

Debt Recovery **Policy**



1.0 Introduction and Objectives

Brent Council has a statutory and fiduciary responsibility to safeguard public funds through the effective billing, collection, and recovery of all monies owed. This policy sets out a defined framework for debt management across all service areas, ensuring that recovery actions are fair, consistent, transparent, and proportionate.

The Council is committed to recovering outstanding debts in a fair, consistent, and proportionate manner. We recognise that some individuals may face genuine financial hardship, and, in such cases, support will be provided in line with the principles set out in this recovery policy. Enforcement measures will be used only where necessary and will always be carried out in a manner that is lawful and sensitive to individual circumstances.

Enforcement agents acting on behalf of the Council are expected to operate in accordance with recognised codes of practice, including the identification and appropriate handling of vulnerable customers.

This approach ensures that debt recovery contributes to the Council's financial sustainability while upholding its values of fairness, empathy, and accountability.

The Council is responsible for collecting:

- Council Tax
- Non-Domestic Rates (Business Rates)
- Housing Benefit Overpayments
- Housing Rents and Temporary Accommodation Charges
- Parking and Road Traffic Penalty Charges
- Leasehold Service Charges and Major Works
- Sundry Debts
- Adult Social Care Charges

The objectives of this policy are:

- To maximise income collection through timely and accurate billing.
- To pursue all debts fairly, ensuring those with the means to pay do so.
- To support residents in financial difficulty through appropriate interventions.
- To apply consistent and proportionate recovery processes across all debt types.

2.0 Core Principles

Brent Council adopts the following principles in its debt management approach:

- **Clear Charging and Recovery Processes:** Customers will be informed of the nature and value of their debt and the consequences of non-payment. Disputes will be responded to within 21 days, with pending recovery suspended during resolution. This is a blanket approach across all lines of debt where those debts are not subject to other statutory processes.
- **Flexible Payment Options:** Direct Debit is the Council's preferred method of payment due to its reliability, efficiency, and cost-effectiveness. It ensures regular and timely payments, reducing the risk of missed instalments and the need for manual intervention. This method also helps residents manage their finances more easily by spreading costs and offering flexible payment dates. A range of payment methods and frequencies will be offered; some services may require advance payment or Direct Debit to access.
- **Early Intervention:** Customers will be notified promptly when debts arise to prevent escalation. We expect customers to respond promptly to any contact we attempt to make with them.
- **Clear Communication:** We will use a range of communication methods to ensure that customers know how to make payments, and how to contact us if they are struggling to do so. Communication will primarily be through electronic means.

We expect customers to inform us promptly of any changes to their contact details. Brent Council expects its staff to be courteous and respectful to customers and expects customers to be equally courteous when dealing with Council staff and those working on behalf of the Council.

- **Support for vulnerable customers who demonstrate that they can't pay:** Customers identified as vulnerable will be referred to internal and external support services. In specific circumstances, we may consider writing-off and not pursuing all or a portion of an individual's debt in order to prevent exacerbating severe indebtedness. We expect customers to take ownership of their finances, to engage positively with any support provided, to provide any requested information within the specified timescale, and to comply with the terms of any agreement made
- **Firm Action for Non-Engagement/Payment (those who won't pay):** Where individuals have the means to pay but choose not to, robust Magistrate or County Court recovery proceedings will be pursued to ensure that public funds are protected, and essential services can continue to be delivered for the benefit of all residents.

3.0 Vulnerability and Debt Support

Brent Council recognises that vulnerability may affect a person's ability to manage finances. Vulnerability may include:

- Disabilities, including those with learning difficulties or serious illness.
- Language or literacy barriers - while translation services are available for interaction with the Council, those who may not have the support to speak or read English may be more broadly financially excluded.
- Bereavement, job loss, or homelessness.
- Those affected by economic or health impacts of war, pandemic or natural disaster.

Where vulnerability is identified, the Council will:

- Flag accounts for manual review.
- Suspend automated escalation.
- Offer tailored support (e.g. extended payment terms, benefit reviews).
- Refer to appropriate welfare schemes or third-party support.

The above does not constitute a list of reasons for automatic assessment as vulnerable, nor is it intended to be exhaustive. Assessment of vulnerability, and the steps taken to support a vulnerable customer, will be assessed by the Council on a case-by-case basis, based on the specific details provided by the customer.

The identification of vulnerability does not excuse someone from paying a debt which they are legally obliged to pay. It does, however, mean that the Council will provide additional support in understanding the debt, and aim to minimise undue distress.

3.1 Breathing Space

The Debt Respite Scheme (Breathing Space), introduced in May 2021 provides individuals in financial difficulty with temporary legal protection from creditor action. It includes:

- Standard Breathing Space: Up to 60 days of protection, during which enforcement action, interest, and charges must be paused.
- Mental Health Crisis Breathing Space: Lasts for the duration of treatment plus 30 days, offering extended protections for individuals receiving certified mental health crisis care.
- To apply for the 'Breathing Space' scheme, you need to talk to a debt adviser. They will submit an application on your behalf if it's the right thing to do.
<https://www.gov.uk/options-for-dealing-with-your-debts/breathing-space>

Implications for Council:

- Upon notification, the Council will cease all recovery action for qualifying debts.
- Service areas must ensure compliance with notification timelines and accurate application of protections.
- Ongoing payments may still be required if the customer can afford them.
- Debts covered include council tax, rent arrears, housing benefit overpayments, parking enforcement debts, business rates, sundry debts (unsecured), student loans and secured debts are excluded.

4.0 Debt Recovery and Enforcement

Recovery action will be proportionate and cost-effective. Enforcement methods may include:

- Attachments to earnings or benefits.
- Charging orders and order of sale proceedings.
- Bankruptcy.
- Possession orders.
- Referral to appointed enforcement agents.
- Committal proceedings - applied when there is evidence of **wilful refusal or culpable neglect**, with potential imprisonment.

Robust enforcement performance monitoring and contract management processes will be implemented to ensure full compliance with relevant codes of conduct and recognised good practice. All enforcement services will operate in accordance with the National Standards for Enforcement, ensuring consistency, fairness, and accountability in all recovery actions.

Enforcement Agent Fees set by central government		
Fee	Cost	Information
Compliance fee	£75	Initial contact by the Enforcement Agent to the debtor to urge contact to discuss a payment arrangement.
Enforcement fee	£235	The Enforcement Agent fee for attending the property. Plus 7.5% of the value of the original debt that exceeds £1500
Removal and Disposal Stage Fee	£110	This fee reflects the uplift and disposal of goods to the value of the debt. Plus 7.5% of the value of the original debt that exceeds £1500

5.0 Write-Offs

Debts may be written off for the following reasons in accordance with the Council's Debt Write Off procedure:

Insolvency, Unenforceable, Absconded, Uneconomical to Collect, *Uncollectable or Deceased.

** Uncollectable / Hardship write-offs will be considered following completion of customer consented open banking financial assessment.*

6.0 Council Members and Staff

It is not acceptable for Council members, employees or contractors to have outstanding debts owed to the Council. Where such debts exist, the Council will utilise internal information systems to support recovery efforts, including the implementation of salary deductions where appropriate.

In accordance with Section 106 of the Local Government Finance Act 1992, any Council member with payments overdue by two months or more is legally required to declare this and must abstain from voting on matters related to financial decisions until the debt is resolved.

7.0 Monitoring and Performance

The Council will:

- Monitor debt levels and recovery performance as part of the Council's Budget Assurance Panel.
- Review aged debt and write-off recommendations regularly.
- Set performance targets for collection rates and Direct Debit uptake.

8.0 Customer Care and Advice

The Council will treat all customers with respect and fairness. Those in financial difficulty will be:

- Invited to provide consent for digital income and expenditure verification.
- Offered confidential support and referred to advice services.
- Encouraged to prioritise essential debts (e.g. rent, council tax)

Advice services include:

Citizens Advice Brent

- **Address:** 270–272 High Road, Willesden, London, NW10 2EY
- **Phone:** 020 8438 1249
- **Email:** ca.brent@cabrent.org.uk
- **Website:** www.citizensadvicebrent.org.uk

National Debtline

- **Address:** Tricorn House, 51–53 Hagley Road, Birmingham, B16 8TP
- **Phone:** 0808 808 4000 (Freephone)
- **Website:** www.nationaldebtline.org
- **Services:** Free, confidential, and independent debt advice via phone, webchat, and online tools

StepChange Debt Charity

- **Address:** 123 Albion Street, Leeds, LS2 8ER
- **Phone:** 0800 138 1111 (Freephone)
- **Email:** client.service@stepchange.org
- **Website:** www.stepchange.org
- **Services:** Free and impartial debt advice, online and by phone, including support with debt management plans and budgeting



Brent



Council Tax and NNDR Policy

1.0 Introduction

There are over 135,000 domestic properties and 9,000 non-domestic properties within Brent for which the Council 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 the Council recognises its responsibility in maximising collection to protect the overall financial health of the Authority.

The Council also recognise the diverse nature of Brent as a Borough, with pockets of affluence and large areas of deprivation. The Council aim to take account of differing customer needs and circumstances and to reflect these in our policies for recovering Council Tax. In overall terms, the Council aim to deal robustly with those who are wilful nonpayers and to deal sensitively with those who are willing to pay but are experiencing difficulties in doing so, ensuring that payment arrangements are fair. The Council will always seek 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 options. Furthermore, the Council adheres to the Citizens Advice Brent Council Tax Protocol to ensure customers are encouraged to seek help in the management of their debts and the conduct of the Enforcement Agents.

From 1 April 2025 a revised Council Tax Support Scheme was implemented for those of working age, with the national scheme for pensioners remaining in place.

2.0 Council Tax Instalment Dates

2.1 In 2013/14 changes which enabled council customers to pay their Council Tax by 12 instalments were adopted.

The default continues to be 10 instalments. Instalment dates are as follows:

- Direct Debit payers
1st, 12th, 17th, or 28th 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 the April of the financial year and end the following January, unless the payer has requested 12 instalments in which case the last instalment will be due in the March.
- Non-Direct Debit payers
First instalment is on the 1 April 2020, then on the first of each month to 1 January or 1 March if the customer has requested 12 instalments. The Council will offer alternative dates within the month in order to meet the needs of the customer.

3.0 BRENT POLICY FOR COUNCIL TAX RECOVERY (SI 1992/613)

3.1 The following documents are currently used for Council Tax Recovery up to enforcement agent stage:

- Reminder(s)
- Summons for a Liability Order Hearing
- Pre Enforcement Letter including a means enquiry form
- Telecommunication campaigns.

3.2 Reminders

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 for those not in receipt of Council Tax Support.

3.3 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.

3.4 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 customer. The other insert provides details of available debt advice and agencies that can assist such as Citizens Advice Brent, Law Centres etc.

3.5 Process for inhibiting Reminders and Summonses

A pre-summons vetting stage is in place. This additional process has been established to ensure that customers are not summonsed whilst they have outstanding matters with the Council. 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 allowing time for enquiries to be resolved.

This process does not mean that a summons cannot be issued to a customer that has an outstanding matter. A summons will still be issued in circumstances where:

- there has been a delay by the customer in providing the necessary supporting documentation with their benefit or Council Tax discount.

- application or information required to assess the claim. Unless there is very good reason for the delay.
- the customer is late in making an application and therefore all the arrears would not be cleared by an award of benefit
- where it appears that there will not be any or full entitlement to benefit
- the issue raised is frivolous with the intention of delaying the payment of Council Tax
- the issue raised is not connected to the Council Tax liability.

Where the taxpayer has been identified as vulnerable, these cases will usually be excluded from summons action. Where appropriate a summons will be issued to enable recovery from Income Support, Universal Credit 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
- Those affected by domestic violence
- Customers with severe/registered sensory impairments

This is not an exhaustive list; each circumstance will be reviewed on its merit.

3.6 Summons Arrangements

Once a customer has been summonsed, they will be offered the opportunity to contact the Council to make an arrangement. The summons includes a pre- determined arrangement which they may follow. Should the customer make contact they will be offered any of the following arrangements:

- 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; these may be waived once the arrears are clear.
- 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. The Council may waive costs once the arrears are paid.
- Consideration will be given to extending payment arrangements and re- instating instalments where financial hardship is demonstrated. This extension is at the discretion of the Council. This also includes cancelling the court costs and a requirement for direct debit.

Customers who have multiple Liability Orders spanning multiple years' debt will be given the opportunity to agree an affordable payment agreement, to cover all outstanding arrears. They will be expected to pay their current year liability with additional amounts in respect of their arrears in order to prevent their arrears from accumulating. This may be subject to completion of a means enquiry form and payment by direct debit depending upon the reasons for the customer falling into arrears and their circumstances. We reserve the right to take further action including charging orders and bankruptcy proceedings in order to protect the council's interests.

3.7 Attachment of Earnings Orders

Where employment details are available for customers at any stage from a liability order being obtained to the point where enforcement agent action is commenced, an attachment may be applied. It may also be applied after a case has been returned by the enforcement agent 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.

3.8 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, Employment Support Allowance and Universal Credit, where the customer 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 or cancelling the court costs.

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

3.9 Pre-Enforcement Agent Notice

This non-statutory additional notice is a personalised notice issued within the first week following a Liability Order hearing. It is issued to all customers 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 customer that the account will be passed to the enforcement agent 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 incurred at the three different enforcement agent stages: compliance, enforcement and removal. 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.

A means enquiry form is also enclosed for completion by the taxpayer if they require an extended arrangement. The Pre-Enforcement notice is also issued to customers defaulting on arrangements where a liability order has previously been granted. In practice there is a big response to this notice. The Council will deal with before enforcement agents are instructed.

3.10 Enforcement Agents Action for Council Tax

The following cases will be subject to Enforcement action following the issue of the pre-enforcement notice:

- No payment arrangement made.
- No employer details known so unable to seek attachment of earnings
- No contact made.
- Where a customer has defaulted on a payment arrangement and no employment details are known.

Any cases in receipt of Council Tax Support will only be referred to enforcement agents if there is a large balance outstanding and we have been unable to make contact with the customer. Enforcement Agents have been instructed to take a considered collection approach to any cases in receipt of Council Tax Support.

3.11 The Enforcement Agent operates under the Association of Civil Enforcement Agencies Code of Conduct.

The enforcement agent may make charges in accordance with the Regulations. The Council closely monitors agent conduct to ensure compliance with both the codes of practice and the legislation. The enforcement agent has discretion and is encouraged to agree repayment arrangements. They are requested to return the Liability Order back to the council within four months if they are unable to collect unless otherwise authorised.

3.12 Bankruptcy, Charging Orders and Committal to prison

In cases where all other recovery methods have failed, the Council will seek to obtain a charging order which may result in the enforced sale of the customer's property, a bankruptcy order or to seek the customer's committal to prison. Which course of action is taken will depend upon individual circumstances, their payment history and the balance outstanding. In all cases checks will be made to ensure there are no known vulnerability issues or any other circumstance that may cause severe distress prior to commencing such proceedings. This includes:

- Gathering and consideration of information about a customer's circumstances.
- Recording of steps taken and the outcome. All cases are passed to our Senior Officers for consideration.
- Assessing whether the customer's failure to pay and to respond to other recovery measures was as a result of disability and mental impairment.
- Pursuance of bankruptcy is a fair and proportionate action.

3.13 Other Methods

Other methods have been trialled to assess their effectiveness in collecting unpaid Council Tax. These include 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. Where mobile telephone numbers and email addresses are held customers are sent text messages to remind them of missed instalments and debts owed. Customer telephone numbers and email addresses are captured in order to facilitate contact; private companies are being used to help increase the number of accounts for which we hold this detail. Campaigns are used to target debtors with outbound calls, texts and email to facilitate contact, identify vulnerability and collect debt.

3.14 Section 13a Policy

Customers can apply for a discretionary reduction of their Council Tax. The application should usually relate to the current Council Tax year and subject to some criteria being met. Information is provided on the Council's website for this purpose: <https://www.brent.gov.uk/council-tax/help-paying-your-bill/council-tax-hardship-fund>

4.0 BRENT POLICY FOR NNDR RECOVERY

The following documents are currently used for NNDR up to enforcement agent stage:

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

NNDR Instalment Dates

Ratepayers may pay by 10 or 12 instalments. The default remains 10 instalments these being due on the 1st of each month from 1 April to 1 January.

Pre-Enforcement Agent Letter

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 enforcement agent 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 incurred at the three different enforcement agent stages: compliance, enforcement and removal. 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.

Enforcement Agents Action for NNDR

The following cases will be subject to Agent action:

- No payment arrangement made
- Ratepayers who have defaulted on existing arrangements
- The Enforcement Agent operates under the Association of Civil Enforcement Agencies Code of Conduct.

The enforcement agent may make charges in accordance with the Regulations. As from 1 April 2014 the charges that enforcement agents can make has been simplified as a result of major reform to enforcement agent law. The Council closely monitor agent conduct to ensure compliance with both the codes of practice and the new legislation.

The Enforcement Agent has discretion and is encouraged 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. The Enforcement Agents are selected through a procurement process and change from time to time. For the current Enforcement Agents, see the website.

Bankruptcy and Committal to prison

In cases where all other recovery methods have failed, the Council 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.

Summons and Liability Order Costs

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 Council Tax are £90 and Non-Domestic Rates £145. Liability Order costs for council tax are £30.00 and for non-domestic rates £25.00. They are incurred when a Liability Order is granted. These costs can be requested at Court even where the remaining balance outstanding relates to costs only.

Customers 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. Both summons and liability order costs are calculated in accordance with regulation 34 5(b) and 7(b) of the Council Tax (Administration & Enforcement) Regulations 1992 (SI 1992 No 613) and Regulation 12 6(b) the Non-Domestic rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI 1989 No 1058). The level of costs are reviewed annually, they have remained unchanged since January 2009.



Housing Benefit **Overpayment** **Debt Recovery** **Policy**

Aims of the Policy

The aims of this policy are:

- to ensure we minimise overpayments and reduce them as much as possible when raised
- to take timely, appropriate recovery action when necessary
- to ensure we meet all statutory requirements
- to ensure we maintain a balance between effective debt recovery of and avoiding the causing of financial hardship, especially in light of the changes to welfare benefits
- to ensure that budget requirements are met as far as possible by maximising collection.

Legal Framework

The regulations governing overpayments of Housing Benefits are set out in statute. It is also governed by case law and increasingly by Commissioners' decisions.

Definition of an Overpayment

An overpayment is an amount of Housing Benefit received by a customer or landlord to which they are not entitled under the regulations.

Recoverable or Non-Recoverable

Most overpayments are legally recoverable. The exception to this is in cases where the overpayment is caused by an error by Brent. Where the person receiving the payment could not, at the time of receiving the payment, reasonably have been expected to know they were being overpaid.

If it is decided that the person receiving the payment could not, at the time of receiving the payment, reasonably have been expected to know they were being overpaid, then that overpayment is non-recoverable.

In coming to a decision consideration must be made as to:

- The information and advice that has been provided to the customer
- The nature of the overpayment e.g. if someone moves off Job Seekers Allowance into work, it is reasonable to expect that they knew their benefits would reduce or stop
- The help and assistance normally available to the customer (if someone is normally managing their affairs it is reasonable to believe they would have received advice they were being overpaid)
- In coming to a decision that a customer reasonably knew they were being overpaid, this means that it is recoverable and therefore can be legally recovered, but not necessarily that it should be recovered. See paragraph 6.

Obligation to Minimise and Reduce

We must take steps to reduce the amount payable as far as possible by granting underlying entitlement.

We must take steps to minimise the incidence of overpayments, and these are largely through:

- Suspending incoming work if it is felt that it is likely to lead to an overpayment
- Payment of Housing Benefit in arrears
- Encouraging customers and landlords to report changes in good time
- Attention to quality so that errors are kept to an absolute minimum

- Regular monitoring and reporting of Local Authority Error overpayments.

Discretion to Recover

Local Authorities have the power to recover overpayments, but that power is discretionary. The decision to recover should be arrived at by careful consideration of the facts and circumstances of each case and each debtor.

In deciding whether to recover, the following factors must be considered:

- The customer's age and state of health
- Their vulnerability
- The customer's financial position in terms of ability to pay any debts at all
- The effect of the welfare changes on the customer and the customer's family
- The culpability of the debtor
- Any risk of a negative impact to the Council by recovering
- Is it an overpayment caused by the customer moving out but still accepting Housing Benefit payments
- If the customer's personal circumstances lead to a decision to recover, consideration should be given to the best method by which to recover.

From Whom to Recover

The law has changed considerably over the years in this aspect of overpayment recovery. If the monies have been paid to the Customer directly, the overpayment can only be recovered from:

- The Customer
- The partner or former partner of the Customer (if the partner was the Customer's partner at the time relevant to the overpayment and are still the Customer when recovery is made).
- If the monies have been paid directly to a landlord or Landlord's agent, the overpayment can be recovered from this party if, for example, the landlord could be reasonably expected to know when a customer had moved out or if a partner had moved out (e.g. with a resident Landlord).
- If the Landlord is not culpable for the overpayment, the Customer will be pursued for the Overpayment. There are no prescribed rules for this, and each decision should be made on its own circumstances and the reasoning recorded on the system.

Once the decision process has been followed, where there is doubt as to liability between landlord and tenant, due consideration must be given to the means to pay and the necessity to recover as efficiently as is possible.

Method of Recovery

As a general rule, recovery methods should be used in the following order of preference:

- Clawback from ongoing entitlement
- Invoice (minimum amount is £15.00)
- Composite recovery (Often referred to as Blameless Tenant recovery. This is recovery of debt from a landlord from the Housing Benefit of another of that landlord's tenants)
- Deduction from other DWP/ Universal Credit benefits.

As a general rule, decisions require careful thought in the context of individual circumstances and culpability. For example, if a customer has some culpability in not reporting a change, which gives rise to a large overpayment, but the customer is still receiving Housing Benefit, then an invoice with subsequent recovery action might be the correct decision in the interests of the Council's financial position and the taxpayers of the Borough.

Where the overpayment is due from a former Council Tenant, the tenant's rent account may be debited for Benefit paid beyond the period of the rental liability. Cases like this must be identified and dealt with in a timely fashion.

Where the overpayment is as a result of the debtor moving out but continuing to accept payments of Housing Benefit from Brent, culpability in that overpayment is high. We will invoice in such circumstances, and our policy will be to accept nothing less than full payment.

Where an invoice has been issued and remains unpaid, this should be followed by a Reminder and a Final Notice.

Where composite recovery does not apply, if the debt remains unpaid, the following choices can be made according to the size of debt and circumstances of the debtor.

- Debt Collection Agency
- County Court Judgement
- Bankruptcy
- Charging Order and Order for Sale
- Third Party debt Order
- Direct Earnings Attachment (Where we are unable to recover an overpayment and the debtor is no longer in receipt of Housing Benefit, we may recover that debt from their earnings. We can approach an employer without the requirement to go to court as per Welfare Reform Act 2012.

In making these decisions, appropriate enquires will be made of online systems that the Council has access to. Recovery in appropriate cases can proceed to Order for Sale culminating in the sale of any property and the realisation of the Council's debt from the proceeds.

At any time in the process, we will consider accepting an arrangement for payment and at all times be alert to any indications of financial hardship.

Fraud

Fraud cases must always be dealt with robustly in terms of the choice or recovery and in the consideration of offers of payment. The Council Taxpayers of the Borough must be considered when deciding on the payment terms. Where we have been successful in recovering a large fraud case, we must always seek to publicise the success to deter others. At this stage we would involve the Council's Communications Team.

Recovery or Write Off

All avenues of effective recovery must be pursued but at any time, if the costs of pursuing appear to be out of proportion to the debt and the probability of collecting, the cost-effective solution must be considered in terms of writing the debt off.

Recovery Rates

From 2nd October 2000 the DWP introduced new legislation to set a maximum rate of recovery for different types of claims. The maximum rate of recovery is not discretionary but prescribed by the DWP.

The rate of recovery must always be determined in respect of the individual circumstances of the claim and may be lower but not higher than the rates set by the DWP.

It is important to reach a balance between maximising recovery against preventing extreme financial hardship. When deciding to lower the rate of recovery, the Council's interest must be considered too in terms of the length of time taken to recover.

However, where the overpayment is due to fraud or there is major culpability on the part of the customer, our policy will be to invoice as first choice where there is still an active claim.

An example of such a case would be where a customer has neglected to declare some capital over a number of years giving rise to a large overpayment. It is decided not to pursue a fraud prosecution, and there remains an active claim. In such circumstances it will be in the best interests of the Council's finances to recover quickly through invoice rather than allow a much slower repayment through clawback. Such a decision would also be morally justifiable given our responsibilities to the council taxpayers of the Borough.

If a customer contacts the Council following issue of an Overpayment notice and advises that they cannot meet the payment demanded in full, consideration will be given to the provision of a repayment arrangement over an agreed period of time following submission of financial statements verifying non-essential expenditure.

Where a customer indicates that they will require longer than 36 months to repay the Overpayment, the repayment arrangement will be referred to the Team Leader for consideration and authorisation.

Breathing Space – From May 2021 approved breathing space moratorium is received on behalf of customers will be subject to cessation of recovery activities for 60 days + 30 with interest frozen for people with problem debt. The Council will amend its processes to reflect this requirement.

Notification

There are very specific legal requirements placed on a Local Authority in relation to the content of the notification letter. Details must include the following:

- The fact there is a recoverable overpayment.
- The reason for the overpayment.
- The amount of the recoverable overpayment.
- How that amount has been calculated.
- The period of the overpayment.
- Where recovery is to be made from future entitlement the notification must state this and the amount that will be deducted from each payment.
- The person's right to appeal against the decision or decisions that have been made.
- The person's right to ask for a written statement of reasons.
- The notification is a legal pre-requisite to recovery.

When possible, we will seek to enclose the invoice with the overpayment notification letter but emphasise that this does not affect the customer / landlord's right to appeal.

Appeal

It is good practice and complies with DWP guidance that recovery action be suspended should a debtor appeal.

Such recovery action should remain suspended until the appeal has been decided and the appropriate parties to the appeal have been notified.

Appealable decisions are:

- Is the overpayment correct?
- Is it recoverable?
- Can we legally recover from the person identified as liable?

Fraud Overpayments

Fraudulent overpayments will be dealt with and recovered with maximum priority.

Debt Management, Analysis and Targeting

This area is dealt with in more detail in the Overpayments Strategy, but our policy will be to recover our largest, newest debts first.

Debt profile will be analysed at least monthly so that the efforts of the Overpayments Team resource can be best directed to give value for money.

Court

In order to enable further proceedings to be taken, and to act as a deterrent to other customers and landlords' cases will be brought to Court to secure the ability to undertake additional recovery activities such as charging orders or third-party debt orders.

Once an award is obtained from the Court, consideration will be given to the most appropriate next step. Identifying the debtor's assets will be a priority and the results of those investigations will influence the decision on the next course of action.

Bankruptcy and Charging Orders

These steps can be expensive to the Council so they must be decided upon with best information in terms of assets and ability to pay to hand.

They are also very effective and should be used whenever appropriate.

Write Offs

All avenues of effective recovery must be pursued but at any time, if the costs of pursuing appear to be out of proportion to the debt and the probability of collecting, the cost-effective solution must be considered in terms of writing the debt off. Write-offs will be done in accordance with Council procedure.

Bad Debt Management

It is a requirement to assess levels of bad debt each year and take necessary steps and decisions to manage that debt appropriately. 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.