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**Southampton City Council
Council Tax and Business Rates
Recovery Policy**

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Contents

Purpose of our recovery policy	3
Background.....	4
Stage 1: Recovery processes up to and including liability order stage.....	5
Bill.....	5
Reminder.....	5
Final notice.....	5
Summons & liability orders.....	5
Stage 2: Recovery processes beyond liability order stage	6
Actions by bailiffs/enforcement agents	6
Stage 3: Final recovery options	7
Insolvency/Bankruptcy/Winding Up.....	8
Charging orders.....	9
Costs	10

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Purpose of our recovery policy

We recognise that the majority of Southampton residents and businesses pay their Council Tax and Business Rates promptly. We use this money to provide essential services to local people and businesses.

This policy exists to explain how we will collect both Council Tax and Business Rates debts so that:

- Residents and businesses who owe money know what is happening and why, and
- People who pay their Council Tax or Business Rates promptly have confidence that we are committed to recover money owed to us.

- This policy complies with the key legislation covering both Council Tax and Business Rates recovery including:-
 - The Local Government Finance Act (1988)
 - Council Tax (Administration and Enforcement) Regulations 1992
 - The Non-Domestic Rates (Collection & Enforcement) Regulations
 - SI 1989/1058 and the Tribunal Courts Enforcement Act (2007)

We will

- explain what you need to pay and by what date
- promote easy payment methods, to prevent recovery action being necessary.
- explain at every stage of the recovery process why action is being taken and what will happen if the debt is not paid. This information will be provided in the documents we send requesting payment. A summary of all our recovery methods (this document) will be published on the Southampton Council web site. It will be in clear and simple terms and will not resort to legal jargon. Paper copies of all recovery policies will be available on request.
- ensure that before we start a recovery process with serious consequences, we have exhausted all other methods of debt collection.
- publicise debt advice to all residents and businesses not just those with arrears, to help those in financial difficulty before arrears build up.
- review this policy annually. If there are changes in legislation relating to Council Tax or Business Rates that affect the recovery process, this policy may be reviewed as their effects become apparent.

Background

This policy relates to collection of Council Tax and Business Rates. This money is collected by Southampton City Council.

The debt recovery process is split into three parts. These are explained in detail in the policy statements later in this document.

The first part, up to and including granting of a liability order, is based on statutory legislation.

The granting of a liability order by a Magistrates Court allows us to take further recovery actions. These are individually assessed and form the second part of the recovery process.

If these recovery processes are not successful, we will consider further recovery options set out in the third stage of this policy.

Our recovery measures get more serious the longer an individual or business customer avoids or ignores our attempts to make contact. The easiest way to resolve the situation is to speak to us, discuss your debts and make a payment arrangement.

Arrangements will take into account the affordability and sustainability of payments. Wherever possible we attempt to recover a debt within the financial year it relates to. This prevents debts building up and being carried forward to subsequent years. Where this is not possible, we will try to reach an agreement that allows the payment of the current financial years bill plus an affordable amount off any arrears.

Stage 1: Recovery processes up to and including liability order stage

Bill

Bills are sent annually in March each year for the following financial year, starting in April. We also send out amended bills throughout the year where there have been changes to accounts.

We promote direct debit. This is the most efficient form of payment for the Council and for taxpayers. We offer a range of other ways to pay including over the phone, online and Standing Order/BACs transfer. If due to your personal circumstances the standard payment dates are not suitable, please contact us and we will look at alternatives.

Reminder

If you miss an instalment, we will send you a reminder notice. This gives you 7 days to pay the overdue amount. Failure to do so results in your right to pay by instalments being lost, and the full remaining balance for the year is then payable within a further 7 days for council tax or 14 days for business rates. By law we only have to issue one reminder a year; however in practice if residents or businesses miss the next instalment, Southampton City Council chooses to send another reminder to give every opportunity to pay.

Final notice

If you miss a further instalment in the year, the right to pay by instalments is lost. A final notice will then be issued for the full remaining balance payable within 7 days for council tax or 14 days for business rates.

Summons & liability orders

If you do not pay in accordance with your reminder or final notice, a summons is requested from the Magistrates' Court.

We will add the cost of raising the summons to your bill.

At the court hearing, we must satisfy the Magistrates that we have followed the relevant legislation correctly. We must also confirm that you are liable for either Council Tax or Business Rates and that the debt is outstanding. If the Magistrates' Court is satisfied with the evidence we present, they grant a liability order. A Liability Order enables the Council to proceed with further recovery actions as detailed in Stages 2 and 3 below

Stage 2: Recovery processes beyond liability order stage

For Council Tax debt only:-

Attachment of earnings

If you are working and the council is aware of your employment details, we can ask your employer to take money from your salary or wages to pay your debt. The amount they take depends on how much you earn. The amount of the deductions is set in legislation.

Deductions from benefits

We can ask the Department for Work and Pensions to make deductions from your Universal Credit, Pension Credit, Income Support, Jobseekers Allowance or Employment Support Allowance. The amount of the deductions is set in legislation.

For both Council Tax and Business Rate Debts:-

Actions by bailiffs/enforcement agents

In 2014 the government introduced new laws to regulate the work of debt collection companies. The new laws refer to debt collectors and bailiffs as 'enforcement agents'. In keeping with these regulations, we now use this term to describe debt recovery companies that we employ.

All enforcement agents we employ are certified through the County Court and follow a national code of conduct. A summary of the fees they charge can be found [here](#)

We may instruct enforcement agents to collect your outstanding Council Tax or Business Rates debt if you:

- make a payment arrangement and do not make the agreed payments; or,
- you do not make a repayment arrangement with us.

When enforcement agents receive our instruction, they will contact you by letter or phone asking you to either pay in full or contact them to discuss a suitable payment arrangement. When they receive our instructions, they will add a set fee to your debt.

If you ignore the contacts from the enforcement agents, they will visit you at your business or home address. This visit will incur a further set fee. They will not add further costs for additional visits.

When the enforcement agent visits you, they will ask for payment in full, including all their costs. If you cannot pay the amount due in full immediately, they may agree a payment arrangement. To provide security the enforcement agent will make an inventory of goods that can be sold to repay the debt if you do not keep to your arrangement. This is called a 'controlled goods agreement'.

If your goods are subject to a controlled goods agreement, you cannot move or sell them without the enforcement agent's permission.

If you fail to pay as arranged and you have signed a controlled goods agreement, the enforcement agent may re-enter your property, to take the goods listed on the inventory. You will be charged a

sale fee if goods are removed and sold plus other costs such as auctioneer's fees. This can add a significant amount to the costs that you will be liable for.

If a debt has been passed to enforcement agents and you pay us without including their fees, then they will continue to recover their costs from you.

If the enforcement agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to your property, they will send a certificate to us to confirm that they have been unable to recover the debt.

Stage 3: Final recovery options

In most cases the following recovery options will only be considered if the remedies above have proven ineffective. In certain cases the Council might choose to move to Stage 3 earlier. Such action will be considered on a case by case basis.

Before we consider one of the following three options we will have:

- confirmed that your liability for Council Tax or Business Rates is correct;
- made all reasonable efforts to check that you are not entitled to any discounts or exemptions,
- made all reasonable efforts to contact you by letter, phone, e-communications or visits to your address;
- investigated your financial situation by checking some/all of the following:
 - any Council held records, including enforcement agents records and any history of payment arrangements or payments received.
 - HM Land Registry records.
 - a credit reference agency, for information about outgoings and requests for finance, credit, or mortgages.
 - Companies House records.
 - Council house sales records
 - Any known or potential employment details

We will consider the relationship between the size of the debt and the amount of costs that will be incurred in making a decision about what action to take

In addition, the following will also be taking into account when considering the recovery options

- as a result of age, severe mental illness, disability, or extensive learning difficulties, you cannot be expected to deal with your own affairs.
- If you are the main carer for a person with a disability
- whether you are in receipt of or are awaiting outstanding benefit claims (including Council Tax support)
- assessing if there is no realistic prospect of recovering the debt by other means in a

reasonable timescale.

- any other circumstances which you believe are exceptional and affect your ability to pay your debt.

In all cases, we will advise you to seek independent legal advice if we contact you about any of the three following processes.

Insolvency/Bankruptcy/Winding Up

This is an extreme form of recovery and will only be considered in exceptional circumstances where the council funds are at risk or other forms of recovery have failed. If you are made bankrupt or your company is placed into liquidation the matter will rest with the Insolvency Service under the provisions of the Insolvency Act 1986. Your home, business and other assets will be at risk of sale to meet the debts of all your creditors.

If you are made bankrupt or your company is placed into liquidation the matter will rest with the Insolvency Service under the provisions of the Insolvency Act 1986. Your home, business and other assets will be at risk of sale to meet the debts of all your creditors.

The insolvency rules require that any debt owed by an individual must be for £5,000 or above (or £750 for a limited company). However, given the nature of this form of recovery this will only be considered if:

- The debt is in excess of £5,000.
- It appears that there are sufficient assets to pay the debt.
- All other recovery has failed.

The first stage of the insolvency process is to issue a Statutory Demand requesting payment be made within 21 days from the issue of the demand. This provides a further opportunity to make an arrangement for payment or query the account. If you fail to make contact on the issue of the Statutory Demand, an application will be made to the Court for a bankruptcy order

For personal debt, we may decide to take insolvency/bankruptcy action against you in the County Court if the total debt you owe us is more than £5000. If the Court declares you bankrupt, you could lose your home and possessions to pay the debts and have to pay significant additional costs on top of the debt owed to us.

We will send you a letter warning of the proceedings we are going to take and give you a last chance to pay. If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, we will serve a Statutory Demand on you. This is the first formal stage in a process that may lead to bankruptcy.

If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement after the service of a Statutory Demand, or if the court does not set your case aside, we will then serve a bankruptcy petition.

The Official Receiver will then be appointed, and you will no longer have control over your assets. You may find it extremely difficult to obtain credit in the future.

For company debts, in respect of Business Rates, over £750, we may initiate court proceedings

for winding up of the company. This is also known as a compulsory liquidation. If the petition is successful, the company's assets will be sold to help pay its debts.

Charging orders

If the combined balance of your debts owed to us is over £1000 and you own a property, we may apply to the County Court for a charging order to be placed on it.

This charge will be placed on the land registry records and will affect your credit rating. You will also incur substantial additional costs and court fees and may find it difficult to sell the property

This affects your credit rating, and you will also incur additional costs and court fees.

If a charging order is granted it gives us two options:

- recover the debt and interest from the proceeds of sale if the property is sold at a later date; or,
- ask the County Court to evict you from the property and enforce its sale to recover the money owed.

Committal to Prison Proceedings

If the debt is not cleared even after enforcement action (for example there were insufficient goods to remove or the enforcement agents were unable to gain entry), then a committal summons can be issued.

The council tax payer on the liability order will then be required to appear in court and give details, under oath, of their financial details. Failure to appear at court will result in an arrest warrant being issued. If the Magistrate believes that there has been wilful refusal or neglect to pay then the council tax payer can be sent to prison for up to 90 days. The court can also place an order to pay the outstanding debt over a fixed period of time.

It would be wise to contact us before your arrears reach this stage.

Costs

We charge fees because it costs us to take legal action to recover debts. These costs are added to your Council Tax or Business Rates debt, as appropriate. We then recover them together with your original debt.

The costs we charge are made up of payments we have to make to either the Magistrates Courts or County Courts, and what it costs us to carry out the recovery work.

External companies such as Enforcement Agents charge their own costs, which are payable to them. Enforcement Agents are regulated and have to charge the same costs.

Details of current costs can be found [here](#)

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