



Revenues and Benefits Service

Recovery Policy

Council Tax, Business Rates, Sundry Debtors & Housing Benefit overpayments

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1.0 Introduction

Council Tax and Business Rates is a form of Local Taxation which is the main source of Revenue for County Councils, District Councils and Local Parish Councils. The Tax is a way for local people and Businesses to make a contribution to the area where they live or work by helping to meet the cost of providing a range of local services.

There is a considerable amount of Legislation governing the collection of Council Tax and Business Rates, the majority of which is contained in the Administration and Enforcement Regulations of the Local Government Finance Acts of 1988 and 1992. However, there remains a high level of discretion that can be applied in how these powers are enforced.

Some of the Key Performance Indicators for the Council is the collection of Council Tax, Business Rates, Housing Benefit Overpayments and Miscellaneous Income with an aim to improve collection rates to that of the upper quartile of local authorities. This recovery policy is designed to maximise collection whilst adhering to the needs of the community.

The Council aims to secure payment efficiently and effectively with the minimum amount of effort and cost to both the debtor and the Council.

The Revenues and Benefits Department will seek the most appropriate and financially advantageous means of maximising the council's revenue. The policy contains information about how we deal with customers through each stage of the recovery process. It is designed to ensure that we treat all customers fairly and consistently whilst maximising opportunities to collect the revenue owed to the Council.

This document should be read in conjunction with the Corporate Debt Policy which was introduced in April 2013 as its main aim was to prevent customer's indebtedness to the Council getting worse.

2.0 Council Tax and Business Rates

2.1 Introduction

Council Tax is payable by the vast majority of adults who are resident in the district. Each property is placed into one of eight Council Tax bands (A-H) based upon the market value of the dwelling in 1991. The Council administers the scheme and collects the tax.

There is a vast amount of work involved in establishing and assessing liability to the Tax as there are many different ways in which the charge can be reduced, other than through means tested Council Tax reduction.

Business or Non-Domestic Rates are payable by businesses. Local authorities collect the rates on behalf of the Government. The amount a business pays is dependent upon the rateable value of the property which is determined by the Valuation Office. All rateable values are normally revalued every 5 years.

Once liability has been assessed and the level of charge established and the Rate payer or Council Tax payer fails to pay in accordance with the bill or demand, there are various options available to enforce payment.

At the beginning of each year, every Council Tax and Business Rate payer has a right to pay their annual bill in ten monthly instalments provided the bill is issued before 1st May. At Arun the 10 monthly instalments run from April to January. They can also elect to pay in twelve monthly instalments (April to March), two instalments (April and October) or in one lump sum (June).

Payments are currently accepted by:-

- Direct Debit
- Bank Giro or Standing Order
- Via Bank or Post Office Counter
- BACS and Bank Transfer
- Cheque or Postal Order through the post
- Cash via the Post Office or Pay Point outlets
- Debit or Credit cards over the telephone or via the internet
- Internet banking
- Deductions from staff's salaries
- Direct Credit
- Transcash
- Personal collection, (in exceptional circumstances)
- Deductions from wages, salaries, pension and Councillors allowances
- Deduction from Income Support, Job Seekers Allowance, Employment Support Allowance & Pension Credits (Council Tax only)
- Internal Transfer

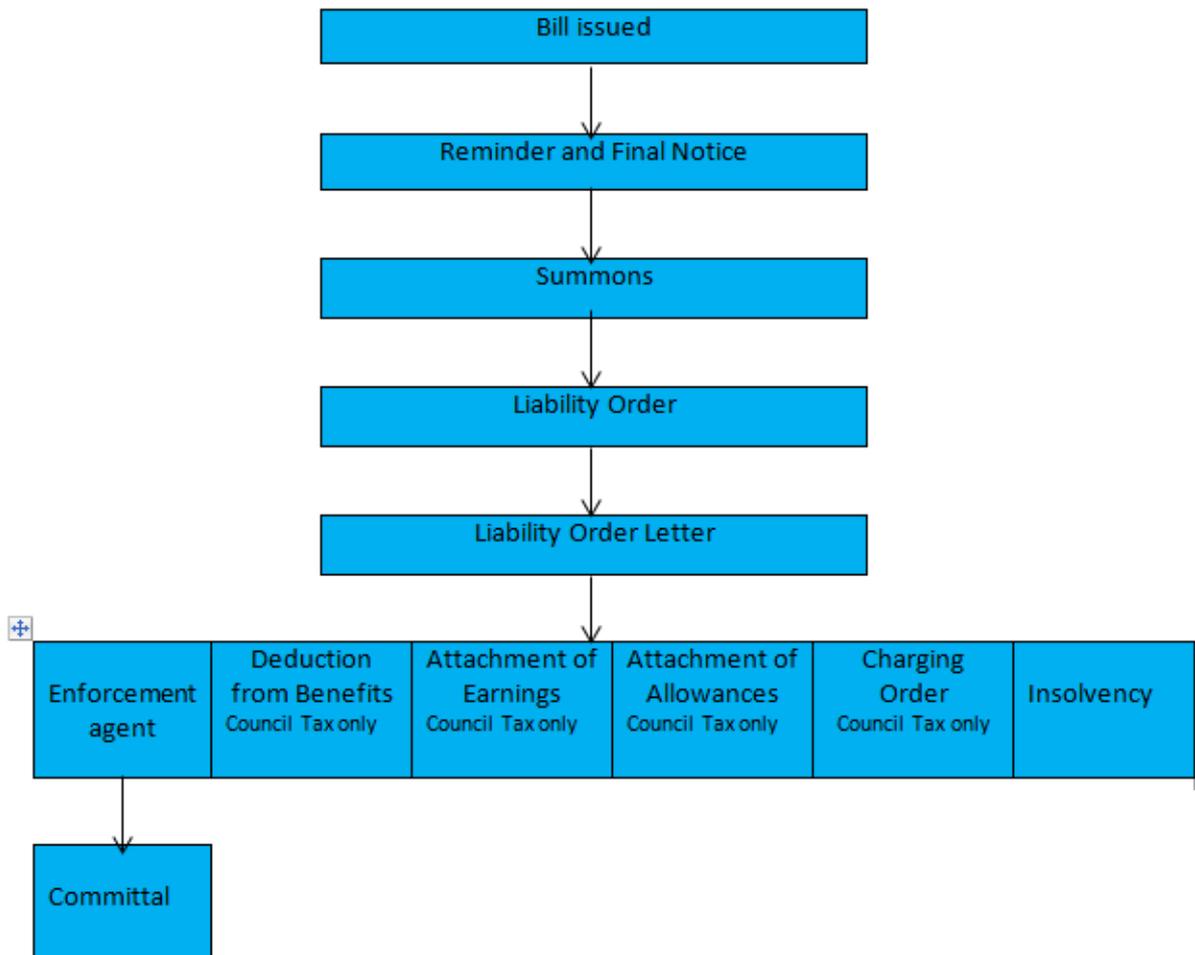
The Council offers customers the following payment dates:-

1st 15th or 25th of the month for Direct Debit payers

10th 15th or 25th of the month for non-Direct Debit payers

The Council appreciates that Direct Debit is the most cost-effective way to collect Council Tax and Business Rates and every opportunity is taken to promote this method of payment. Each account converted from paying by a non-automated form of collection will realise savings for the Council, as there should not be a need to take recovery action.

2.2 Recovery Process



2.3 Reminder

A Reminder may be issued as early as the day following the date upon which the missed payment was due. To comply with the law, reminder notices must provide a further seven days in which to make payment to bring the instalment in arrears up to date, or fourteen days to clear the full account balance.

The Council recognises that issuing notices the day after payment becomes due could have a negative effect on the customer's perception of the Council, as it would target people who pay but may be slightly late. These notices will therefore be issued at least 21 days after an account falls into arrears. This timescale provides for those who may pay late without delaying recovery action against those not paying anything.

If a Council Tax payer brings their payments up to date on receipt of a Reminder Notice but then again fall into arrears, they will receive a further notice, a Final Reminder Notice. However, no further "Reminder Notices" will be issued on any subsequent default.

Business Rate payers have two opportunities to bring their accounts up to date with the issue of a Reminder Notice on the first default and a Final Notice on the second default.

2.4 Final Notices

Final Notices are issued at least 14 days after the last notice, where arrears still exist. The Final Notice cancels the tax or ratepayer's right to pay by instalments and requests payment of the total balance within seven days.

If a customer contacts the Council at this stage their statutory instalments will be reinstated if payment of the instalments that have fallen due are made and a Direct Debit instruction is completed to collect future instalments.

If the payer ignores the Notice, but continues to pay their monthly instalments, they will not avoid the issue of a Summons, as the Legislation states they have lost their right to pay by instalments.

2.5 Pre-Summons Payment Arrangements

If the customer contacts the Council upon receipt of any Notice and indicates they are unable to pay in accordance with the notice, i.e. bring their instalments up to date or pay the balance in full, we will enter into a payment arrangement with them based on the following conditions:-

- the customer is in receipt of Council Tax reduction and /or Housing Benefit
- it is the first such arrangement made within the financial year;
- the arrangement does not exceed the end of the financial year;
- there is a genuine commitment from the customer to make the payments;
- the customer is aware of the action that will be taken if there is further default

It is a statutory requirement that all payment arrangements are confirmed in writing. In practice this can either take the form of a letter, or the issue of a revised bill. At each stage of the process and through communication with the customer, payment by Direct Debit will be promoted and encouraged.

2.6 Summonses

If the customer fails to adhere to the Final Notice, the Council will summons them to Magistrates Court and make an application for a Liability Order. Without this Order, the Council cannot take further enforcement action to collect the debt. If no special payment arrangement has been made the Council will move to this action in order to protect the Council's interests. However, it is recognised that to make effective use of this recovery tool, a Summons will not be issued where:-

- the balance is equal to or under the value of the summons cost;
- there is a Council Tax /Housing Benefit Application registered on the Northgate system;
- there is uncertainty over a current address;
- the customer has died;
- an appeal to the Valuation Tribunal is outstanding;
- there is an ongoing pre summons payment arrangement that is being maintained

Summonses shall be issued at least 21 days after the Final Notice, where there remains a balance outstanding. Costs for this issue of the Summons are added to the account.

Following contact from the customer, the Council will suspend action on the Summons where payment has been paid in full including the summons costs.

The Council will withdraw the Summons, on the following grounds:-

- on receipt of payment of the instalments that would have fallen due and a completed Direct Debit Instruction to collect the reinstated statutory instalments
- full payment has crossed with the issue of the Summons
- the Council is in error.
- there is evidence of long term sickness, serious illness, frailty or vulnerability
- there has been a recent death of a close relative
- mail has been returned as gone away

2.7 Liability Orders

Application will be made to the Magistrates Court for the issue of a Liability Order at least 14 days after the issue of the summons where;

- There is a summonsed balance outstanding.
- The case has not been adjourned to a later date.
- The Summons has not been withdrawn.

Application to the Magistrates Court for the issue of a Liability Order will not be made where;

- the customer has died;
- the Summons has been withdrawn;
- it has been agreed that the matter would be adjourned;
- correspondence is held which could result in a reduction of liability;
- a relevant High Court case is outstanding;
- mail has been returned as gone away.

Where only the Summons costs remain outstanding the Council may not consider it to be appropriate or cost effective to pursue collection. However, where payment of a summons is received without costs a letter will be issued to the customer advising them that the costs remain unpaid and that the Council will continue with the application for a Liability Order if payment of

the costs is not received. A decision to pursue collection will be decided on an individual basis, having regard to the circumstances and history of the account.

A Liability Order gives the Council various powers to enforce payment. It is the Council's intention to make effective use of these powers having regard to maximising collection, but giving consideration to the customer's financial circumstances.

A Liability Order notification letter will be issued by the Council within seven working days of the Liability Order being granted where no alternative method of collection has been implemented. It will include a notice of the statutory enforcement fees. For Council Tax debts a financial questionnaire will be issued for completion and return.

The Financial Questionnaire is used to obtain information as to the customer's financial situation and to prioritise the appropriate method and level of payment in order to maximise collection without causing severe financial hardship.

2.8 Withdrawing Costs

In the majority of instances payment of the total balance including costs will be pursued as the Council recognises this is valuable additional income to the Council. However, on occasions, it may be appropriate to consider withdrawing costs where:

- full payment has crossed in the post with the summons
- the debt outstanding is less than the costs due to entitlement to benefit or adjustment to liability
- pursuing payment of costs causes severe financial hardship
- payment history shows that payments are usually made on time but personal circumstances have resulted in late payment i.e. illness, disability, bereavement etc.
- the customer has passed away

Where recovery activity has reached the Enforcement stage and/or beyond to committal proceedings, the Council will ensure that costs are not withdrawn except where the following ex-

ceptional circumstances exist;

- the defaulter absconds and tracing enquiries are unsuccessful;
- information is received which, had it been received earlier, would have prevented recovery proceedings from being taken;
- liability is cancelled

2.9 Post Liability Order Payment Arrangements

Arrangements can be made to discharge the debt at any time throughout the recovery process, and can therefore be agreed in the intervening period between the issue of the Summons and the Court Hearing. However, it is important to emphasise that the customer has a right to a fair trial and the customer should under no circumstance should be prevented from attending the Court Hearing. They have a legal right to do so. If an acceptable arrangement is made with the Council before the Court Hearing, the application for the Liability Order will still proceed but no action will be taken to enforce the Liability Order unless there is a default on the payment arrangement. The award of a Liability Order also involves further costs being awarded to the Council, and any arrangements made before or after the hearing will take those costs into account.

These arrangements will be based on the following criteria:-

- the customers' ability to pay;
- the customers commitment to paying;
- the customers payment history;
- the debt will be paid within the financial year or if unable to discharge within the financial year, the arrangement will be reviewed every six months
- whether other arrears of Council Tax and Business Rates exist and what arrangements are in place for collecting these debts;
- any other Council Tax or Business Rates arrears are taken into account to ensure the payment arrangement is realistic and maximises the income to the Council;

All payment arrangements will ensure:-

- priority is given to the current year debt; (where no recovery action has been taken)
- the oldest debt becomes priority after recovery action has been taken or the current year debt has been cleared
- costs are included in any arrangement;

- Direct Debit is offered and encouraged;
- the overall total debt is reducing;
- An alternative method of collection would not discharge the debt more efficiently; i.e. Attachment of Earnings Order.

In order to maximise collection, we will continue to enter into a Special Payment Arrangements throughout the recovery process, and customers will often enter into a number of different agreements before the debt is cleared. This is particularly relevant where a low payment arrangement is agreed due to the short term financial difficulties experienced by the customer. In these instances, the arrangement will be reviewed on a regular basis, not exceeding 26 weeks, with the aim of increasing the payments.

The Council can only enter into Special Payment Arrangements following communication from the customer, normally in the form of a completed financial questionnaire, or following other proactive recovery initiatives. If the customer does not contact the Council to discuss their arrears, any information held on file will be used to adopt an automated method of collection, i.e. an Attachment of Earnings Order when the place of employment is known, or Direct Deductions from Income Support, when it is known that the customer is now on Benefit.

In the absence of a Payment Arrangement recovery action will be taken in the following order of priority:-

- Attachment of Earnings Order;
- Deductions from Income Support;
- Attachment to Allowances;
- Enforcement Action;
- Charging Order;
- Insolvency;
- Committal.

If the customer fails to contact the Council, or if there is no information held on file to enable alternative recovery action to be adopted, the debt will be passed to the Enforcement Agent for collection.

2.10 Attachment of Earnings Orders

This enforcement tool is available to collect Council Tax debts only, and allows the Council to instruct the customer's employer to make deductions directly from their wages, based on the level of income. Deductions are made in accordance with the Council Tax (Administration and Enforcement) Regulations 1992, S.I.501 2007

Attachment of Earnings Orders can be set up on two Liability Orders per customer at any one time, and it is our policy to always apply two Orders where there is more than one year's debt outstanding. No other form of enforcement action will be taken against the individuals named on the Liability Order if an attachment is already set up on them.

This can be a contentious method of collection as customers are often reluctant for their employers to be made aware of the debt, and for the Council to be paid direct from their wages. However, this alone is not a good reason to cancel this method of collection. When determining whether or not to stop one or more Orders the following factors will be taken into account:-

The permanence or otherwise of the customers employment - the customer may be in temporary employment and the income from the Order may be minimal. The employer may threaten to cease the customer's employment due to the Order(s) and there may be a real risk of the customer losing their job;

Previous Attachment Orders - if a previous Attachment Order for the same debt has previously been cancelled in favor of a voluntary payment arrangement which has subsequently failed, there is insufficient reason to again cancel the current Order;

Financial situation - if the customers income and expenditure is such that they will experience extreme hardship were the Order(s) to continue, e.g. if they have a young family or other extenuating circumstances, it may be appropriate to cancel one or both of the Orders in place of a realistic Payment Arrangement.

Before deciding to stop any Attachment of Earnings Order, the Council will request from the customer a full and detailed statement as to their income and expenditure to enable an informed and balanced decision to be made. A Senior Officer shall make the decision whether to stop an Attachment of Earnings Order.

2.11 Attachment of Allowances

An Attachment of Allowance provides for deductions of forty percent to be made from the allowances paid to an elected member to clear a Liability Order under the Council Tax (Administration & Enforcement) Regulations 1992 S.I.501 2007. This enforcement tool is available to collect Council Tax debts only.

The regulations allow for deductions to be made from allowances due to any elected member of either any billing or precepting Authority. Having been served with such an order the Council is required to make deductions and must make a notification within 14 days should the member cease to be an elected member of their Authority. When considering this option the Assistant Director of Customer Services, the Head of Financial Services (Section 151 Officer), and Solicitor to the Council, shall be advised.

2.12 Deductions from Job Seekers Allowance/Income Support/Employment Support Allowance/Pension Credit

This enforcement tool is available to collect Council Tax debts only and allows for the Council, where the customer is in receipt of one of the above benefit, to request that the Department for Works and Pensions (DWP) make deductions direct. The rate of deduction is stipulated by the DWP and in view of the customer's limited funds, is set at an appropriate rate.

The Council makes full use of this enforcement tool as we are guaranteed to receive regular payment, all be it, at a relatively low rate No other form of enforcement action can be taken against the individuals named on the Liability Order whilst the deductions are made.

2.13 Enforcement Action

This option allows County Court Certificated Enforcement Agents (previously known as Bailiffs) to remove and sell certain goods owned by the customer (within England and Wales). Fees are chargeable and specified within the Taking Control of Goods Regulations 2013. Accounts in arrears are passed to the Enforcement Agents where a balance remains outstanding and no alternative payment arrangements have been agreed. Alternatively, accounts are passed to the Enforcement Agents on the failure of Special Payment Arrangements or alternative enforcement methods.

Cases will not be passed to the Enforcement Agents where:

- The debt is less than £250.00 (unless authorised by the Revenues Manager).
- there is outstanding correspondence which has not been responded to;
- there is an outstanding benefit application which is current but not finalised;
- there is an outstanding application for exemption, status discount, disabled relief and/or single person discount which is current but unresolved;
- There is uncertainty over the taxpayer's current residence.

The Council currently employs internal Enforcement Agents /Liaison Officers whose primary aim is the collection of the debt and to collect any relevant information that will assist in the collection of the debt. Using Enforcement Agents/Liaison Officers is a beneficial way of promoting prompt payment and assisting in the promotion of the Councils Customer Care Policy.

These Officers are also responsible for the serving of Arrest Warrants to customers who are scheduled to appear before the Magistrates for a Committal Hearing. The Enforcement Agents/Liaison Officers at all times comply with an internal "Code of Practice" which incorporates the National Enforcement Standards, see Appendix A.

The Enforcement Agents/Liaison Officer contributes towards the Council's Community Strategy by providing information to the customer on the following:-

- Citizens Advice Bureau and other debt counselling providers
- Discounts Exemptions and Relief's
- Housing Benefit and Council Tax Reduction
- Recovery Procedures
- Methods of Payment
- Other Arun DC Departments
- Valuation Office
- Adult & Child Services

The primary aim of the Enforcement Agents/Liaison officer should be to collect full payment of the debt. If they are unable to do this because of the financial or personal circumstances of the customer, arrangements should only be entered into if the payments equate to:

- total debt being discharged within current financial year
- if unable to discharge within the financial year a minimum monthly repayment of 10% of the total amount outstanding on each liability order including costs or

Where the customer makes an offer of less than 10% the customer will be given a financial questionnaire for completion so that the recovery section can determine if the offer is appropriate and within the customers means.

The only exception to the above will be when the customer is on Income Support, ESA, JSA or Pension Credit (and the Council is unable to deduct from benefit directly). In these circumstances, an arrangement equal to the statutory amount of deduction from Income Support/ESA/JSA/Pension Credit would be acceptable (see Appendix B). The arrangement would be subject to six monthly reviews.

On occasion, it is necessary for the Enforcement Agents/Liaison Officer to personally collect the payment arrangement on a regular basis. For example, any customers falling within one of

the categories of “vulnerable people”, and where it can be demonstrated that payment would not otherwise be made. These visits should be kept to the minimum, and will only be agreed to by a Senior Officer.

2.14 Enforcement Agents

Where the Council employs the services of external Enforcement Agents, all companies acting on behalf of the Council, must adhere to the Councils recovery policy and sign a formal Service Level Agreement encompassing a Code of Practice.

The table of fees and charges that can be raised by the Enforcement Agents is shown on (Appendix B)

2.15 Charging Orders

Where Liability Orders have been granted for an aggregate amount of £1000.00 or more, it is possible to apply to the County Court for a Charging Order to be placed upon the customer's property until the debt is discharged or the property is sold. Consequently, the Council may have to wait a considerable period of time before any payment is actually obtained.

Generally, making an application for a Charging Order will only be considered when other methods of recovery have proved unsuccessful and there is sufficient information available to recommend this course of action. This enforcement tool is only applicable to Council Tax debts.

A Charging Order only acts as a charge on the customer's property. It is the Council's intention to apply and enforce Charging Orders where the debt is large enough to meet legislative criteria, (£1000), and where there is ongoing default. This will be particularly useful when dealing with long term empty homes.

2.16 Insolvency

Where a customer owes a debt that is over a prescribed amount (currently £750.00), insolvency action may be instigated. There are two types of insolvency action that may be taken, which are personal (Bankruptcy) and company (Liquidation).

Where the customer is made insolvent or subject to a 'voluntary arrangement' any Business Rates or Council Tax debt due to the Authority prior to the date of the insolvency will be included and claimed in full within the insolvency. This effectively stops any alternative recovery action being taken to recover the debt.

If a Final Notice or Summons has been issued the full balance outstanding should be requested on the proxy form as the right to pay by instalments has been lost at this stage and the full balance is legally due.

Where the Business Rates or Council Tax liability is in joint names and only one of them has been made Bankrupt the Council can still pursue the second named person for the outstanding liability however consideration should be given to the likelihood of the Council recovering the debt from that person. If they are unlikely to be able to discharge the debt the debt should be submitted under the Bankruptcy Order

The Council has been using Insolvency as a recovery tool since 2004 and it has proved to be an effective method of recovery. There are some customers for whom the instigation of such action will act both as a deterrent and encouragement to pay, or will prevent them from continuing to use Council funds for their own benefit. Bankruptcy proceedings would only be instigated against customers who:

- Owe in excess of £1,500.00 unless authorised by the Revenues Manager;
- have failed to make any realistic repayment arrangement;
- we believe they have the funds to pay

- fall into the category of “won’t pay” rather than “can’t pay”

Before any such action is taken, a full information gathering exercise will be undertaken to assess the cost involved for the Council against the likelihood of repayment.

Insolvency proceedings are fairly expensive to undertake with fees having to be paid to the County Court. Whilst these fees then form part of the sum due to the Council from the customer, there is no guarantee of being able to recoup either the fees or the debt from the insolvency. Therefore, The Council will only nominate such cases where it is likely the Council will receive payment to cover the fees and all or part of the outstanding debt.

Due to the nature of this course of action, no insolvency proceedings will be instigated without the prior authorisation and approval of the Revenues Manager or the Assistant Director Customer Services.

The council will appoint insolvency experts to provide:

- Immediate, authoritative responses to technical or procedural queries
- Advanced reports in respect of legal and statutory developments
- Access to regional seminars specifically for local government staff and
- Represent on behalf of the authority thus having minimum impact on revenues staff resources.

2.17 Commitment to Prison

Where it has not been possible to collect the debt through any of the remedies detailed in this policy, the customer will be summonsed to court where an enquiry will be made as to their means and conduct with regard to the non-payment.

Making an application to the Court for a customer to be sent to prison for non-payment must continue to be a last resort and therefore, all other alternative courses of recovery action should be considered right up to the Court hearing date.

The Council will carefully consider the appropriateness of each case taking into account the individual personal and financial circumstances of the customer and where a suitable remedy is available, serious consideration shall be given before proceeding with the open Court hearing.

The Council is allowed to charge statutory costs to cover the issue, service and execution of Committal Summonses and Arrest Warrants these cost are recoverable from the customer.

At the hearing the Court is required to conduct a full means enquiry to determine whether the customer's failure to pay is due to either their 'culpable neglect' or 'willful refusal' within the relevant period.

Any case recommended for committal action must be authorised by the Revenues Manager as the Committal process is very labour intensive and therefore a costly recovery tool with varying degrees of success. The Council will not consider taking committal action against a customer unless the total debt covered by Liability Order is over £1000.00, unless authorised by the Revenues Manager.

3. Sundry Debts

3.1 Introduction

The Revenues and Benefits Department collects miscellaneous income for a number of different Council departments. In the majority of cases the originating Department creates the invoice that the Sundry Debtors team within Revenues and Benefits undertakes to collect, following recovery timescales agreed with the individual Internal Service Providers.

Customers who have a Sundry Debt Account with the Council can pay by instalments on a weekly, fortnightly or monthly basis. However, there are certain types of account where the length of the instalment plan offered is determined by the Debt Type:

Debt Type	Instalment Arrangements
Service Charges	Ten monthly instalments
Concessions	Seven monthly instalments (This may be reduced if the Invoice is not issued in April) - accounts should be cleared by end of October. Facility only available if paid by Standing Order
Environmental Protection(EPA)	Quarterly instalments once additional fee has been added

The following instalment dates are available for Sundry Debt accounts:

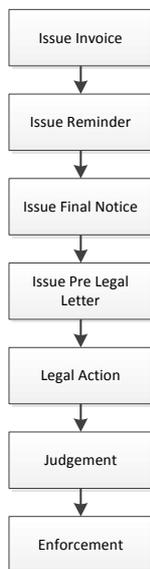
- Direct Debit on the 20th of the month only ;
- Non Direct Debit, any agreed date within the month for all other Sundry Debtors arrangements.

Payments for Sundry Debts are currently accepted by:

- Direct Debit,
- Bank Giro or Standing Order
- Via Bank or Post Office Counter
- BACS and Bank Transfer
- Cheque or postal Order through the post
- Cash, via the Post Office or Pay Point outlets
- Deductions from staff's salaries
- Debit or Credit cards over the telephone or via the internet
- Internet banking
- Transcash
- Personal collection, (in exceptional circumstances)
- Deductions from wages, salaries,
- Internal Transfer

The variety of goods and services, provided for and charged by the Council, can be all identified by a Debt Type. Since 2003 the recovery process for the collection of Sundry Debts has been standardised for all Council Departments.

3.2 Recovery Process



3.3 Reminder/Final Notices

A Reminder or Final Notice can be issued as early as the day following the date upon which the missed payment was due against any invoice. The Council recognises that issuing notices

the day after payment becomes due could have a negative effect on the customer's perception of the Council, as it would target people who pay but may be slightly late. These Notices will therefore be issued 14 days after an account falls into arrears.

Customers, who contact the Council on receipt of a Reminder or Final Notice, will be requested to make full payment of the outstanding invoice.

Customers who are unable to pay in full will be given the opportunity to make an arrangement unless the invoice refers to payment of a Section 106 Agreement when full payment is the only option.

The arrangements will be based on the following criteria:-

- the customers' ability to pay;
- the customers commitment to paying;
- the customers payment history;
- the debt will be paid within a set period
- arrangement will be reviewed every six months by the completion of a new financial questionnaire
- the payment arrangement is realistic and maximises the income to the Council;

All payment arrangements will ensure:-

- priority is given to the oldest debt;
- costs are included in the arrangement;
- Direct Debit is offered and encouraged;
- the overall total debt is reducing;

A payment arrangement can be negotiated at any stage of the Recovery process.

3.4 Pre Legal Letter

If the customer fails to respond to the Reminder / Final Notice and fails to make payment or contact the Council, the full balance becomes payable and a letter advising of the instigation of

legal action is issued. The letter will advise the customer that they have lost their right to pay by instalments and request full payment within 7 days.

If a customer contacts the Council on receipt of this letter and wishes to make an arrangement to pay they will be offered this opportunity.

3.5 Sundry Debt Legal Action

All procedures, with the exception of payment arrangements, are governed by County Court Rules, which are updated annually. These Rules set out the procedures which must be adhered to when taking County Court action.

The Council uses the County Court to issue Judgments. There is the option to use the High Court on cases over and above £5000, but this is rarely done.

The criteria to follow in High Court are set out in the Supreme Court Rules. NB: Accounts under £25 cannot be pursued through the County Court. It is however the Council's policy not to pursue debts of less than £250.00 through the County Court unless authorised by the Revenues Manager or there are unusual circumstances or an accumulated debt.

A County Court Judgment allows the Council to take further enforcement action as follows:

- | | |
|------------------------|--|
| Order for Questioning | The Court issues a writ/summons to the customer to attend a full means enquiry into their financial circumstances. |
| Attachment of Earnings | The Council would apply to have money taken directly from a customer's wages until the Judgment debt and costs are paid in full (County Court Attachment Rules apply). |

- Warrant of Execution - The Council would request an enforcement officer to seize and sell goods belonging to the customer in order to satisfy the judgment debt and costs.
- Charging Order - The Council would apply for a charge over a customer's property and may take further proceedings to force a sale of the property.
- Third Party Debt Order - This order attaches to the money in a customer's bank or building society account and is transferred to pay off the Judgment debt. In order to do this the Council must have the customer's bank details
- High Court Sheriff - This allows the Council to send a High Court Sherriff to the property to obtain an arrangement or remove goods to the value of the debt. This is a costly method of collection.
- Bankruptcy - This allows the Council to petition the County Court to for a bankruptcy order to be made against an individual. This action would only be considered on large debts.

The Council Solicitors become involved only if the debtor contests the debt.

4. Benefit Overpayments

4.1 Housing Benefit

Overpayments can be a sensitive issue for the claimants. This is because overpayments occur when a change of circumstances affect benefit entitlement causing a reduction or cancellation. The claimant may be faced with a requirement to repay Housing Benefit at the same time as having a reduced income.

At all times any affected person shall be notified of the overpayment by a letter of Notification. These shall be dated, giving a clear explanation of how the overpayment arose, the period of the overpayment, how it is to be recovered, the right to a written statement of reasons and the right of appeal (as provided for by Schedule 9 to the Housing Benefit Regulations 2006).

The decision regarding the recovery of the overpayment and who is responsible for repaying the relevant monies is laid down in regulations and is covered by extensive case law. Recovery can be sought from the claimant, the person to whom the benefit was paid (including landlords and their agents) or from anyone who contributed to the cause of the overpayment.

4.2 Recovery from Ongoing Benefit

A claimant is required to declare every change in their circumstances or benefit received i.e. increase in income; changes in the constitution of the household.

When notification is received of a change in the claimant's circumstances the claim will be re-assessed. This can produce both underpayments and overpayments. It is standard practice to offset all underpayments against any overpayments for the same period.

Where the claimant is still entitled to Housing Benefit an overpayment can be recovered by reducing future payments by an amount set by the Department of Works and Pensions.

This amount is increased on the 1st April every year.

This is the most cost effective method of recovery and causes the least hardship. This is known as 'recovery from ongoing benefit'.

The regulations prescribe a specific level of instalments for recovery of an overpayment from ongoing Housing Benefit entitlement (Regulation 101 of the Housing Benefit Regulations 2006, and Regulation 82 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006) for people over 60. However, if the level of the instalments causes hardship they can be reduced at the discretion of a Senior Benefit Officer.

Overpayments can also be recovered from a partner's claim providing the couple were living together at the time the overpayment occurred and that they are still together at the time the debt is being recovered.

Where a Customer has been made Bankrupt and there is an outstanding Housing Benefit overpayment the debt is submitted as part of the Bankruptcy unless it is classed as fraud

4.3 Recovery through Sundry Debtors

Where the overpayment cannot be collected from ongoing Housing Benefit a Sundry Debt Invoice will be raised and issued to the customer. If the customer contacts the Sundry Debt section and advises them that they are disputing the overpayment 'a hold' will only be placed on the account once the appeal has been received.

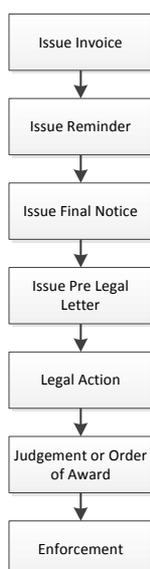
If no appeal is made within the 4 week period and the account remains unpaid, recovery action will commence. After issuing the appropriate reminder letters and final notice, the legal action will consist of registering the debt at the County Court. The Council is then able to take enforcement action to recover that debt.

Where there is no further Housing Benefit entitlement, recovery is sought via the same process as the sundry debt methods:

Payments are currently accepted by:-

- Direct Debit
- Bank Giro or Standing Order
- Via Bank or Post Office Counter
- BACS and Bank Transfer
- Cheque or Postal Order through the post
- Cash via the Post Office or Pay Point outlets
- Debit or Credit cards over the telephone or via the internet
- Internet banking
- Deductions from staff's salaries
- Direct Credit
- Transcash
- Personal collection, (in exceptional circumstances)
- Deductions from wages, salaries, pension and Councillors allowances
- Deduction from Income Support, Job Seekers Allowance Employment Support Allowance & Pension Credits (Council Tax only)
- Internal Transfer

4.4 Recovery process



4.5 Reminder/Final Notices

Reminder and Final Notices can be issued as early as the day following the date upon which the missed payment was due against any invoice. The Council recognises that issuing notices the day after payment becomes due could have a negative effect on the customer's perception of the Council, as it would target people who pay but may be slightly late. These Notices will therefore be issued 14 days after an account falls into arrears.

Customers, who contact the Council on receipt of a Reminder or Final Notice, will be requested to make full payment of the outstanding invoice.

Customers who are unable to pay in full will be given the opportunity to make an arrangement. The arrangements will be based on the following criteria:-

- the customers' ability to pay;
- the customers commitment to paying;
- the customers payment history;
- the debt will be paid within a set period
- arrangement will be reviewed every six months by the completion of a new financial questionnaire
- the payment arrangement is realistic and maximises the income to the Council;

All payment arrangements will ensure:-

- priority is given to the oldest debt;;
- costs are included in the arrangement;
- Direct Debit is offered and encouraged;
- the overall total debt is reducing;

A payment arrangement can be negotiated at any stage of the Recovery process.

4.6 Pre Legal Letter

If the customer ignores the Reminder / final Notice and fails to make payment or contact the Council, the full balance becomes payable and a letter advising of the instigation of legal action is issued, the letter will advise the customer that they have lost their right to pay by instalments request full payment within 7 days.

Once again, customer who contact the Council on receipt of this letter and wish to make an arrangement to pay in accordance with their means will be offered this opportunity.

4.7 Legal Action

All procedures, with the exception of payment arrangements, are governed by County Court Rules, which are updated annually. These Rules set out the procedures which must be adhered to when taking County Court action.

The Council uses the County Court to issue Order of award or Judgments.

The criteria to follow in High Court are set out in the Supreme Court Rules. NB: Accounts under £25 cannot be pursued through the County Court. It is however the Council's policy not to pursue debts of less than £250.00 through the County Court unless authorised by the Revenues Manager or there are unusual circumstances or an accumulated debt

For amounts above £250 but below £1000.00, an Order of Award is filed and is purely for housing benefit cases

This Order gives the same powers as a Judgment but is not registered against the debtors name and is a less expensive option.

Cases over £100.00 require a County Court Judgment to be issued

A County Court Judgment / Order of award allow the Council to take further enforcement action as follows:

Order for Questioning - The Court issues a writ/summons to the customer to attend a full means enquiry into their financial circumstances.

Attachment of Earnings - The Council would apply to have money taken directly from a customer's wages until the Judgment debt and costs are paid in full (County Court Attachment Rules apply).

Direct Earnings Attachment - This method allows the Council to request payment direct from an employer without obtaining an Order of Award or Judgment.

On condition that the debtors employment details are known, a letter would be sent to the debtor advising of the Councils intention should payment or an arrangement not to be made.

Warrant of Execution - The Council would request an enforcement officer to seize and sell goods belonging to the customer in order to satisfy the judgment debt and costs.

Charging Order - The Council would apply for a charge over a customer's property and may take further proceedings to force a sale of the property.

Third Party Debt Order - This order attaches to the money in a customer's bank or building society account and is transferred to pay off the Judgment debt. In order to do this the Council must have the customer's bank details

High Court Sheriff -	This allows the Council to send a High Court Sherriff to the property to obtain an arrangement or remove goods to the value of the debt. This is a costly method of collection.
Bankruptcy	This allows the Council to petition the County Court to for a bankruptcy order to be made against an individual. This action would only be consider on large debts

The Council Solicitors become involved only if the debtor contests the debt.

If the customer reclaims Housing Benefit the debt will be recovered from any ongoing Benefit entitlement. However any residual costs cannot be collected from ongoing benefit claim. The customer should be informed that costs remain outstanding but no recovery action can be taken to enforce the payment of costs until such time as the either the debt is paid or that they no longer qualify.

4.8 Direct Deductions from Benefits paid by the DWP

The Department for Work and Pensions will collect Housing Benefit overpayments from a wide range of benefits. Recovery is undertaken in accordance with Regulation 102 and 105 of the Housing Benefit Regulations 2006, and Regulation 83 and 86 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, for people over 60.

An overpayment can be recovered from the following welfare benefits:

- Income Support,
- Job Seekers Allowance,
- State Pension,
- Employment Support Allowance
- Credit Attendance Allowance
- Career's Allowances,
- Retirement Pension,
- Incapacity Benefit,
- Widows/Bereavement allowance,

- Maternity Allowance,
- Industrial Injuries,

It can be applied for at any stage of recovery where they are in receipt of a prescribed benefit. Legal costs can not officially be recovered in this manner. Council can recover debts that are more than 6 years old under this remedy as they are not restricted under the statute of limitations.

4.9 Direct Deductions from Housing Benefit paid by other Local Authorities

Where the Council knows that a customer is receiving Housing Benefit from another Local Authority it can ask for deductions to be made from the Customers ongoing Housing Benefit. It is not mandatory that local authorities take part in this scheme but a voluntary agreement and code of practice has been set up between all the West Sussex authorities.

4.10 Deductions from Landlords

Recovery of Housing Benefit overpayments can only be made from a landlord or landlord's agent in cases where they have received direct payments of Housing Benefit and would have been aware that an overpayment had occurred.

The Council requires a Landlord to complete and return a declaration form, prior to them receiving Housing Benefit payments direct. The form states that they may be required to repay any overpaid Housing Benefit which has been paid to them on behalf of their tenant, if it is subsequently found there is no entitlement to the money.

Legislation also provides that recovery of an overpayment may be deducted from payments made to a landlord or agent in respect of another tenant's Housing Benefit. This is often known as 'blameless tenant' recovery. The Council must notify the landlord or agent which tenant's Housing Benefit was overpaid and who is the blameless tenant. The blameless ten-

ant is also notified and the landlord or agent must treat them as having paid rent equal to the amount deducted.

4.11 Council Tax Reduction

Council Tax Reduction (previously known as Council Tax Benefit or Support) overpayments will be recovered in full by adding the amount to the Council Tax account.

Where the overpayment of Council Tax Reduction is due to non-declaration of capital or savings it is in the Local Authority's interest to recover the Council Tax arrears as quickly as possible. Therefore if the overpayment of Council Tax is £1,200.00 or over and the capital held by the customer exceeds £6,000.00, payment of the overpayment will be requested in full by one instalment.

Any other overpayment of Council Tax Reduction will be added to the Council Tax account and collected by monthly installments in the normal manner.

4.12 Withdrawing Costs

In the majority of instances payment of the total balance including costs will be pursued in addition to any interest charged. On occasions, it may be appropriate to consider withdrawing costs where:

- full payment has been made
- pursuing payment of costs causes severe financial hardship
- the customer has passed away
- the defaulter absconds and tracing enquiries are unsuccessful
- information is received which, had it been received earlier, would have prevented recovery proceedings from being taken
- invoice is cancelled

If a debtor who has incurred costs then receives welfare benefits again, the costs will remain due but not until such a time as the actual overpayment is recovered in full. This is because the debt may still be covered by the Legal action

5. Priority of Debts

The Council collects a range of debts some of which have far more serious consequences than others when there is non-payment. The following shows the consequences of certain debts. It is the Council's intention that customers should understand these consequences with a view to minimising the effects.

- Rent arrears – can result in eviction
- Council Tax – can result in imprisonment
- Fuel debts – can result in disconnection
- Mortgage arrears – can result in repossession
- Income Tax and VAT – can result in bankruptcy or imprisonment
- Court Fines (e.g. for traffic offences) can result in possession of goods or imprisonment
- Maintenance/Child Support can result in possession of goods or imprisonment
- Hire Purchase – can result in repossession of e.g. a car – which be considered essential if needed for work.

These will be taken into consideration when making an arrangement to pay as will store and credit card payments and other contractual obligations that the customer may have.

6. Vulnerable Groups

The Council will be vigilant for the signs and symptoms of “vulnerability” to safeguard our most vulnerable customers and reassure them.

Customers who may be considered vulnerable may fall into one or more of the following categories.

- People with learning disabilities
- People with medical conditions such as; mental ill health, dementia, Alzheimer's Disease or a terminal illness
- Illiteracy

- Addiction issues (drugs, alcohol, gambling)
- A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs (e.g. bereavement, fleeing domestic violence, leaving prison, leaving care, pregnant women etc). Such cases will be re-viewed periodically.
- The elderly
- Customers with a disability
- Single parent families
- Those who have obvious difficulty in understanding, speaking or reading english

This list is not exhaustive and there may be other causes of vulnerability.

When considering if a debt should be repaid by a 'vulnerable' customer, individual circumstances should be taken into account and greater flexibility be given. Just because a customer is 'vulnerable' doesn't necessarily mean that the debt should not be collected.

In certain circumstances it may be appropriate for the Enforcement Agent/Liaison Officer to make a visit to discuss and explain the position of accounts and, in some cases, make regular visits to collect payment.

The Council will also take into consideration the importance of Community Cohesion. It may be that some of our customers are socially excluded due to such factors as poor housing or poor education. A view will be formed on any evidence that these sorts of issues may have contributed to the customer's indebtedness before action is taken on recovering the debt.

Appendix A

National Standards for Enforcement Agents

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[Professional Organisations](#)

Introduction

The Lord Chancellor's Department has produced these National Standards for Enforcement Agents to share, build on and improve existing good practice and thereby to raise the level of professionalism across the whole sector. These standards are intended for use by all enforcement agents, public and private, the enforcement agencies that employ them and the major creditors who use their services. Private sector enforcement agents who are recovering debts owed to the public sector perform the vast majority of enforcement work, and this document has for the first time established a set of common standards to cover this activity. In order to improve the public's perception of the profession, enforcement agents and those who employ them, or use their services, must maintain high standards of business ethics and practice.

This guidance is the first document of its kind that will be sent on an individual basis to all certificated Enforcement Agents and which has been so widely endorsed by the industry and by

Government. The various trade associations, operating across the enforcement sector, make a valuable contribution in terms of raising standards, handling complaints and assisting their members. Membership is not obligatory but we strongly recommend that enforcement agents should join an appropriate organisation relevant to their sphere of activity.

Enforcement is a difficult but essential task and those who operate in this field often face situations that require careful and sensitive handling. It is believed that the creditor and those carrying out enforcement share a duty to give particular consideration to vulnerable customers or those who have special needs. Therefore, this document provides new guidance on some issues which may not be specifically covered in legislation, but which are relevant in a modern society.

Copies will be made widely available, including to the organisations listed below; in due course, it will be evaluated on its usefulness and to see how it may be further improved as the Council recognises that up-to-date guidance in this area is essential.

This national guidance does not replace local agreements, existing agency codes of practice or legislation; rather it sets out what the Department, those in the industry and some major users regard as minimum standards.

We recognise this document is not legally binding, but offer it as a helpful tool for the industry and for creditors which, it is hoped, will inform their own arrangements and against which they may benchmark their professional standards.

Terms used

In this document we have used the following terms:

Creditor: for these standards which identify some responsibilities for creditors we include - a local authority, major or frequent judgment creditors in the civil courts, including Government Departments and magistrates' courts committees to whom financial penalties are paid (to the

consolidated fund), and landlords undertaking procedures for Rent.

Customer: we mean a person who owes a sum of money - this may be a judgment debt or a criminal financial penalty fine which is in default or a liability order. The customer should behave lawfully and is encouraged to co-operate with the enforcement agent.

Enforcement: in this document we mean the lawful process of warrant or writ execution, and Taking Control of Goods.

Enforcement Agency: we mean the business that employs enforcement agents, unless specifically indicated (where different arrangements exist); we also include those public sector organisations that have in-house enforcement agents.

Enforcement Agent: we mean someone who is responsible for the enforcement of court orders against goods (warrants of execution) or the person (arrest warrants); we include those employed in the public and private sector, Enforcement Agents, sheriffs' officers.

Professionalism and conduct of the enforcement agent

Enforcement agents should always produce relevant identification on request, such as a badge or ID card, together with a written authorisation to act on behalf of the creditor.

Enforcement agents must act within the law at all times, including all defined legislation and observe all health and safety requirements in carrying out enforcement. They must maintain strict client confidentiality and comply with Data Protection legislation and, where appropriate the Freedom of Information Act.

Enforcement agents, for the purpose of Taking Control of Goods shall, without the use of unlawful force, gain access to the goods. The enforcement agent will produce an inventory of the goods seized and leave it with the customer, or at the premises, with any other documents that are required by regulations or statute.

Enforcement agents must carry out their duties in a professional, calm and dignified manner. They must dress appropriately and act with discretion and fairness.

Enforcement agents must not misrepresent their powers, qualifications, capacities, experience or abilities.

Enforcement agents must not discriminate unfairly on any grounds including those of age, disability, ethnicity, gender, race, religion or sexual orientation.

In circumstances where the enforcement agency requires it, and always where there have been previous acts of, or threats of violence by a customer, a risk assessment should be undertaken prior to the enforcement agent attending a customer's premises.

Statutory or Financial Requirements for Enforcement Agencies

Enforcement agencies should ensure that audited accounts are available on request, where it is appropriate that these are kept. An annual audit of the agency's accounts by independent accountants should be undertaken at least once a year for businesses where this is appropriate. This should apply in the case of small companies and sole traders too - wherever possible.

Enforcement agencies must comply with statutory obligations, for example, the Companies Act, Value Added Tax, Inland Revenue provisions, Data Protection, Health & Safety etc.

A separate account for moneys due to the creditor should be maintained and accurate books and accounts should be kept and made available to establish moneys owed to the creditor.

Enforcement agencies must keep a complete record of all financial transactions in whatever capacity undertaken.

Enforcement agencies must maintain suitable and comprehensive insurance cover for both professional indemnity and other risks including employer's liability and public liability. Insurance requirements must actively be revisited each year to the satisfaction of the client and to ensure adequate and appropriate arrangements are in place.

Training and Certification

Enforcement agencies must ensure that all agents, employees and contractors are provided with appropriate training to ensure that they understand and are able to act, at all times, within the bounds of the relevant legislation. This training should be provided at the commencement of employment and at intervals afterwards to ensure that the agent's knowledge is kept up to date.

Enforcement agencies must ensure that all employees, contractors and agents will at all times act within the scope of current legislation, i.e. The Companies Act, VAT, Inland Revenue provisions, Data Protection, Health and Safety etc., and have an appropriate knowledge and understanding of it and be aware of any statutory obligations and provide relevant training.

Enforcement agents should be trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others' safety.

Professional training/assessment should be to an appropriate standard, for example to that of the NVQ for Civil Enforcement Officers, or membership of the Sheriffs' Officers Association.

Enforcement agencies must ensure that legislation restricting the enforcement activity to certificated Enforcement Agents is complied with.

Complaints/Discipline

Enforcement agencies must operate complaints and disciplinary procedures with which agents must be fully conversant.

The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and an independent appeal process where appropriate. A register should be maintained to record all complaints.

Enforcement agents/agencies are encouraged to make use of the complaints and disciplinary procedures of professional associations such as the Association of Civil Enforcement Agencies or the Certificated Enforcement Agents Association.

The enforcement agent must make available details of the comments and complaints procedure on request or when circumstances indicate it would be appropriate to do so.

Information and Confidentiality

All notices, correspondence and documentation issued by the agent/agency must be clear and unambiguous and to the satisfaction of the creditor.

On returning any unexecuted warrants, the enforcement agent should report the outcome to the creditor and provide further appropriate information, where this is requested and paid for by the creditor.

All information obtained during the administration and enforcement of warrants must be treated as confidential.

Copies of the National Standards for Enforcement Agents must be freely available from the offices of enforcement agencies, or agents on request and wherever possible from creditors.

Enforcement agents should provide clear and prompt information to customers and where appropriate, creditors.

Enforcement agents should, so far as it is practical, avoid disclosing the purpose of their visit to anyone other than the customer. Where the customer is not seen, the relevant documents must be left at the address in a sealed envelope addressed to the customer.

Enforcement agents will on each and every occasion when a visit is made to a customer's property which incurs a fee for the customer, leave a notice detailing the fees charged to date, including the one for that visit, and the fees which will be incurred if further action becomes necessary. If a written request is made an itemised account of fees will be provided.

Enforcement agents will clearly explain and give in writing, the consequences of the seizure of a customer's goods and ensure that customers are aware of the additional charges that will be incurred.

Times and Hours

Enforcement should not be undertaken on Sundays, on Bank Holidays, on Good Friday or on Christmas Day, unless the court specifically orders otherwise or in situations where legislation permits it.

It is recommended that enforcement should only be carried out between the hours of 6.00am and 9.00pm or at any time during trading hours, existing legislation must be observed.

Enforcement agents should be respectful of the religion and culture of others at all times. They should be aware of the dates for religious festivals and carefully consider the appropriateness

of undertaking enforcement on any day of religious or cultural observance or during any major religious or cultural festival.

Goods

Enforcement agents must only take goods in accordance with the appropriate regulations or statute. In addition creditors may agree other restrictions with agents acting on their behalf.

Enforcement agents must ensure that goods are handled with reasonable care so that they do not suffer any damage whilst in their possession and should have insurance in place for goods in transit so that if damage occurs this is covered by the policy.

Enforcement agents should not remove anything clearly identifiable as an item belonging to, or for the exclusive use of a child.

A receipt for the goods removed should be given to the customer or left at the premises.

Enforcement agents should take all reasonable steps to satisfy themselves that the value of the goods impounded in satisfaction of the judgment is proportional to the value of the debt and charges owed.

Vulnerable situations

Enforcement agents/agencies and creditors must recognise that they each have a role in ensuring that the vulnerable and socially excluded are protected and that the recovery process includes procedures agreed between the agent/agency and creditor about how such situations should be dealt with. The appropriate use of discretion is essential in every case and no amount of guidance could cover every situation, therefore the agent has a duty to contact the creditor and report the circumstances in situations where there is potential cause for concern. If necessary, the enforcement agent will advise the creditor if further action is appropriate. The

exercise of appropriate discretion is needed, not only to protect the customer, but also the enforcement agent who should avoid taking action which could lead to accusations of inappropriate behavior.

Enforcement agents must withdraw from domestic premises if the only person present is, or appears to be, under the age of 18; they can ask when the customer will be home - if appropriate.

Enforcement agents must withdraw without making enquiries if the only persons present are children who appear to be under the age of 12.

Wherever possible, enforcement agents should have arrangements in place for rapidly accessing translation services when these are needed, and provide on request information in large print or in Braille for customers with impaired sight.

Those who might be potentially vulnerable include:

- People with learning disabilities
- People with medical conditions such as; mental ill health, Alzheimer's Disease or a terminal illness
- Illiteracy
- Addiction issues (drugs, alcohol, gambling)
- A person who has recently experienced changes in their lifestyle that means they are temporarily unable to deal with their financial affairs (e.g. bereavement, fleeing domestic violence, leaving prison, leaving care, pregnant women etc.). Such cases will be reviewed periodically.
- The elderly
- Customers with a disability
- Single parent families
- Those who have obvious difficulty in understanding, speaking or reading english

Creditors' Responsibilities

In order for the enforcement process to work effectively, creditors must be fully aware of their own responsibilities. These should be observed and set out in terms of agreement with their enforcement agent/agency. They should consider carefully any specific requirements for financial guarantees etc. so that these are adequate, fair and appropriate for the work involved.

Creditors must not seek payment from an enforcement agent or enforcement agency in order to secure a contract.

Creditors must notify the enforcement agency of all payments received and other contacts with the customer.

Creditors have a responsibility to tell the customer that if payment is not made within a specified period of time, action may be taken to enforce payment.

Creditors must not request the suspension of a warrant or make direct payment arrangements with customers without appropriate notification and payment of fees due to the enforcement agent.

Creditors must not issue a warrant knowing that the customer is not at the address, as a means of tracing the customer at no cost.

Creditors must provide a contact point at appropriate times to enable the enforcement agent or agency to make essential queries particularly where they have cause for concern.

Professional Organisations

Organisation	Contact
Association of Civil Enforcement Agencies 513 Bradford Road Batley West Yorkshire WF17 8LL	Tel: 01924 350090 Fax: 01924 474441 Email: dir-gen@acea.org.uk website: www.acea.org.uk
Enforcement Services Association Park House 10 Park Street Bristol BS1 5HX	Tel: 0117 907 4771 Fax 0117 915 4521 Email: enquiries@ensa.org.uk website: www.ensas.org.uk
Institute of Revenues Ratings and Valuation 41 Doughty Street London WC1N 2LF	Tel: 020-7831 3505 Fax: 020-7831 2048 website: www.irrv.org.uk
Sheriffs' Officers' Association Ashfield House Illingworth Street Ossett West Yorkshire WF5 8AL	Tel: 01924-279005 Fax: 01924-280114
Under Sheriffs' Association 20-21 Tooks Court London EC4A 1LB	Tel 020-7025 2550 Fax- 020-7025 2551 Email: j-hargrove@sheriffs.co.uk
Local Authority Civil Enforcement Forum Brighton & Hove City Council Priory House PO Box 2929 Brighton BN1 1PS	Tel:01273-291876 Fax: 01273-291 881 Email: barrie.minney@brighton-hove.gov.uk Website: www.lacef.org.uk

Separate provisions regarding financial accounting and insurance may apply to public sector organisations that directly employ their own enforcement agents

Appendix B

Fees, Charges and Minimum repayments

Summons costs Council Tax & Business Rates	£50.00
Liability Order costs Council Tax & Business Rates	£42.00
Committal Summons Costs Council Tax & Business Rates	£240.00
Warrant Costs Council Tax & Business Rates	£70.00
Execution on Bail Warrants	£25.00
Execution on No Bail Warrants	£75.00
Charging Order	£140.00
Bankruptcy	£390.00
Deductions from Income Support/JSA/Employment Support Allowance/Pension Credit	£3.70
Compliance Stage for each liability order issued	£75.00
Enforcement Stage if sum due exceeds £1,500.00 7.5% is charged on the balance	£235.50
Sale or disposal of Goods if sum due exceeds £1,500.00 7.5% is charged on the balance	£110.00
Disbursements; the following are recoverable provided that they are reasonable and actually incurred	
The cost of storing goods which have been taken into control and removed from the premises	
The cost of hiring a locksmith to gain access to premises when using reasonable force to enter them and to secure them thereafter	

Court fees in relation to any application made by the Enforcement Agent in relation to the enforcement power which are granted	
Disbursements recoverable from the debtor in relation to the sale of goods by auction or by private sale	
The enforcement agent may recover disbursements related to the sale of the goods from the debtor	
Deduction of Housing Benefit overpayment from ongoing Housing Benefit (no fraud involved) weekly	£10.95
Deduction of Housing Benefit overpayment from ongoing Housing Benefit (fraud involved) weekly	£18.25
Order of award (sundry Debts)	£40.00
Judgment fee depending on the debt	£35.00 to £685.00

Please note that the above figures may be amended on an annual basis and in line with legislation changes as and when they arise.

Appendix C

Housing Benefit & Council Tax Reduction overpayment guidelines

Introduction

Arun District Council has adopted the following guidelines, in order to achieve the following aims;

- To set out a clear Overpayments guide for all staff involved
- To ensure Housing Benefit and Council Tax Benefit overpayments are recovered promptly, effectively and efficiently for the benefit of all our taxpayers and residents by helping to reduce losses to public funds.
- Provide revenue for the Authority and help reduce the loss from overpayment
- To deter fraud and error
- Demonstrate the Authority's commitment to accuracy and provision of a quality service to customers

Benefit overpayment recovery requires officers to use discretion carefully to respond to the individual circumstances in every case and these guidelines are designed to show the facts and issues that will be taken into account when exercising that discretion. Every case will be considered on its own merits when discretion needs to be used.

The recovery of overpayments, with the exception of recovery from ongoing Housing Benefit entitlement, is undertaken by the Sundry Debt team who also deal with the collection of all Sundry Debts. Moreover, the recovery of excess Council Tax Reduction is undertaken by the Council Tax teams as the excess Council Tax Reduction is posted directly to the Council Tax bill.

Reasons for Overpayments

Overpayments can occur for various reasons including:

- Claimants, landlords and others may make deliberate or unintentional errors in the information and evidence they provide for benefit to be calculated.
- Claimants and people getting benefit may deliberately or unintentionally delay reporting a change in circumstances so benefit is paid at a higher rate for a longer period than it should be.
- Rent rebate, Council Tax Benefit and some rent allowance is paid in advance and may become an overpayment because a change in circumstances occurs in the period the benefit has been paid for.
- The Department for Work and Pensions, Inland Revenue and other organisations may make decisions about other income, which affects a period where benefit has already been paid, and the adjustment and notification is either delayed or retrospective, for example, they discover fraud or error for a past period.
- An error is discovered in previous decisions made by a Benefits Assessor.

Identification of Overpayments and Decisions on Recoverability

Overpayments are identified by the Benefits Assessors who will establish the cause of the overpayment, whether it is recoverable and from whom it should be recovered.

Accurate and prompt identification of an overpayment and whether it is recoverable is essential to:

- Ensure that the incorrect payment of Benefit is discontinued
- Maximise the chances of the successful recovery of the overpayment
- Help reduce the number of complaints and appeals
- Provide an indication of the levels of fraud and error against inefficiency
- Maximise subsidy where possible.

Many overpayments can be reduced if claimants and people receiving payments (for example, landlords or their agents) report changes promptly so benefit can be adjusted. Sometimes this is not possible due to the circumstances of the change but in the majority of cases it is possible to encourage early contact with the Council to alert us to a possible change so future pay-

ments can be suspended until the correct payment amount can be decided. We will encourage benefit claimants, landlords and other people involved to tell us about changes promptly and we will act on them promptly.

Furthermore, overpayments are identified promptly using the department's CIS system Government Connect / Gateway linked to the DWP. Details of cessation of Employment Support Allowance (Income Support / Income Based Jobseekers Allowance) are downloaded and actioned.

Broadly speaking an overpayment is recoverable unless it is due to an official error. However, in circumstances such as those outlined below even an overpayment arising from official error is recoverable under Regulation 99 of the Housing Benefit (General) Regulations 1987 and Regulation 84 of The Council Tax Benefit (General) Regulations.

- Where the claimant or someone acting on their behalf, or the person to whom the payment was made, could reasonably have been expected to realise that an overpayment was taking place at the time of payment or upon receipt of any notification relating to the payment; or
- It is an amount of Benefit that has been overpaid in respect of a period following the date of the review that identified the overpayment.

An official error does not include circumstances where the claimant, or someone acting on their behalf, or the person to whom the payment was made, caused or materially contributed to the error. These are claimant or third party error and are recoverable.

The Authority receives subsidy from the Government in respect of certain types of overpayment and, it is, therefore, important that overpayments are correctly classified

Therefore, if an Assessor is in any doubt as to whether an overpayment is recoverable such cases should be referred to the Team Leader.

Notification of an Overpayment

Benefit law specifies that we must notify our decisions in writing to the claimant or their appointed representative and the person from whom the repayment is being sought, if this person is different.

We are required to notify them of:

- The reason for the overpayment
- The fact the overpayment is recoverable
- Who the overpayment is being recovered from
- The amount of the overpayment and how it has been calculated
- The period of the overpayment
- How the overpayment will be recovered
- The right to dispute or appeal the decision

Recovery from On-Going Benefit

This is the most cost effective method of recovery and causes the least hardship. This is known as instalment recovery and is be arranged by a Benefits Assessor when completing a claim.

Instalment recovery should be at the appropriate rate laid down in the Housing Benefit Regulations 2006. However these levels can be increased with the consent of the debtor.

The above regulations prescribe a specific level of instalments for recovery of an overpayment from ongoing Housing Benefit entitlement and there are two levels – one for 'No fraud' and one for 'Fraud' Overpayments.

However, if the level of the instalments causes hardship they can be reduced.

Overpayments can also be recovered from a partner's claim providing the couple were living together at the time the overpayment occurred and that they are still together at the time the debt is being recovered.

Where a customer has been made Bankrupt and there is an outstanding Housing Benefit overpayment the debt should not be submitted as part of the Bankruptcy unless the overpayment has been defined as a Fraud Overpayment. The definition of a Fraud

Overpayment is contained within the Housing Benefit and Council Tax Benefit General Information Bulletin HB/CTB G5/2009 23rd March 2009.

In order to substantiate if an overpayment is classified as a Fraud, advice may need to be taken from the Fraud Section.

Where the overpayment is to be recovered from ongoing Benefit a letter will be sent with the notification confirming the amount of the deduction.

What to do if a customer requests a reduction in their instalment recovery levels:

A) If the remaining amount is £250.00 or under the Benefits Assessor is authorised to reduce the instalments to the level offered by the customer or the standard rate for a non-fraud overpayment whichever is the higher amount. In the case where the customer offers an amount below the standard rate a smaller sum may be accepted if the overpayment will be repaid within 20 weeks.

The customer does not need to complete a financial questionnaire or put the request in writing but a note should be placed on the system notepad so that there is an audit trail.

B) If the remaining amount of the overpayment exceeds £250.00, or you are not able to authorise a reduction, the customer must complete a financial questionnaire clearly detailing their income and expenses and what they believe they can afford to repay per week.

Once returned, the Benefits Technical Officer will consider the request and notify the customer of her decision in writing.

Recovery through Debtors - Where There Is No On-Going Benefit

Where there is no ongoing Benefit and the overpayment cannot be collected from ongoing Housing Benefit a Sundry Debt Invoice will be raised on the Debtors/Northgate System. and issued to the customer.

The Benefits Assessor must make sure that they have assigned the overpayment to the correct person from whom recovery should be sought then use the following procedure:

- Remove the auto recovery tick, otherwise if any further adjustments are created in the future the invoice will be cancelled and a new invoice created for a different amount, requiring a new letter at a later stage.
- When writing the overpayment letter(s) use the date format - 15th June 2010 and not 15/06/10.
- Make sure letters are in the invoice tray by 11am each morning. If there is a problem with the notifications coming off, still put letter(s) in the tray and notifications will have to go out separately.
- If the Assessor is out of office the following day, the overpayment letter should be placed in the invoice tray before they leave rather than leaving with a colleague to match up with notifications.
- Seniors/Team Leaders will match the invoices to the letters and check that the dates and amounts tally up before sending each day.
- If there is a delay in sending the invoice out then a notepad must be put on the system confirming the date that the invoice has been sent out.
- In cases where the invoice has been created because the overpayment came back to the system to recover from a new adjustment (because the auto recovery tick was not removed), the Senior/Team Leader should ascertain which assessor failed to remove the tick when they created the original overpayment and pass the letter back to them to write a revised previously notified outstanding overpayment letter.
- If the Benefits Assessor is aware of any information that may be useful to Sundry Debtors in recovering the debt, e.g. employers or financial details, this information should be communicated to them at the time the account is raised.

The Invoice will request payment within 28 days and if there is no payment or no appeal made within the regulatory 30 day period and the account remains unpaid, recovery action will com-

mence. After issuing the appropriate reminder and final notice letters, legal action may commence in accordance with the Recovery Policy.

If no other qualifying benefits are in payment then legal action may commence which consists of either applying for an Order of Award (N332A) which is a specific fast track method of recovering overpayments through the County Court or applying for a standard County Court Judgement (CCJ). This type of action depends on the amount owed and circumstances (see table below)

<u>Debt Amount Thresholds</u>	<u>Arrangement made and adhered to</u>	<u>Arrangement default</u>	<u>No Payment</u>
£4.99 and below	No Invoice	N/A	N/A
£5.00 to £250.00	No Legal Action	Write off	Write Off
£251.00 plus	Legal Action	N332A or CCJ	N332A or CCJ

Costs (as at 01/04/14)

Order of Award (N332A)	£40.00
Judgment Fee (CCJ) depending of debt size	£35.00 to £1920.00
Interest on Summons	8%

Any legal action taken against a debtor must be reviewed and authorised

Up to £750.00 by team leader over £751.00 by the Revenues Manager.

County Court Action

If County Court action is successful this allows the Local Authority to take further enforcement action, as follows:-

Order for Questioning- The Court issues a writ/summons to the customer to attend a full means enquiry into his/ her financial circumstances. The Court then makes an order of payment based on the debtor's circumstances.

Attachment of Earnings - The Council would apply to have money taken directly from a debtors wages until the Judgment debt and costs are paid in full (County Court Attachment Rules apply and fees may apply).

Warrant of Enforcement -The Council would request an Enforcement Officer, Sherriff or Certified Bailiffs to seize and sell goods belonging to the debtor in order to satisfy the judgment debt and costs. This could incur £1000 + costs

Charging Order - The Council would apply for a charge over a debtor's property and may take further proceedings to force a sale of the property.

Third Party Debt Order - This order attaches to the money in a debtors bank or building society account and is transferred to pay off the judgment debt. (Customer bank details required)

Bankruptcy -

This allows the Council to petition the County Court for a Bankruptcy Order to be made against an individual. Under current regulations the Council would not take action where the debt is less than £750.00

At any stage the Sundry Debts Team can make a payment arrangement with the Debtor on the production of a completed Financial Questionnaire unless already ordered by the Court.

If the customer reclaims Housing Benefit within the District, the debt will be recovered from and ongoing Benefit entitlement. Any residual costs cannot be collected from ongoing Benefit. The Customer can be informed that costs are outstanding but no recovery action can be taken to enforce the payment of costs.

The guidelines regarding the minimum levels of repayment are contained within the 2006 regulations and are updated each April in accordance with DWP and HMRC Guidelines.

Direct Deductions from Benefits paid by the DWP

The Department for Work and Pensions will collect Housing Benefit overpayments from a wide range of benefits. Recovery is undertaken in accordance with Regulations Regulation 102 and 105 of the Housing Benefit Regulations 2006 and Regulation 83 and 86 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, for people over 60.

Benefits that can be recovered from are:

- Employment Support Allowance
- Income Support,
- Job Seekers Allowance,
- State Pension,

- Retirement Pension
- Disability Living Allowance
- Careers Allowance
- Attendance Allowance
- Incapacity Benefit,
- Widows/Bereavement allowance,
- Maternity Allowance,
- Industrial Injuries,
- Equivalent EU & Swiss Benefits

The request should be directed to the Debt Management Service department of the DWP. It can be applied for at any stage of recovery where the debtor is in receipt of a prescribed benefit. Legal costs cannot be recovered in this manner.

The Council can recover debts that are more than 6 years old under this remedy as they are not restricted under the statute of limitations providing the customer was fully aware that the overpayment exists.

Legal costs cannot be recovered only the overpaid benefit but the outstanding amounts are not restricted within the statute of limitations therefore, the Local Authority can recover debts that are more than 6 years old under this remedy.

The DWP will be responsible for assessing the debtor's financial circumstances and a maximum of 1/3 of the claimant's weekly benefit entitlement can be deducted. Payment is received from DWP every 13 weeks.

Direct Deductions from Housing Benefit paid by other Local Authorities

If a debtor has moved to another Authority's area and is in receipt of Housing Benefit, a letter will be sent to that Authority to request that they make deductions from the ongoing Benefit at an appropriate rate and forward the amounts recovered to Arun District Council. If the other Authority advises that they will make a charge this recovery method will

continue providing the charge is equal to no more than 25% of the outstanding balance. It is not mandatory that local authorities take part in this scheme but a voluntary agreement and code of practice has already been set up between all Local Authorities in West Sussex.

It should be noted that recovery from ongoing Benefit is counted as recovery from the claimant and not the landlord. Consequently the landlord is not a person affected and cannot apply for a revision of the decision or appeal it. The claimant must make up the shortfall in the Housing Benefit in order to avoid any rent arrears. If a rent arrears situation develops the landlord should pursue recovery on that basis.

Deductions from Landlords – Blameless Tenant

Prior to Housing Benefit payments being made, the Council requires a Landlord to complete and return a declaration form. The form states that they will repay any overpaid Housing Benefit which has been paid to them on behalf of their tenant, if it is subsequently found there is no entitlement to the money.

Recovery of Housing Benefit overpayments can only be made from a landlord or landlord's agent in cases where they have received direct payments of Housing Benefit and would have been aware that an overpayment had occurred.

Legislation also provides that recovery of an overpayment may be deducted from payments made to a landlord or agent in respect of another tenant's Housing Benefit. This is often known as 'blameless tenant' recovery.

The Council must notify the landlord or agent which tenant's Housing Benefit was overpaid and who is the blameless tenant. The blameless tenant is not notified but the landlord or agent must treat them as having paid rent equal to the amount deducted. Again, this method of recovery will normally only be used where the landlord should have been aware that he was being overpaid e.g. the tenant has vacated the property. The rate of recovery will automatical-

ly be set as 100% of the debt or 100% of the benefit paid to the landlord, whichever is the highest. However, if the Landlord contacts the Council to advise that the recovery will cause severe hardship, their financial circumstances will be assessed and a lower rate of recovery may be negotiated.

Special Arrangements

If a debt cannot be paid in full, instalments can be arranged. The minimum payment that is acceptable is £9.90 per week (as at 01/04/10), except in cases of severe hardship. Any payment arrangement made is then subject for review between 3 and 6 months. A financial questionnaire will be issued with confirmation of the arrangement, to assess the means of the debtor and the suitability of the arrangement made.

If this is not returned before the review date, a further financial questionnaire will be sent.

Council Tax Reduction

Overpayments of Council Tax Reduction are added to the relevant Council Tax account. A revised bill will be produced resetting the monthly instalments.

Where the overpayment is caused by a non-declaration of capital or savings it is in the Local Authority's interest to recover the Council Tax as quickly as possible. Therefore, if the overpayment of Council Tax is £1,200.00 or over and the capital held by the customer exceeds £6,000.00 payment of the overpayment should be requested in full by one instalment.

Therefore, this procedure outlines how to deal with these cases.

1. When an overpayment of Council Tax Reduction of £1,200.00 or more is created and there is no ongoing entitlement to Council Tax Reduction, a check of the system is required to see how much capital the claimant holds.

2. If the capital exceeds £6000.00, then advise Council Tax to amend the bill.

Please note, capital in this case is disposable capital i.e. money in bank accounts. We do not expect people to sell shares/premium bonds etc.

Withdrawing Costs – Sundry Debts

In the majority of instances payment of the total balance including costs will be pursued in addition to any interest charged. On occasions, it may be appropriate to consider withdrawing costs where:

- full payment has been made
- if the Customer has gone back into benefit
- pursuing payment of costs causes severe financial hardship
- the customer has passed away
- the defaulter absconds and tracing enquiries are unsuccessful
- information is received which, had it been received earlier, would have prevented recovery proceedings from being taken
- Invoice is cancelled.