number of orders or cancelling it altogether. If there is a strong indication that the Attachment of Earnings Order will result in the termination of the debtors employment, consideration must be given to its cancellation.

4.5 Arrangement to Pay

At all stages of recovery debtors must be encouraged to contact the Council, or its agents, and make an offer of payment. Following an assessment of the debtors income and expenditure, any reasonable offer of payment shall be accepted. However, if the arrangement is not maintained, the Council will reinstate recovery action as appropriate.

- 4.6 If the debtor is in receipt of a deductible benefit, and the Department for Work & Pensions are unable to make deductions from benefit, any arrangement that is made should not exceed the statutory level for deductions, unless the debtor offers and is able to afford a higher sum.
- 4.7 All payment arrangements made between the Council or its agent, and the debtor must be confirmed in writing.
- 4.8 The Council will consider any request from the debtor to vary the amount in the payment arrangement. However, this will only be considered following an assessment of the debtors income and expenditure.

5 Enforcement Agent Action

- 5.1 Under this Code of Practice, the Designated Officer shall have delegated authority from the Director of Resources, for all dealings with Enforcement Agents. The Designated Officer is the Council's Transactional Finance Manager.
- 5.2 Before Enforcement Agents are instructed, the Council will:-
 - a) Check its internal records to establish whether the debtor, or the debtor's partner, is in receipt of a deductible benefit. If a relevant benefit is being received, the Council may apply for a deduction.
 - b) Check its records to establish whether the debtor falls into one of the priority categories (see 6 below).
 - c) Check its records to establish whether the debtor, or the debtor's partner (if liable for the charge), is working. If either the debtor, or the debtor's, partner is working an attempt to implement an Attachment of Earnings Order may be made.
- 5.3 Once the Council has passed a debt to an Enforcement Agent any payment arrangements must be agreed directly with the agent.

6 Vulnerable Situations

The Council recognises that it has a role in ensuring that the vulnerable and socially excluded are protected. This Code of Practice therefore makes the following provisions to ensure that procedures for recovering Local Taxation arrears are appropriately utilised in cases involving vulnerable people. Those who might be considered vulnerable include:-

The elderly
People with a disability
The seriously ill
The recently bereaved
Single parent families
Pregnant women
The unemployed

Those who have difficulty in understanding, speaking or reading English

- 6.1 The Council will make efforts to avoid the full use of Enforcement Agent action for people in vulnerable situations. However, a controlled goods agreement may be taken to secure an arrangement. Before the removal of goods, the Enforcement Agents must contact the Council to:-
- a) Advise that the debtor is considered vulnerable.
 - b) Discuss the action taken to try and reach an arrangement and confirm that these have failed.
 - c) Confirm there is no other alternative but to remove goods.

Having examined all the facts, the Council's Designated Officer will decide whether goods can be removed.

7 Charging Orders / Insolvency

- 7.1 Nothing in this code shall affect the Council's right to instigate Charging Order or Insolvency action, in accordance with the appropriate legislation.
- 7.2 Charging Order or Insolvency action will only be used after all other appropriate recovery measures have been considered.
- 7.3 Charging Order or Insolvency action must be authorised by the Council's Designated Officer.

8 Application for Committal to Prison

- 8.1 Nothing in this Code shall affect the Council's duty to initiate proceedings for Committal to Prison, in accordance with Local Taxation legislation.
- 8.2 Committal proceedings are only to be used as a last resort, after all other appropriate options, have failed.
- 8.3 Twenty-one days before a committal court summons is issued, a 'Pre-Committal Warning Letter' will be sent, offering a final opportunity for the debtor to enter an arrangement. This letter will clearly outline the actions that will be taken if no response is made and maintained.
- 8.4 The Council when issuing a Pre-Committal letter, and serving Committal Notices, will notify debtors of the availability of independent advice from a Solicitor or the Citizens Advice.