

## **COUNCIL TAX AND NDR INSTALMENT DATES AND RECOVERY POLICY**

### **Introduction**

There are over 113,600 domestic properties and 8,240 non-domestic properties within Brent and the Revenues service is responsible for collecting Council Tax and Business Rates due for each of these properties. The Revenue generated from Council Tax collection forms a significant proportion of the Authority's overall Revenue budget and as such we recognise our responsibility to maximise collection to protect the overall financial health of the Authority. We also recognise the diverse nature of Brent as a Borough, with pockets of affluence and large areas of deprivation. We aim to take account of differing customer needs and circumstances and to reflect these in our policies for recovering Council Tax. In overall terms, we aim to deal robustly with those who are wilful non payers and to deal sensitively with those who are willing to pay but are experiencing difficulties in doing so and to ensure that payment arrangements are fair. All recovery action will be in line with the Revenues and Benefits Anti Poverty policy, which seeks to ensure that entitlement to benefit is identified wherever possible and those with genuine hardship have the opportunity to discuss and review their payment arrangement. From 1 April 2013 the Council Tax benefit scheme was replaced with a less generous Council Tax support scheme which resulted in 21,000 council tax accounts having more to pay or having to pay some Council tax for the first time in a number of years. This presented a challenge in having to collect these amounts from those least able to pay without detrimentally impacting on expected collection rates; the policy below includes considerations and strategies used in respect of these accounts.

### **1. COUNCIL TAX INSTALMENT DATES**

1.1 Changes were introduced in 2013/14 which enabled council taxpayers to pay their Council Tax by 12 instalments should they opt to do so. The default continues to be 10 instalments, these being due on the following dates:

(a) Direct Debit payers

1st, 12th, 17th, or 28<sup>th</sup>; depending on the date selected by the Direct Debit payer. If no date is selected, the instalments will be due on the 1st. Instalments commence on the selected date in April 2014 and end in January 2015, unless the payer has requested 12 instalments in which case the last instalment will be due in March 2015.

(b) Non Direct Debit payers

First instalment on the 1<sup>st</sup> April 2014, then on the 1<sup>st</sup> of each month to 1<sup>st</sup> January 2015 or 1<sup>st</sup> March 2015 if the taxpayer has requested 12 instalments.

Those accounts in receipt of Council Tax Support (CTS) have been switched to 12 monthly instalments, thus reducing the monthly instalment due as the cost is spread over the full year.

## **2. NNDR INSTALMENT DATES**

- 2.1 From 2014/15 ratepayers will be able to elect to pay their Business Rates over 12 months, from April 2014 to March 2015. They will have to opt in to this. The default remains 10 instalments these being due on the 1st of each month from 1 April 2014 to 1 January 2015.

## **3. BRENT POLICY FOR COUNCIL TAX RECOVERY**

- 3.1.1 The following documents are currently used for Council Tax Recovery up to bailiff stage:

- Reminder (s)
- Pre Summons Letter
- Summons for a Liability Order Hearing
- Pre Bailiff Letter including a means enquiry form and debt leaflet giving help and advice if customers are in debt

### **3.1.2 Reminder Notices**

These are usually issued immediately after 14 days of an instalment becoming due where full payment of the instalment has not been received. If the instalment is not paid within 10 days then the right to pay by instalments is lost and the full unpaid balance for the year becomes due. At the start of the financial year when volumes of reminders are highest the issue of reminders will be prioritised with those not in receipt of Council Tax support having highest priority.

### **3.1.3 Pre-Summons Letter**

In order to provide support to all taxpayers and particularly those affected by the CTS changes an additional pre summons letter will be sent before a summons is issued for non payment. This is not a statutory requirement but has been introduced to increase the taxpayer's opportunities to make an arrangement before a summons is issued and additional costs incurred

### **3.1.4 Summons for a Liability Order Hearing**

This document is issued in accordance with legislation. Summonses are issued under regulation 34 (2) and 14 days must have elapsed between the Summons Service and the hearing. (SI 1998/295).

Note that the summons contains all the requirements of a legal summons. It also contains notification that summons costs of £90.00 have been incurred and that the payment must include the costs.

### **3.1.5 Inserts enclosed with a Summons**

Two inserts are included with the summons; one has been designed to answer many of the questions that are often asked when summonses are received by the Taxpayer. It also incorporates a direct debit form that can be completed offering a payment arrangement. This form can be completed and returned to Customer Services for a standard arrangement.

The other insert provides details of available debt advice and agencies that can assist.

## 3.2 Policy for inhibiting Summonses

3.2.1 A pre-summons vetting stage currently exists. This additional process has been established to ensure that Taxpayers are not summonsed whilst they have genuine outstanding matters with us. The vetting stage is undertaken by Capita. A pre summons list is produced containing the names and addresses of potential summons cases. The list is then cross checked against the items of work appearing in workflow including outstanding benefit claims, benefit appeals, complaints and Council Tax correspondence. Where appropriate a summons is not issued giving the Benefits Department/Capita time to resolve the enquiry.

3.2.2 This process does not mean that a summons cannot be issued to a taxpayer that has an outstanding matter with us. A summons will still be issued in the following circumstances:

- a) there has been a delay by the taxpayer in providing the necessary supporting documentation with their benefit application or information required to assess the claim
- b) the taxpayer is late in making an application and therefore all the arrears would not be cleared by an award of benefit
- c) where it appears that there will not be any or full entitlement to benefit
- d) the issue raised is frivolous with the intention of delaying the payment of Council Tax
- e) the issue raised is not connected to the Council Tax liability.

3.2.3 In accordance with the Anti Poverty strategy any accounts where the tax payer has been identified as vulnerable will usually be excluded from summons action. Where appropriate a summons will be issued to enable recovery from Income Support and Job Seekers Allowance. Summons costs will be reviewed in these cases.

Potentially vulnerable customers include:

- Customers who are 80 years or more in age
- Customers with physical disabilities that significantly impair their mobility
- Customers who may find it difficult to manage their own affairs because of mental health difficulties or substantial literacy difficulties.

- Homeless customers
- Customers with sensory impairments

### **3.3 Summons Arrangements**

- 3.3.1 Once a taxpayer has been summonsed they will be offered the opportunity to contact the Council to make an arrangement. Should contact be made they will be offered any of the following arrangements.
- 3.3.2 Normally payment of the balance by three equal monthly instalments. This can be paid by cash or cheque to the Council. This arrangement must include summons and liability order costs of £120.00.
- 3.3.3 As Direct Debit is the preferred payment method arrangements by Direct Debit can have a greater number of monthly instalments. This arrangement must include total costs of £120.00, which includes those for a liability order.
- 3.3.4 Consideration will be given to extending payment arrangements and re-instating instalments where severe financial hardship is demonstrated. This extension is at the discretion of the Recovery Team.
- 3.3.5 Customers who have multiple Liability Orders will be given the opportunity to agree an affordable payment agreement, to cover all outstanding arrears. This may be subject to completion of a means enquiry form.

### **3.4 Attachment of Earnings Orders**

Where employment details are available for taxpayers at any stage from a liability order being obtained to the point where bailiff action is commenced, an attachment may be applied. It may also be applied after a case has been returned by the bailiff if a debt remains outstanding. Deductions are made in accordance with current legislation, which determines the amount that can be deducted from the individual's salary based on the appropriate percentage of salary received. Employment details are always asked for before any payment arrangement is agreed so that in the event of the customer defaulting on the arrangement the balance can be collected by deductions from the customer's earnings.

### **3.5 Benefit Deductions**

A Liability Order must be obtained before deductions can start.

Benefit deductions can be applied to state benefits such as Income Support, JSA and Employment Support Allowance, where the taxpayer is in receipt of those benefits a deduction from those benefits will be considered. For those persons in receipt of the maximum council tax support and in receipt of a qualifying benefit this is the preferred method of recovery. In these cases consideration will be given to reducing the court costs.

In vulnerable cases (outlined in 3.2.3), deductions from benefit may be made. The Council Tax Office has liaison arrangements with Social Services and other welfare agencies to help identify vulnerable individuals and ensure that their situations are taken into consideration.

### **3.6 Pre Bailiff Notice**

3.6.1 This notice is a personalised notice issued within the first week following a Liability Order hearing. It is issued to all Taxpayers who have failed to pay in full or make an arrangement for payment, and where other methods of recovery are not appropriate. The notice advises the Taxpayer that the account will be passed to the bailiff within the next 14 days for collection if no arrangement is made to clear the balance or the account is not paid in full. The back of this notice gives details of charges connected with the process of the bailiff removing, or threatening to remove goods, in order to enforce a debt, known as Distress. Information is also given in relation to total costs, which includes the summons and liability order costs. An arrangement for payment can still be made at this stage. Inserts are also enclosed giving debt advice, requesting information in respect of employment or benefit entitlement. A means enquiry form is also enclosed for completion by the tax payer if they require an extended arrangement.

3.6.2 The Pre Bailiff notice is also issued to Taxpayers defaulting on arrangements where a liability order has previously been granted.

3.6.3 In practice there is a big response to this notice. Capita will deal with enquiries before bailiffs are instructed.

### **3.7 Bailiff Action for Council Tax**

3.7.1 The following cases will be subject to Bailiff action following the issue of the pre-bailiff notice:

- (a) No payment arrangement made
- (b) Taxpayers defaulting on existing arrangements
- (c) No contact made

Bailiffs have been instructed to take a considered collection approach to those cases in receipt of council tax support and where the balance is less than £500.00.

3.7.2 The Bailiff operates under the Association of Civil Enforcement Agencies Code of Conduct.

The bailiff may make charges in accordance with the Regulations. As from 1 April 2014 the charges that bailiffs can make has been simplified as a result of major reform to bailiff law. Brent Customer Services are in discussions with its bailiff companies in order to agree the actions that will be taken in respect

of the 3 new stages of bailiff enforcement. It will be closely monitoring this to ensure compliance with both this and the new legislation.

The bailiff has discretion to make arrangements. The bailiff is requested to return the Liability Order back to the council within four months if they are unable to collect unless otherwise authorised.

3.7.3 The bailiff firms currently used are authorised by the London Borough of Brent for both Council Tax and NNDR are:

- (a) Newlyn Collection Services Ltd
- (b) Equita
- (c) Ross and Roberts

### 3.8 **Bankruptcy, Charging Orders and Committal to prison**

In cases where all other recovery methods have failed we will seek to obtain a charging order or force of sale against a property, a bankruptcy order or to seek the Taxpayer's committal to prison. Which course of action is taken will depend upon individual circumstances, their payment history and the balance outstanding.

### 3.9 **Other Methods**

Other methods have been trialled to assess their effectiveness in collecting unpaid Council Tax. This includes outbound telephoning and visits to those properties where there have been no payments for greater than 3 months with comparisons made between the various methods. It has shown that the most successful is outbound telephone calling, this method will be expanded to supplement the other recovery options detailed previously.

In addition where mobile telephone numbers are held customers are sent text messages to remind them of missed instalments.

### 3.10 **Customers who are identified as experiencing financial hardship**

The Anti Poverty Policy was devised to assist customers who are experiencing financial difficulties and as a result are having problems either paying their Council Tax arrears or adhering to their current year instalments. It came into force on 1<sup>st</sup> April 2007.

If a customer contacts the Council advising they have financial difficulties, we will review their outstanding balance(s) for Council Tax. Customers will also always be encouraged to consider applying for Council Tax Support and other Discounts and Exemptions, they may qualify for. Where potential entitlement is identified payment arrangements will be made pending assessment of benefit to ensure arrears do not increase. These may need to be reviewed if Council Tax Support is awarded. Those customers experiencing difficulty in paying their Council Tax, are in receipt of Council Tax Support and who have

also been affected by other welfare reform cuts will be referred to the Council's welfare benefits team for possible assistance.

If a customer contacts the Council following a recovery notice and advises that they cannot meet the payment demanded, consideration will be given to reinstating and extending their instalments. Where a customer indicates that they will require longer than 6 months to repay arrears or they are unable to meet their in year liability by 31<sup>st</sup> March, the case will be passed to the Capita Recovery team for consideration.

### **3.11 Fast Tracking Benefit Enquiry**

Where a Taxpayer makes a late application for Council Tax Support after recovery has started or provides information enabling their claim to be assessed then the assessment will be fast tracked. This means the customer will be offered an appointment with an assessment officer within 24 hours and informed what information they need to bring to the interview in order to have their entitlement assessed. The outcome of the benefit assessment could mean there is full or partial entitlement to Council Tax Support that reduces the balance due or the claimant is advised they have no entitlement to Council Tax Support.

## **4.0 BRENT POLICY FOR NNDR RECOVERY**

4.1 The following documents are currently used for NNDR up to bailiff stage:

- Reminder (s)
- Summons for a Liability Order Hearing
- Pre-Bailiff Letter

### **4.2 Summons for a Liability Order Hearing**

This document is issued in accordance with legislation. Summonses are issued under the Collection and Enforcement Regulations (SI 1989/1058) and 14 days must have elapsed between the Summons Service and the hearing.

Note that the summons contains all the requirements of a legal summons and also contains notification that summons costs of £145.00 have been incurred and that the payment must include the costs.

### **4.3 Pre-Bailiff Letter**

4.3.1 This notice is a personalised notice issued within the first week following a Liability Order hearing. It is issued to all ratepayers who have failed to pay in full or make an arrangement for payment. The notice advises the ratepayer that the account will be passed to the bailiff within the next 14 days for collection if no arrangement is made to clear the balance or the account is not paid in full. The back of this notice gives details of charges connected with the process of the bailiff removing, or threatening to remove goods, in order to enforce a debt, known as Distress. Information is also given in relation to total

costs, which includes the summons and liability order costs. An arrangement for payment can still be made at this stage.

#### **4.4 Bailiff Action for NNDR**

4.4.1 The following cases will be subject to Bailiff action

- (a) No payment arrangement made
- (b) Taxpayers defaulting on existing arrangements

4.4.2 The Bailiff operates under the Association of Civil Enforcement Agencies Code of Conduct.

The bailiff may make charges in accordance with the Regulations. As from 1 April 2014 the charges that bailiffs can make has been simplified as a result of major reform to bailiff law. Brent Customer Services are in discussions with its bailiff companies in order to agree the actions that will be taken in respect of the 3 new stages of bailiff enforcement. It will be closely monitoring this to ensure compliance with both this and the new legislation.

The bailiff has discretion to make arrangements. He/she is requested to return the Liability Order within three months if he/she is unable to collect unless otherwise authorised.

4.4.3 The bailiff firms currently used are authorised by the London Borough of Brent for both Council Tax and NNDR. They are:

- (a) Newlyn Collection Services Ltd
- (b) Equita
- (c) Ross and Roberts

#### **4.5 Bankruptcy and Committal to prison**

In cases where all other recovery methods have failed we may seek to undertake insolvency proceedings or to seek the ratepayer's committal to prison. Which course of action is taken will depend upon whether it is a limited company or an individual, their circumstances and their payment history.

#### **5.0 Liability Order Costs**

5.1.1 Summons costs are applied for when the Complaint is laid and the costs debited to the account when the issue of the summons has been agreed. Both the summons and the summons insert give details of these costs. These summons costs will only be cancelled if the summons is withdrawn or



in special circumstances where the costs are waived. Summons costs for Non-Domestic Rates are £145 and for Council Tax £90.

- 5.1.2 Liability Order costs for council tax is £30.00 and for non-domestic rates £25.00. They are incurred when a Liability Order is granted. These costs can be asked for at Court even where the remaining balance outstanding relates to costs only. Taxpayers who therefore pay before the hearing date without settling Summons Costs may incur further costs. Liability Order Costs will be applied for in all cases where a balance remains outstanding on the Court list.

## **6.1 Policy Review**

- 6.1 This policy document reflects the current initiatives employed and is not prescriptive. It is recognised that policies and the wording of documents are subject to change to meet changing circumstances and legislation. Any review of the Anti Poverty is likely to also impact on this policy.