

Southampton City Council Tax Debt Recovery Policy

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In this policy the terms 'we', 'us' or 'our' relate to the Finance and Commercialisation service of Southampton City Council.

Purpose of our recovery policy

We recognise that most Southampton residents pay their Council Tax promptly. We use this money to provide essential services to local people.

This policy exists to explain how we will collect Council Tax debts so that:

- people who owe us money know what is happening and why, and;
- people who pay their Council Tax promptly have confidence that we are committed to recovering money owed to us.

We will:

- promote easy payment methods and payment dates, to prevent recovery action being necessary.
- explain at each 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.
- work with debt advice agencies to reach repayment plans.
- ensure that we take account of vulnerabilities and that recovery measures are proportionate to a person's circumstances.
- ensure all individuals are treated consistently and fairly.
- If there are changes in legislation relating to Council Tax that affect the recovery process the policy may be reviewed.

Background

All recovery action is in accordance to statutory legislation. The relevant primary legislation is the Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992.

Stage 1: details the recovery processes up to and including the issuing of a liability order by a Magistrates Court.

Stage 2: details the recovery processes beyond liability order stage.

If these recovery processes are not successful, we will consider further recovery options set out in the Stage 3 of this policy.

Our recovery measures get more serious the longer you avoid or ignore our attempts to contact you.

The easiest way to resolve the situation is to contact us to discuss your account(s).

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 continuing liability 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 payments starting in April. We will give 14 days' notice before the first payment is due. When an account has been adjusted during the year an amended bill will be issued.

Council Tax can be paid by either 10 or 12 monthly instalments if the Demand Notice is issued on or before the 30th April of the relevant year.

In accordance to statutory legislation the Local Government Finance Act 1992 the following recovery documents may be issued.

Reminder

If you miss an instalment, we will send you a reminder notice. This gives you a further 7 days to pay the overdue amount.

Second reminder

If you bring your account up to date following receipt of a reminder, but then miss a future instalment, we will send you a second reminder.

Final notice

If you miss further instalments, we will send you a final notice. This will request that you pay your full annual charge within 7 days.

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 requesting a summons to your bill.

At the court hearing, we must satisfy the Magistrates that we have followed the legislation correctly. We must also confirm that you are liable for Council Tax and that the debt is outstanding. If the Magistrates' Court is satisfied with the evidence we present, they grant a liability order.

Stage 2: Recovery processes beyond liability order stage

Once a Liability Order has been granted by a Magistrates Court, the City Council can choose to undertake any of the following recovery options if a payment is not agreed between both parties:

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.

Actions by enforcement agents

Once we have a liability order and prior to a debt being passed to an enforcement agency a letter will be issued asking you to tell us about your income and expenditure. This is your opportunity to let us know if you have any special circumstances which we need to be aware of.

All enforcement agents we employ are certificated through the County Court and follow a national code of conduct. A summary of the fees they charge can be found in Appendix 1

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 may visit you at your home or business 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 can 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. We will then consider one of the remedies detailed below in stage 3.

Stage 3: Further recovery options

The following recovery options will only be considered if the remedies above have proven ineffective. Before we consider one of the following three options we will have:

- made all reasonable efforts to check that you are not entitled to any discounts, exemptions, reductions or benefits;
- made all reasonable efforts to contact you by letter, phone, e-communications or visits to your address;
- provided contact details of free independent debt advice agencies
- investigated your financial situation by checking the following:
 - 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.
 - Council house sales records.
 - any known or potential employment details.
 - Companies House records.

In addition, we will also consider if the recovery option is appropriate due to the following factors:

- Severe mental illness, severe disability, or extensive learning difficulties you cannot be expected to deal with your own affairs.
- the main carer for a disabled dependent person.
- whether you are in receipt of Council Tax Support or outstanding benefit claims.
- assessing that there is no realistic prospect of recovering the debt by other means in a reasonable timescale

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 action

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 you with 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.

Charging orders

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

We will only consider committal proceedings if all other avenues of recovery have been considered and discounted. We will issue a summons to attend a means enquiry hearing at the Magistrates Court.

At the hearing, you will be asked questions about your income and expenditure and the reason(s) why you have not paid your Council Tax bills.

The Magistrates Court will consider if you are guilty of either:

- refusing to pay, when you could have done, known as ‘wilful refusal’; or
- not taking appropriate action when you were billed, and recovery action was being taken, known as ‘culpable neglect’.

At the hearing, the Magistrates may sentence you to a term of imprisonment. The sentence can be suspended on whatever terms the Magistrates consider appropriate. Usually this would be an

agreement to pay a weekly or monthly amount. If the Magistrates decide that failure to pay was not due to wilful refusal or culpable neglect, they have the power to write off all or part of the debt.

If you do not appear in court, we will ask the Magistrates Court to issue a warrant for your arrest.

Appendix 1: Costs

We charge fees because it costs us to take legal action to recover debts. These costs are added to your Council Tax debt. 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.

Type of cost	Amount
Summons	£67.50
Enforcement agent compliance (on receipt of our instructions & making contact with you)	£75
Enforcement agent visits (one fee is charged regardless of the number of visits)	£235 plus 7.5% of any balance over £1,500
Enforcement agent sale of goods	£110 plus 7.5% of any balance over £1,500
Charging order	These vary
Bankruptcy petition	These vary
Committal Summons costs	£305.00
Warrants of Arrest	£145