

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

### **Introduction**

There are 110,000 domestic properties within Brent and the Revenues service is responsible for collecting Council Tax 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.

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

1.1 For 2011/12, the instalments will be 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 and end in January 2012.

(b) Non Direct Debit payers

First instalment on the 1<sup>st</sup> April 2011, then on the 1<sup>st</sup> of each month to 1<sup>st</sup> January 2012.

### **2. NNDR INSTALMENT DATES**

2.1 For 2011/12, the instalments will be due on the 1st of each month from 1 April 2011 to 1 January 2012, a total of 10 instalments.

### **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)
- 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 **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.

### 3.1.3 **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 the Revenues and Benefit Section 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 and the Claimant/Taxpayer 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 pay 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 appropriate percentage of the individual's salary giving the amount that may be deducted. 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 account is closed or there is no ongoing liability as the debtor is in receipt of 100% Council Tax Benefit for current year debt.

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

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.

The bailiff has discretion to make arrangements. He/she is requested to return the Liability Order back to the council within three months if he/she is 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

### 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, bankruptcy order or to seek the Taxpayer's committal to prison. Which course of action is taken will depend upon individual circumstances and their payment history.

### 3.9 **Other Methods**

During 2010/11 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.

### 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 Benefit 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 Benefit is awarded.

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 Benefit after recovery has started or provides information enabling their claim to be assessed then the assessment will be fast tracked. This means the case will be passed to a benefit officer who will attempt to assess the claim within 24 hours. This could mean a case is put into payment or a request for further information is made to the claimant or the claimant is advised they have no entitlement to Council Tax benefit.

## 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

### 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 £140.00 have been incurred and that the payment must include the costs.

### 4.3 **Bailiff Action for NNDR**

4.3.1 The following cases will be subject to Bailiff action

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

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

The bailiff may make charges in accordance with the Regulations.

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.

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

In cases where all other recovery methods have failed we may seek to obtain a charging order, bankruptcy order or to seek the Taxpayer's committal to prison. Which course of action is taken will depend upon individual 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 are put on the account shortly after this. 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 £140 and for Council Tax £90.

5.1.2 Liability Order costs for both council tax and non-domestic rates are £30.00. 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 a further £30.00. Liability Order Costs will be applied for 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.