

# **Debt Recovery Protocols**

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## 1. Overview

We aim to collect debt in a fair and ethical manner. We will make every effort to ensure that customers are awarded all the relevant national and locally agreed support available and are not unnecessarily charged recovery fees. We will provide signposting to free and impartial debt advice and we will make every effort to be aware of vulnerability issues and act accordingly. These recovery protocols apply to all debts managed by the Recovery and Debt Management Team within Finance. These currently include:

- Council Tax
- Business Rates
- Benefit Overpayments
- Penalty Charge Notices

## 2. Vulnerability

Harrogate Borough Council have a corporate vulnerability statement to ensure our vulnerable customers are properly considered in the services we provide. We are committed to identifying and helping customers within the district who are deemed to be vulnerable. We have defined vulnerability as:

A person requiring assistance in their personal affairs, because of their: physical ability, mental ability, illness and/or lack of understanding. All cases will be assessed on an individual basis.

Customers **may** be classed as vulnerable if they fall into one or more of the following categories;

- A physical or mental impairment which has a substantial and long-term (more than 12 months) adverse effect on his or her ability to carry out normal day to day activities (Equality Act 2010)
- Single person who is pregnant or has a baby under 12 months old
- Single parent with two or more children under 18 years old
- Individuals affected by a significant life event in the last 12 months ( for example recently bereaved, separated or divorced)
- Known to have learning difficulties
- Known to have poor literacy skills
- Known to have a support worker or nominated correspondent
- First language is not English
- Transgender, or currently going through the transition
- Drug or alcohol dependency issues
- Carer commitments to Elderly or Disabled household members.

The above list is not exhaustive and each individual case should be evaluated based on the customer and the service they are trying to access.

In terms of recovery action, the vulnerability statement allows us to be mindful of customer needs and adapt our service delivery appropriately. If a customer is identified as being vulnerable, debt recovery processes will be adjusted accordingly to meet the customer need and these requirements are considered in our recovery process detailed in section four below.

## 3. Recovery Protocols

- If there is an outstanding benefit claim, we will work with the Welfare team to confirm the claim is legitimate and the customer is providing the necessary information. For valid claims we will allow 'breathing space' (28 days) for the claim to be finalized.

- We will carefully consider action concerning council tenants, working closely with the Housing team to try and maintain the tenancy where appropriate to do so.
- We will only charge in accordance with the council tax enforcement regulations (Regulation 4 of the Taking Control of Goods (Fees) Regulations 2014).
- We will continue to work closely with the local Citizen's Advice service and will facilitate a clinic at our offices where customers can be signposted for free, impartial debt advice.
- We will provide our own debt advice, from trained debt advisors working within Harrogate Borough Council to support our residents and businesses.
- We will work with our colleagues in Economic Development to help local businesses and ensure they are able to access the support available to them
- We will work within HBC policies and procedures to ensure issues are addressed appropriately, and our customers know how to raise any concerns or complaints.
- We will ensure council debts are considered holistically and we work together to support the customer to make payments to reduce their arrears and support financial security.

#### 4. Recovery Process

Correspondence at each stage of the recovery process has been written to ensure our customers understand that we want them to talk to us so we can provide the necessary support and hopefully reach a re-payment agreement with them. We will endeavour to carry out the following points of action in order to avoid customers incurring recovery action/costs where unnecessary:

Stage	Detail	HBC protocol
Summons	If payments are not made, and an outstanding balance increases to more than £100 (£80 for parking debts) the customer is issued a summons. If the debt is still not paid, the council then requests a liability order at the Magistrates Court or equivalent county court. This notice must provide details of debt counseling agencies and also advises of the potential fees that can be charged if the debt is not resolved and further recovery is required. Issuing of a summons attracts a level of fees approved by the court	Our correspondence will encourage contact and support for the customer to help us resolve the situation together and agree a payment arrangement. Where the customer feels action has been taken incorrectly, the relevant service will review the account and communicate clearly to the customer the outcome of the review.
Liability Order	Provided the liability order is granted, the customer is issued with a notice advising of the powers of the liability order and giving them 7 days to contact the council with an offer of payment. This notice again provides details of debt counseling agencies and also advises of the potential fees that can be charged if the debt is not resolved and further recovery is required.	Where we have the necessary contact details, we will issue a text message to each customer after the granting of a liability order against them. The text message will attempt to instigate contact and encourage the offer of a payment arrangement. Whilst advising the customer of the consequences of continued non-payment, we will continue to encourage contact to discuss and agree a resolution. We will use a range of communication channels to encourage contact and provide support for the customer to help us resolve the situation together and agree a sustainable payment arrangement, which also allows ongoing liabilities to be maintained.

Stage	Detail	HBC protocol
		<p>Where the customer feels action has been taken incorrectly, the recovery &amp; debt management team will review the account and communicate clearly to the customer the outcome of the review.</p> <p>Where we are aware of a customer's employment or benefit details, we will consider an attachment to earnings/benefit at this and future recovery stages.</p>
Compliance Notice / Notice of Enforcement	<p>After a further 7 days, cases are progressed for a Compliance Notice or Notice of Enforcement. At this point, a £75.00 charge will be placed on the account. This letter warns that the debt has been passed to the enforcement agent for collection. Once again, this notice provides details of debt counseling agencies and also advises of the potential fees that can be charged if the debt is not resolved. This letter gives the customer 14 days to respond before enforcement agent action can commence.</p>	<p>After issuing a Notice of Enforcement, we will try to contact customers by telephone and/or email before they are visited by the enforcement agent to minimize additional costs being added to the account, and investigate the following potential actions:</p> <ul style="list-style-type: none"> <li>• we will implement an attachment of earnings.</li> <li>• we will set up benefit deductions or agree a payment plan at the equivalent level.</li> <li>• we will agree a suitable payment arrangement (backed with employment details where applicable)</li> </ul> <p>For accounts where more than one party is liable, we will evaluate which parties to bring action against based on employment status, traceability and vulnerability. We will maintain a recovery escalation checklist (Appendix A) for each debtor.</p>
Enforcement Agent	<p>After 14 days has elapsed, the Enforcement Agent can be passed the case. They would usually make (at least) two visits to the property in order to make contact with the customer, identify goods to be removed and/or obtain payment. The charge for the first visit is £235.00. Debts over £1,500.00 will have an added fee of 7.5% of the balance over £1,500.00 (this is added to the £235.00). Any subsequent visit(s) are without charge.</p> <p>The minimum debt amount for a visit to be authorised is £80.00.</p>	<p>The recovery process will proceed to this stage where the above options are unsuitable, or have been unsuccessful. The customer's personal situation and any vulnerability will be considered prior to any visits being undertaken.</p> <p>Note: as required by the Taking Control of Goods Regulations 2014, no enforcement agent visits will be undertaken where benefit deductions are in place.</p>
Escalation	<p>If Enforcement Agent action is unsuccessful, we will examine the appropriateness of further recovery action.</p> <ul style="list-style-type: none"> <li>• If the debt is over £1,000.00 and we are unable to recover by any of the above means, it may be considered for committal action. In this case an application would be made at the Magistrates court for the customer to be jailed for a period of up to 3 months.</li> </ul>	<p>This will be undertaken only after the above options have been followed and exhausted.</p> <p>The recovery escalation checklist (Appendix A) must be reviewed prior to further action to ensure there is an evidence trail showing the approach HBC has taken to recovering the debt.</p> <p>We will review our understanding of the debtor using the recovery escalation checklist – updating our understanding of</p>

Stage	Detail	HBC protocol
	<ul style="list-style-type: none"> <li data-bbox="400 215 922 510">• If the debt is over £5,000.00 and the customer has assets, we will consider the most appropriate action such as bankruptcy, a charging order, etc. The debt would be administered by an external firm of solicitors, and additional charges would be recovered from the customer.</li> <li data-bbox="400 517 922 645">• If all other recovery options have been exhausted, any debt may be passed to external enforcement agents.</li> </ul>	<p data-bbox="946 215 1501 271">customer vulnerabilities and their financial situation.</p> <p data-bbox="946 311 1501 439">We will invite the customer to a personal debt session to review their financial situation and try to ensure payment terms can be agreed.</p> <p data-bbox="946 479 1501 607">We will continue to try and engage with the customer and agree an acceptable payment arrangement throughout the process.</p>

## 5. Breathing Space

Westminster has been consulting on the introduction of a 'breathing space' period. This is an opportunity for people in problem debt to have a fixed period without fees, charges and interest or enforcement action. The breathing space is designed to give people time to get on top of debts before they get out of control. Whilst the national legislation is still to be agreed, we will offer a period of 60 days breathing space for customers with council debts over £100. Customers will be required to attend a debt advice meeting to determine their ability to pay based on income and expenditure. Dependent on this, the customer will either be granted a period of 60 days where no further action will be taken to enable them to look at further debt advice and options. Where customers are found to be vulnerable, the breathing space can be granted without attendance at a meeting, however this will still be an option if they would like it.

Customers will only be able to enter into one breathing space period during debt recovery action, and after a debt advice meeting has taken place.

## 6. Escalation

Where a debt is large enough to be progressed to one of the escalation stages, additional factors need to be considered and recorded against the account.

### a. Committal action

An application for a debtor's committal to prison can only be made where the magistrates are satisfied that failure to pay the relevant debt is due to the debtor's 'wilful refusal or culpable neglect.' The council must be able to demonstrate to the magistrates that this is the case.

### b. Charging order

A charging order secures a debt against the property a debt has been incurred against. The debt is not paid until the property is sold, however does attract interest over the interim period. Mortgage payments take priority on the sale of the property, therefore to progress with this action, we must be confident that sufficient equity remains in the property to cover any debt secured against it.

Each debt progression will be evaluated at the time of progression. If a charging order has been awarded for a particular debt, this does not preclude alternative action for other debts. Any ongoing liabilities should continue to be paid.

In some circumstances, we may apply to the court for a forced sale of the property. This will only happen where any of the following circumstances are not met:

- The household contains children under the age of 18
- One or more residents is classed as vulnerable
- All residents of the property are over the age of 65

### c. Bankruptcy

There are a number of stages to this process and we will take initial steps to evaluate the appropriateness of bankruptcy action as requested by the Local Government Ombudsman's focus report "Can't pay? Won't pay – using bankruptcy for council tax debts".

We will consider:

- Costs, effectiveness and other implications of bankruptcy
- The individual circumstances of the debtor
- General equalities duties
- Implications for overall payment levels if people come to believe that council tax debts will not be collected
- Impact of non-payment on revenues and the ability to deliver services to the community
- Equality between those who do pay and those who don't

Bankruptcy proceedings will only be considered where a debt has exceeded £5,000. This level of debt equates to at least two full years of council tax arrears.

We will try to engage with the debtor to undertake a personal budgeting session to assess the affordability of a re-payment plan again to avoid bankruptcy proceedings, and ensure we have up to date knowledge of their personal circumstances and household.

We will always continue to pursue debt where there is an outstanding liability. The district relies on the payment of council tax to maintain its services and council tax income is central to the budget process for not just the Harrogate Borough council but also North Yorkshire County Council and North Yorkshire Police and Fire Authorities.

The Harrogate District has a generous Council Tax Reduction scheme available to residents where household income is low, based on a defined set of criteria. Support is available from officers to assist customers in making applications, and backdating is available where there are genuine reasons to do this.

Based on the above, each debtor's individual circumstances and vulnerability will be considered to identify any reasons **not** to progress with bankruptcy proceedings. The decision making process will be detailed on the recovery escalation checklist (Appendix A). Once the decision to progress bankruptcy has been made, a statutory demand will be issued to the customer which explains the debt that is being recovered. If the debtor believes there are reasons the debt is not owed, then they can ask the county court for the demand to be set aside. If the debt remains unpaid after 21 days and no arrangement to clear it has been agreed, a bankruptcy petition can be served in the court asking for the debtor to be declared bankrupt. The debtor is also liable to pay all the council's costs. Once the court makes a bankruptcy order, the Official Receiver will appoint an insolvency practitioner as a trustee to secure the debtors assets. At this point, the debtor's assets can be sold to settle the outstanding debts, and the trustees are entitled to payment out of the proceeds for their role in managing the debtor's estate.

The county court can annul a bankruptcy order if it becomes apparent that the order should not have been made, or the debts and expenses have been paid or secured.

## 7. Appeals

If you don't agree with a payment request you have received then it is important that you initially contact us as soon as possible to discuss this. Different processes have different appeal routes and useful information can be found through the links below:

[Valuation Tribunal](#) – council tax and business rates appeals, including council tax reduction scheme  
[Parking fines and penalty charge notices](#)

Recovery Escalation Checklist							
Name							
Account Reference(s)		Contact Details					
Date of Birth		NINO					
Current Address				Debt Address (if different from current)			
Period of Liability		Date(s) LO signed off					
Date(s) LO obtained		Reason					
Benefit for period of debt		Current benefit					
Benefit issues (if any)							
Costs:							
Summons & LO		Total Payments					
Enforcement Agent		Last Payment w/ date					
Other		Total Debt					
<b>Checklist:</b>						<b>YES</b>	<b>NO</b>
Is the taxpayer still resident? (Check with L/L?)							
Does the taxpayer own the property?							
Has the account been billed correctly?							
Is the taxpayer employed?							
If Yes, where do they work?							
Is an Attachment of Earnings an option?							
If No, give reason(s) why?							
Are they entitled to any reductions/reliefs/exemptions?							
Are benefit deductions an option?							
Is the taxpayer considered vulnerable?							
<b>Details (y/n):</b>							
A) Recent bereavement?				B) Mental health issues?			
C) Long term/terminal illness?				D) Dementia or brain injury?			
E) Difficulty in communication?				F) Learning disability?			
G) Relationship breakdown?				H) Addiction?			
Has budgeting support been offered?							
Has a Standard Financial Statement been completed?							
Has breathing space been deemed applicable and awarded?							
Has action from Enforcement Agent(s) been unsuccessful?							
Any further details? (if the answers to the above are no, why?)							
Date completed:		Completed by:					
						<b>YES</b>	<b>NO</b>
Is the debt at the necessary level for further escalation? (Over £1,000 for committal action and over £5,000 for bankruptcy, etc.)							
Is the case suitable for committal action?							
Is the case suitable to be passed for bankruptcy, charging order, etc.							
Date reviewed:		Reviewed by:					