



HYNDBURN

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Council Tax and NNDR Collection and Recovery Policy

October 2018

Introduction

This policy covers the main processes adopted by Hyndburn Borough Council and is intended only as an overview and not as a comprehensive explanation of the whole of the Council Tax/NNDR system. As such there are aspects of Council Tax/NNDR law and practices not included in this document but which are nevertheless followed and applied by us in the billing, collection and recovery of Council Tax and NNDR.

1. Billing

- 1.1 Council Tax rates are set in February each year and annual bills are generated and delivered mid-March. We bill over 36,000 properties for Council Tax and over 3,000 for NNDR. All bills are delivered 14 days before the first instalment is due in April.
- 1.2 Annual bills or demand notices cover the billing period of 1st April to 31st March and are sent to the named individual(s) on an account who are jointly and severally liable for pay Council Tax or NNDR on the property or business premises concerned.
- 1.3 In addition to the annual billing process, when a taxpayer notifies us of a property move or a change in their circumstances or household, their account is updated and either a new bill or an adjustment notice is sent.

2. Payment methods

- 2.1 Standard Council Tax/NNDR bills are issued with 10 monthly instalments due from April to January. However taxpayers have the option to spread their payments out to include February and March.
- 2.2 We offer seven different payment methods:
 - Direct Debits
 - By cash using barcoded bills at Post Offices and PayPoint outlets
 - Online payments by debit or credit card

- Telephone payments by debit or credit card
- Transcash via the Post Office (for which a transaction fee is payable by the taxpayer)
- Standing orders
- Bank transfers

2.3 For direct debit payers there are four available payment dates – 1st, 10th, 20th and 28th.

2.4 Taxpayers are expected to make their payments on time or ahead of their instalment date.

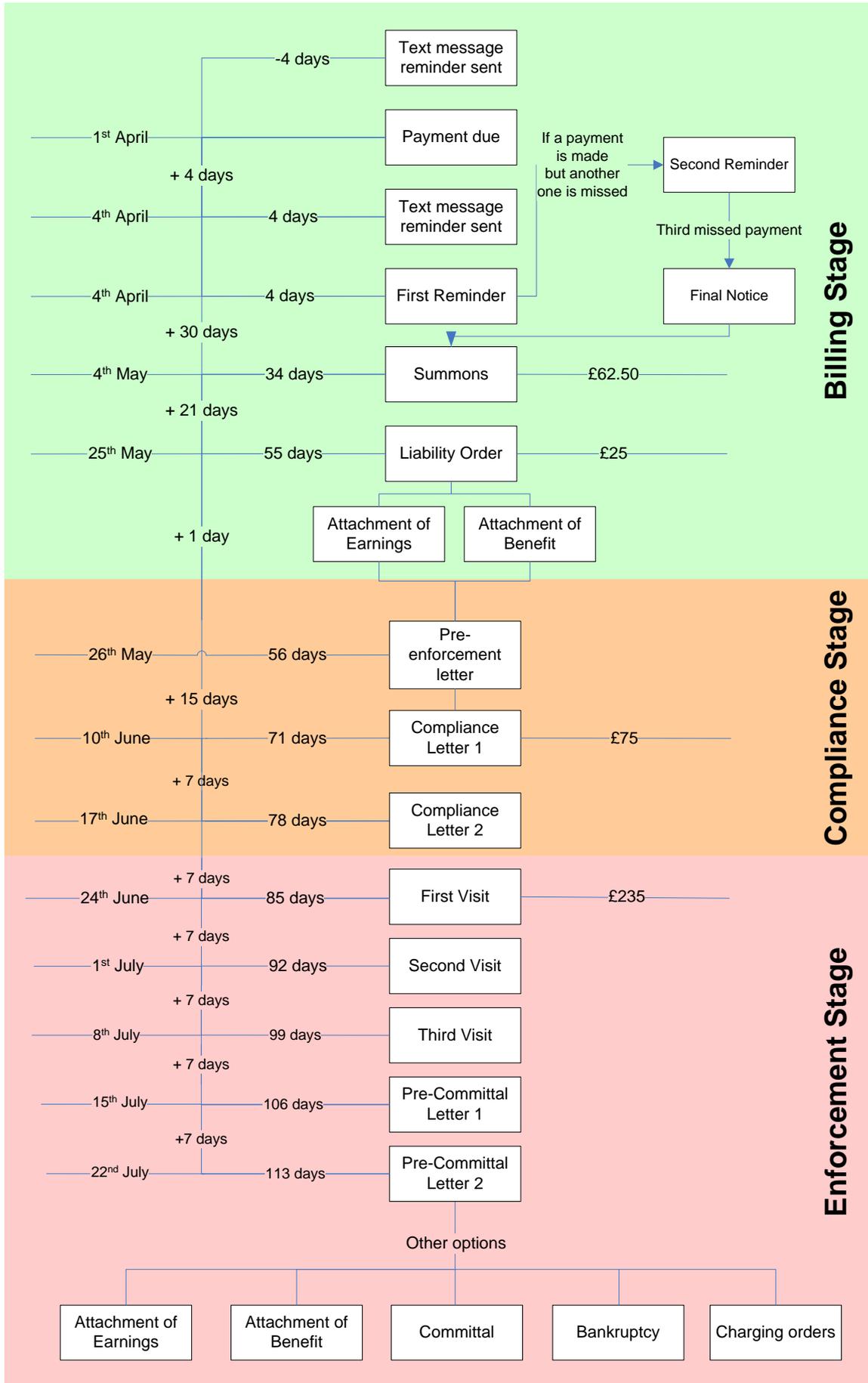
3. Recovery

3.1 Each stage of the process is included in the explanations in this section and the process as a whole has been documented in Chart 1 – Standard Recovery Process, overleaf.

3.2 This chart maps the end to end recovery process assuming that no payment is made. In practice, very few accounts follow this straightforward route; many include some payments and arrangements at some point.

3.3 The days numbered on the left of the flowchart count the number of days between the instalment being due and the action being taken. The charges applied at the different stages are detailed on the right. To put the process into some context, the dates on the chart assume that a payment was due on 1st April.

Chart 1: Standard Recovery Process



4. Text Messages and Emails

- 4.1 We use SMS text messages and emails as additional payment reminders. These messages are not part of the legal process of collection and recovery. Text messages and/or emails are sent to participating customers four days before an instalment is due and again four days after an instalment if it has been missed.

5. Reminders and Final Notices

- 5.1 A reminder letter is issued by post four days after an instalment is missed. If the payment is made and the account is brought up to date by the date on the letter, no further action is taken. If no payment is received at all, or only partial payments are made, the account progresses to the summons stage after a further 30 days.
- 5.2 If a second payment is missed later on in the year, a second reminder is issued. Again, if no further payment is made, the account will progress to a summons. However, if the payment is made and the account is brought up to date then no further action is taken.
- 5.3 If a third payment is missed, the account will progress to a 'Final Notice' which is a demand for the full amount outstanding for that year and notice that the right to pay by instalment has been removed. Customers are encouraged to contact us to re-establish instalments by bringing their account up to date and setting up a direct debit.
- 5.4 If a Direct Debit instalment is cancelled by the customer, the missing payment will not be included in any future payments and the account must be brought up to date before another Direct Debit instruction will be accepted. If the account remains in arrears as a result of a missed Direct Debit payment, the account will progress down the standard recovery route.

6. Summons and Liability Orders

- 6.1 In order to take further recovery action the Council must apply for a Liability Order. A Liability Order is granted by the Magistrates and;
- a) confirms that the person(s) named on an account for Council Tax or NNDR is the person who is properly liable to pay for that property;
 - b) authorises the Council to take enforcement action;
 - c) imposes a duty on the taxpayer to provide information required by the Council to support further recovery such as employment and income details.
- 6.2 A Complaint is made by the Council to the Magistrates Clerks' Office and a summons is subsequently issued. Taxpayers are given at least 14 days' notice of a Liability Order hearing.
- 6.3 Upon the issue of a summons an additional charge is added to the account. A further amount is added if a Liability Order is granted.
- 6.4 A summons from the Council includes details of a provisional payment plan which puts the outstanding amount into equal instalments, usually over a three month period. The taxpayer must contact us to agree this arrangement or agree an alternative recovery arrangement or method. The provisional arrangement includes summons and liability order costs.

- 6.5 Taxpayers do not have to attend the Liability Order hearing, it is a block application, names of individuals or companies are not read out as it is not a criminal court hearing. Taxpayers can attend the hearing however and Council officers are available to speak to on the day.
- 6.6 If a taxpayer wants to make a representation to the court, they can do so but the onus is on them to prove that the Council has made an error in the billing process up to this point or that they are in fact not liable for Council Tax/NNDR at that property (or the account has been paid and the Taxpayer has proved this is the case). At any stage we encourage customers to contact us if they think a mistake has been made, as if it has, we will rectify it and put the account back to its rightful stage in the billing process.
- 6.7 At any stage if the Council is made aware that a summons and/or liability order has been issued incorrectly, it will be withdrawn and the costs will be removed.
- 6.8 If the full amount due, plus summons costs, is paid before the liability order hearing, the Council will not apply for a liability order.
- 6.9 If the taxpayer contacts the Council prior to the liability order hearing to make a payment arrangement, the arrangement will include the cost of a liability order.
- 6.10 When making an arrangement, we will obtain details of each liable taxpayer's employer or relevant benefit details, as this will allow us to make an application for deductions from earnings or benefits should the taxpayer default on their payment arrangement.
- 6.11 We will normally make only one arrangement with a taxpayer at this stage. If the payment arrangement is not maintained, the account will progress to the next stage of recovery. Payment arrangements will not be altered or adjusted once agreed. Payment arrangements will be made for the first of the month unless set up by Direct Debit.
- 6.12 Once a liability order has been granted, notification is issued to the taxpayer along with a request for further information which would support the recovery of unpaid Council Tax and/or NNDR.
- 6.13 The information requested at this stage includes
- employment details such as job title, employer, payroll number and take-home pay
 - national insurance number
 - details of any state benefits claimed such as Job Seeker's Allowance or Universal Credit
 - an option to make an offer of payment
 - an option to agree to the proposed payment plan outlined on the summons

7. Attachment of Benefits

- 7.1 The Council can apply to the Department for Work and Pensions to have a deduction made from main state benefits. An attachment of benefits is only available on Council Tax debt and not NNDR. Deductible benefits are:
- Job Seeker's Allowance
 - Income Support

- Employment and Support Allowance
- Universal Credit
- Guaranteed Pension Credit

7.2 A standard deduction of 5% is taken from benefits and paid directly to the Council to clear outstanding arrears.

7.3 It is usually the case that the Attachment of Benefit deduction is less than what is required in order to clear the outstanding Council Tax by the end of the financial year. In this case, the attachment will continue until the arrears are paid or benefits are stopped. If the taxpayer falls into arrears in the following year also, another attachment can be made which will only start to make deductions once the first attachment is ended. Only one attachment will be in place at any one time, but liability orders can be obtained and ‘stacked’ or queued.

7.4 If a new year’s bill is referred to recovery and an attachment of benefits is applied while one is still running, the older debt will be paid off first and any subsequent attachments will follow once the older debt has been paid. However, ‘newer’ debt can be recovered at the same time as an attachment of benefits using other methods of recovery such as a payment arrangement or by referral to the debt collection section of the Council’s Enforcement Agent.

7.5 If the benefit is stopped before the arrears are paid, other recovery options will be pursued.

8. Attachment of Earnings

8.1 The Council can apply to a taxpayer’s employer to have a deduction taken directly from earnings and paid to the Council towards Council Tax arrears. An attachment of earnings is only available on Council Tax debt. Employers are legally obliged to comply with an attachment order.

8.2 The deductions made are based on the net amount earned:

Monthly earnings	Weekly earnings	Daily earnings	Deduction
Up to £300.00	Up to £75.00	Up to £11.00	0%
£300.00 - £550.00	£75.00 - £135.00	£11.00 - £20.00	3%
£550.00 - £740.00	£135.00 - £185.00	£20.00 - £27.00	5%
£740.00 - £900.00	£185.00 - £225.00	£27.00 - £33.00	7%
£900.00 - £1420.00	£225.00 - £335.00	£33.00 - £52.00	12%
£1420.00 - £2020.00	£335.00 - £505.00	£52.00 - £72.00	17%
Exceeding £2020.00	Exceeding £505.00	Exceeding £72.00	17% of the first £505.00 and 50% of the remainder

8.3 If an attachment of earnings is less than what is required in order to clear the outstanding Council Tax by the end of the financial year, the attachment will continue until the arrears are paid or employment is stopped. If the taxpayer falls into arrears in the following year also, another attachment can be made which can run concurrent to the first attachment. A maximum of two

attachments can be in place at any one time, further attachments can be obtained and 'stacked' or queued and will begin to make deductions once one or both running attachments have been paid.

- 8.4 If a new year's bill is put in to recovery and there are already two attachments running, the older debts will be paid off first and any subsequent attachments will follow once the older debts have been paid. However, 'newer' debt can be recovered at the same time as an attachment of earnings using other methods of recovery such as a payment arrangement or enforcement agent action.
- 8.5 If the employment stops before the arrears are paid, other recovery options will be pursued. If the taxpayer moves to a new job and the Council is provided with new employment details, an attachment of earnings order may be applied to the new earnings.
- 8.6 An employer may make an administration deduction of £1 per transaction, this is prescribed in the regulations but not all employers make this deduction.

8. Payment arrangements

- 8.1 At all stages of the billing and recovery process for Council tax and NNDR we encourage taxpayers to contact us if they are having difficulties making payments.
- 8.2 We will normally make only one arrangement with a taxpayer per financial year. If the payment arrangement is not maintained, the account will progress to the next stage of recovery. Payment arrangements will not be altered or adjusted once agreed.
- 8.3 Payments will normally be spread out over any remaining months in the financial year. Cash instalments will be available on the first of the month only. Other dates are available by Direct Debit.
- 8.4 If a taxpayer is not able to commit to a payment arrangement, they may complete a Statement of Means application which will allow us to assess a payment level which is affordable. This application must be returned to us along with the two most recent monthly bank statements, employment or benefit details and a completed direct debit form. In exceptional circumstances and if the taxpayers' expenditure is considered reasonable, we may consider a lower than standard payment arrangement. All arrangements made via the statement of means application will be reviewed quarterly and new bank statements will be requested. As above, we will normally make only one payment arrangement and if it not maintained, the account will normally progress to the next stage of recovery.

9. Compliance and Enforcement stages

- 9.1 The Council has a separate code of conduct and individual service level agreements which we use to manage our relationship with an appointed Enforcement Agent. Detailed in this policy are the enforcement measures we have agreed with our Enforcement Agent known as compliance and enforcement stages.
- 9.2 The Council's Enforcement Agent will issue a pre-compliance letter once a case has been referred to them, normally one day after a Liability Order hearing. The pre-compliance letter, commonly known as the 14 day letter, gives the taxpayer a 14 day period in which to make contact about the

outstanding debt, to pay in full or to make a payment arrangement without the addition of compliance and enforcement fees. The pre-compliance letter also compels the taxpayer to provide information such as employment or benefit details in accordance with the Liability Order.

- 9.3 Following the expiration of the 14 day pre-compliance period, compliance letters are issued on the first available day and then again after seven days. A fee is added to the debt upon the issue of the first compliance letter. This fee covers both agreed enforcement agency letters.
- 9.4 Visits from enforcement agents will begin if after both compliance letters have been issued, the taxpayer has either not engaged with the enforcement agent, has not made a reasonable offer of payment or has made an arrangement and has not paid as agreed. A further enforcement fee is added once visits have commenced.
- 9.5 All fees added to accounts by the enforcement agent are in accordance with legislation and in agreement with the Council.
- 9.6 Enforcement agents are instructed to make all efforts to agree an affordable and reasonable payment arrangement with taxpayers. Enforcement agency practices fall into two categories:
1. Establishing a payment arrangement, taking payment and passing that money to the Council in order to decrease the debt with a view to paying it off in full. Enforcement agencies employ both visiting enforcement agents and customer services staff who are on hand to help taxpayers to make affordable arrangements and to manage their payments.
 2. Distraint or levying distress on goods: an enforcement agent is authorised to list saleable goods belonging to the taxpayer that could be removed and sold to pay off the debt if the taxpayer either does not make or does not honour a payment arrangement.
- 9.7 Once an account has been passed to an enforcement agent, all taxpayers are instructed to contact the enforcement agents directly. While the Council will not refuse a payment, unless the account is cleared in full including any fees owed, making payments to the Council will not necessarily stop or prevent any enforcement agency action.
- 9.8 If an enforcement agency is unsuccessful in recovering the Council Tax or NNDR debt, the account will be returned to the Council for further action.

10. Charging orders

- 10.1 A charging order is a court order which allows the Council to recover a Council Tax debt from the proceeds of sale of a property. Applications for charging orders are made to the County Court and are only available for Council Tax debts.
- 10.2 A charging order may be considered if all of the following conditions apply to the debt:
- a. The debt is at least £1000;
 - b. The billing and recovery process has been followed correctly and a liability order has been obtained;

- c. The Council and its enforcement agent have made all reasonable attempts to establish a payment arrangement and to engage with the taxpayer;
- d. Details of the taxpayer's financial circumstances including details of capital held have been made available and affordable solutions have been explored. This will not be available in all cases as some taxpayers do not engage with or provide details to the Council. In these cases the Council will demonstrate all reasonable attempts to determine the taxpayer's financial circumstances including capital held;
- e. The case has been passed to an enforcement agent;
- f. Consideration has been made to other available recovery methods such as committal or bankruptcy;
- g. Consideration has been made as to the potential impact on other individuals such as any joint owner(s), partners or dependents;
- h. Land Registry information has been obtained and confirms ownership of the property;
- i. The property in question is the property for which Council Tax is owed;
- j. Where there is an outstanding mortgage on the property, consideration should be given as to whether it is likely that the property will be repossessed.

10.3 Whilst it is not possible for a charging order to be issued for NNDR debts, the Council may consider postponing recovery action pending the sale of a commercial or residential property if this is agreed with the taxpayer.

10.4 Once the Council has obtained a Charging Order on a property, we may consider making an application for an Order of Sale which will force the sale of a property in order to recover the Council Tax debt covered by the Charging Order.

11. Committal to prison

11.1 Committal proceedings may be considered if all of the following conditions apply to the debt:

- a. All other recovery methods have been exhausted;
- b. Charging orders are not available or considered to be potentially unsuccessful;
- c. Bankruptcy is not considered a viable option, for example due to other debtors having priority claims against the individual;
- d. The Council has made every effort to engage with the taxpayer and has made a reasonable offer of a payment arrangement;
- e. The debt has been passed to an enforcement agent who has been unsuccessful and has certified the debt as 'Nulla Bona' or that attempts to levy distress on goods has been frustrated by the taxpayer either by lack of contact or refusing enforcement agent entry to premises;
- f. The Council has reason to believe that the taxpayer has had the means to pay the Council Tax but has wilfully refused to do so (deliberately avoided making payments);
- g. The Council has reason to believe that the taxpayer has had the means to pay the Council Tax but has not done so through culpable neglect (failure to pay through carelessness);

11.2 If committal proceedings are being considered by the Council, we will write to the taxpayer inviting them to meet with Council Officers in person in order to discuss management of the debt.

- 11.3 If this is unsuccessful, (either through lack of contact from the taxpayer, failure to attend the meeting or pay the debt), the Council will write to the taxpayer to inform them that an application for a Committal hearing has been made. The Council will apply to a Magistrates' Court for a summons to be issued requiring the taxpayer to attend the Court for a means enquiry hearing to be held in the taxpayer's presence. This will determine whether the failure to pay is due to wilful refusal or culpable neglect.
- 11.4 If the taxpayer does not attend the means enquiry hearing, the Council will make an application for a warrant of arrest not backed by bail.
- 11.5 If the taxpayer attends the court hearing, the Council will discuss the debt with the taxpayer and the Magistrates will conduct a full means inquiry into the taxpayer's circumstances including income and expenditure in an attempt to reach a reasonable payment agreement or payment of the debt in full.
- 11.6 At the hearing, the Magistrates may sentence the taxpayer to a term of imprisonment not exceeding three months. This sentence can be suspended on whatever terms the Magistrates considers appropriate, usually upon payment of the outstanding debt – actual imprisonment will not happen unless the taxpayer defaults on a payment arrangement.
- 11.7 The Council will respect the decision made by the court and will write to the taxpayer after the hearing to detail any payment arrangements which may have been agreed.

12. Bankruptcy and winding up orders

- 12.1 Bankruptcy and/or winding up orders may be considered in the following circumstances:
- a. The debt is at least £5000;
 - b. Consideration has been made to other available recovery methods such as committal or charging orders;
 - c. The billing and recovery process has been followed correctly and a liability order has been obtained;
 - d. The Council and its enforcement agent have made all reasonable attempts to establish a payment arrangements and to engage with the taxpayer;
 - e. Details of the taxpayer's financial circumstances including details of capital held have been made available and affordable solutions have been explored. This will not be available in all cases as some taxpayers do not engage with or provide details to the Council. In these cases the Council will demonstrate all reasonable attempts to determine the taxpayer's financial circumstances including capital held;
 - f. The case has been passed to an enforcement agent;
 - g. Consideration will be made as to the potential impact on other individuals such as any joint owner(s) of any property, partners or dependents;
 - h. If capital assets include property, Land Registry information has been obtained and confirms ownership of the property;
 - i. Where there is an outstanding mortgage on a property, consideration should be given as to whether it is likely that the property will be repossessed.

- j. The Council has reason to believe that the taxpayer has had the means to pay the Council Tax but has wilfully refused to do so (deliberately avoided making payments);
- k. The Council has reason to believe that the taxpayer has had the means to pay the Council Tax but has not done so through culpable neglect (failure to pay through carelessness);

13.2 The Council’s Insolvency Policy is available on request or at www.hyndburnbc.gov.uk

13. Fees

13.1 Fees added are normally recovered alongside the original outstanding balance and are incorporated into any payment arrangements made. Fees added at the Summons and Liability Order stage are payable to the Council, Enforcement Agency fees are payable to the Enforcement Agency directly. The Liability Order letter issued by Enforcement Agents on behalf of the Council is not included in the enforcement agency letters fee.

Recovery stage	Additional Fee
Summons	£62.50
Liability Order	£25.00
Enforcement agency letters	£75.00
Enforcement agency visits	£235.00

13.2 The summons and liability order fees applied by the Council are calculated in accordance with the guidance issued to Local Authorities on Good Practice in the Collection of Council Tax Arrears¹.

14. Vulnerable customers

14.1 A separate vulnerability policy has been produced and accompanies this policy at Appendix 1 and due regard is paid to this policy when making decisions on recovery action for Council Tax and NNDR.

15. Proactive recovery

15.1 At all stages of recovery, we have a programme of proactive outbound calls which are made to taxpayers at most stages of billing and recovery.

15.2 We recognise that it is not possible to contact every customer and not receiving a telephone call or email from the Council will not prevent ordinary recovery action from taking place. It remains the taxpayers’ responsibility to contact the Council about their bill or arrears for Council Tax and/or NNDR.

16. Complaints

16.1 Complaints about the handling of any account will be dealt with in accordance with the Council’s general complaints policy which can be found at www.hyndburnbc.gov.uk/complaints

¹ <https://www.gov.uk/government/publications/council-tax>

17. Equality and diversity

17.1 A Customer First Analysis accompanies this policy. No adverse impact has been identified that may discriminate against any group with a protected characteristic as defined by the Equality Act 2010 and outlined in the Public Sector Equality Duty.

18. Review/approval

18.1 This policy will be reviewed annually and updated if required.

19. Data Protection

Details of how we use taxpayers' data for the collection and recover of Council Tax and business rates can be found at www.hyndburnbc.gov.uk/data-privacy

Appendix 1 – Customer First Analysis

1. Purpose

- What are you trying to achieve with the policy / service / function?

This analysis covers the Council's Council Tax and National Non Domestic Rates Collection and Recovery Policy

- Who defines and manages it?

The Head of Benefits, Revenues and Customer Contact.

- Who do you intend to benefit from it and how?

Taxpayers will have access to the Council's Council Tax and National Non Domestic Rates Collection and Recovery Policy which outlines what residents of the borough can expect from a robust and transparent collections policy as the collection and recovery of Council Tax and NNDR is essential to the funding of public services.

- What could prevent people from getting the most out of the policy / service / function?

Lack of awareness of the policy – however, this policy is readily available, it is accessible, written in plain English and additional support or explanation of the policy is available. All relevant staff have been trained on the details of this policy and its importance to every day administration.

- How will you get your customers involved in the analysis and how will you tell people about it?

Customers will be informed via normal communication methods and the policies will be available online as well as in hard copy

2. Evidence

- How will you know if the policy delivers its intended outcome / benefits?

Adherence to the policy will be evident in the Council's practices – it is hoped that a clear and robust policy will support an increase in collection rates.

- How satisfied are your customers and how do you know?

In relation to this policy, it is not possible to say.

- What existing data do you have on the people that use the service and the wider population?

We hold all relevant data on our Council Tax and Business Rates customers as well as the wider population.

- What other information would it be useful to have? How could you get this?

None

- Are you breaking down data by equality groups where relevant (such as by gender, age, disability, ethnicity, sexual orientation, marital status, religion and belief, pregnancy and maternity)?

No – while we have diversity statistics on our population as a whole we are not able to cross-reference this with our Council Tax/NNDR base.

- Are you using partners, stakeholders, and councillors to get information and feedback?

As part of our ongoing management of the processes, yes.

3. Impact

- Are some people benefiting more – or less - than others? If so, why might this be?

No.

4. Actions

- If the evidence suggests that the policy / service / function benefits a particular group – or disadvantages another - is there a justifiable reason for this and if so, what is it?

n/a

- Is it discriminatory in any way?

No

- Is there a possible impact in relationships or perceptions between different parts of the community?

No.

- What measures can you put in place to reduce disadvantages?

n/a

- Do you need to consult further?

Not at this stage.

- Have you identified any potential improvements to customer service?

Streamlining and improving both customer interaction and the back office revenues administration is reflected in some of the key practices in this policy such as proactive contact and using e-services whenever appropriate.

- Who should you tell about the outcomes of this analysis?

This analysis will be made available alongside our Collection and Recovery Policy to inform residents.

- Have you built the actions into your Business Plan with a clear timescale?

n/a

- When will this assessment need to be repeated?

With any major changes to collection and recovery policies in the future.

Name: _ Rachael Walker

Service Area: __ Benefits, Revenues and Customer Contact

Dated: __ October 2018