

<b>REPORT TO:</b>		Cabinet	
<b>DATE:</b>		29 July 2015	
<b>PORTFOLIO:</b>		Cllr Gareth Molineux - Resources	
<b>REPORT AUTHOR:</b>		Pauline Duckworth, Head of Benefits, Revenues and Customer Contact	
<b>TITLE OF REPORT:</b>		Update to Revenues Policies	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>No</b>	Not applicable	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	

## 1. **Purpose of Report**

- 1.1 To seek Cabinet approval for the adoption of an updated Council Tax and National Non Domestic Rates (NNDR) Collection and Recovery Policy – replacing a previous version from 2013.
- 1.2 To seek Cabinet approval for the adoption of an updated Enforcement Agent Code of Conduct – replacing a previous version from 2010.

## 2. **Recommendations**

- 2.1 That the attached Council Tax and National Non Domestic Rates Collection and Recovery Policy is approved and adopted.
- 2.2 That the attached Enforcement Agent Code of Conduct is approved and adopted.

## 3. **Reasons for Recommendations and Background**

- 3.1 The Council has had a Council Tax/NNDR Recovery policy in place since August 2012 with the current policy being adopted in December 2013. The updated policy being presented with this report brings together a separate policy and guidance notes into one document and has been updated to reflect changes to our collection and recovery processes.
- 3.2 Both the *Council Tax and NNDR Collection and Recovery Policy* and *Enforcement Agent Code of Conduct* provide a foundation for our operations as they outline the service that taxpayers can expect to receive as well as providing a transparent structure for the collection and recovery of tax due to the Council; a function which is

essential to the funding of public services. The recovery of Council Tax and NNDR debts became the responsibility of the Benefits, Revenues and Customer Contact department in January 2015 and the department as a whole has streamlined its administration, updated all relevant policies and placed its main focus on collection rates.

#### **4. Alternative Options considered and Reasons for Rejection**

- 4.1 Not having a usable, realistic Collection and Recovery policy in place leaves the Council vulnerable to challenge – the Local Government Ombudsman states that it is likely to find maladministration if a Council does not have a formal policy in place.
- 4.2 Rejecting the updated policy in favour of the 2013 Collection and Recovery policy and guidance notes prevents the Council from operating as flexibly as it needs to do in order to make all reasonable efforts to increase collection rates. The updated policy is an accurate reflection of our working practices and as such should be adopted.
- 4.3 As the Council is making greater use of enforcement agents, it is essential that a reasonable, working Code of Conduct is in place – the current Code of Conduct is now five years old and as such an update is prudent.

#### **5. Consultations**

- 5.1 Officers in Revenues, Benefits and Customer Contact have been consulted as well and colleagues in Legal Services. Management representatives for Enforcement Agents have also been consulted.

#### **6. Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	There is no direct cost associated with the implementation of these policies however it is intended that they underpin the efforts being made to increase our collection rates which has direct funding implications for the Council and its preceptors.
<b>Legal and human rights implications</b>	None identified – all Council Tax/NNDR recovery is done in accordance with a number of pieces of legislation as outlined in the policies.
<b>Assessment of risk</b>	If the updated policies are not adopted, the Council cannot make use of all recovery methods available.
<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	A customer first analysis accompanies both policies. No adverse impacts have been identified.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

- 7.1 Cabinet 1st August 2012 – Introduction of a Council Tax and Non Domestic Rates Recovery Policy – Urgent Cabinet Decision  
[http://www.hyndburnbc.gov.uk/downloads/6b\\_Urgent\\_Decision -  
\\_Insolvency Bankruptcy Council Tax Non domestic Rates Recovery Policies.pdf](http://www.hyndburnbc.gov.uk/downloads/6b_Urgent_Decision_-_Insolvency_Bankruptcy_Council_Tax_Non_domestic_Rates_Recovery_Policies.pdf)
- 7.2 Cabinet 4<sup>th</sup> December 2013 – Update and replacement of Council Tax and National Non Domestic Rates Recovery Policy and the introduction of detailed Guidance on the Council Tax and National Non Domestic Rates Recovery Policy  
[http://www.hyndburnbc.gov.uk/site/scripts/meetings\\_info.php?meetingID=1350](http://www.hyndburnbc.gov.uk/site/scripts/meetings_info.php?meetingID=1350)

**8. Freedom of Information**

- 8.1 The report does not contain exempt information under the Local Government Act 1972; Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



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## Council Tax and National Non Domestic Rates Collection and Recovery Policy

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June 2015

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## 1. Policy Aim

- 1.1 Hyndburn Borough Council is the billing authority responsible for the billing and collection of Council Tax and National Non Domestic Rates (NNDR) in Hyndburn.
- 1.2 The Council is committed to maximising the income available for local services and residents and as such we operate a firm but fair collection and recovery policy. We have two main aims:
  1. **To provide an efficient, proactive and accessible service to our residents and taxpayers. We will administer accounts quickly, accurately and provide value for money.**
  2. **To provide an effective, legal and fair recovery policy to all outstanding debts. We will use all available methods of enforcement to ensure that our local services are funded.**
- 1.3 The collection of Council Tax and NNDR is crucial to the operation of many local services; we are sensitive to the needs of all our taxpayers and consider that our collection and recovery processes are a fair reflection of the balance between individual circumstances and the responsibility we have to the majority of taxpayers who pay on time.

## 2. About this policy

- 2.1 This document outlines the Council's policy intentions for the billing and collection of Council Tax and NNDR and is used a framework for our processes.
- 2.2 As part of our commitment to transparency this policy is an accurate record of our main billing and collection practices and will be maintained, updated and published so that it is available to taxpayers.
- 2.3 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.
- 2.4 While the process of billing and collecting taxes is sometimes complicated, it is our intention that this policy is straight forward and written in Plain English. We welcome your questions or feedback, please email [enquiries@hyndburnbc.gov.uk](mailto:enquiries@hyndburnbc.gov.uk) if you require any help with this document.

## Policy Language

- 2.5 For the purposes of this document; “we”, “our” and “us” refers to Hyndburn Borough Council and “taxpayer” refers to people liable to pay Council Tax to Hyndburn Borough Council and/or businesses (meaning both limited companies and individuals trading or operating as a business) which are liable to pay National Non Domestic Rates to Hyndburn Borough Council.

## 3. Introduction

- 3.1 Council Tax raises £33million per year in Hyndburn. Of this amount, approximately 95% is collected in the same year that it is due, with a further 1% collected each year in total and 98.5% being collected over several years.
- 3.2 NNDR raises £22.3million per year. We collect 95% of this in year with 98% collected over several years. Since April 2013, 50% of this is retained locally and put straight back in to local services (40% by Hyndburn Borough Council, 9% by Lancashire County Council and 1% by Lancashire Fire and Rescue).
- 3.3 While Hyndburn is a developing and improving borough, it remains an area of high deprivation and 26% of our residents claim some form of benefits. Each year approximately 30% of residents fall behind with their payments at some point – for many this is just receiving a reminder but for some this includes enforcement action.

## Council Tax

- 3.4 Council Tax is a system of taxation which is used to fund local Councils and services. The tax is collected locally as opposed to other national taxes and is redistributed to help fund local services only such as social care, refuse and recycling, sports facilities, parks and open spaces and subsidising public transport. Introduced in 1993, Hyndburn Borough Council collects Council Tax on behalf of itself as well as Lancashire County Council, Lancashire Police and Lancashire Fire and Rescue (all known as preceptors).
- 3.5 Each preceptor sets its own Council Tax rate each year and any rises in the overall level of Council Tax paid are as a result of separate decisions made. Lancashire County Council receives 72% of Council Tax raised, Hyndburn Borough Council receives 15%, Lancashire Police receives 9% and Lancashire Fire and Rescue receives 4%.
- 3.6 Residents in Altham Parish pay an additional 2.44% which funds Altham Parish Council.

## National Non Domestic Rates

- 3.7 National Non Domestic Rates (NNDR), also known as Business Rates is a tax on the occupation of a non-domestic property which in some form goes back to 1572. Since 1988 it has been a tax based on the rateable value of a property and is billed and collected by Hyndburn Borough Council in much the same way as Council Tax. Historically NNDR has been collected locally but pooled nationally and then redistributed to local councils but in

April 2013, this changed and 50% of NNDR is now retained locally and only 50% is sent to be pooled nationally and redistributed. The 50% retained locally is divided up amongst local preceptors: Hyndburn Borough Council retains 40%, Lancashire County Council receives 9% and Lancashire Fire and Rescue receives 1%. This change, known as Business Rates Retention has placed a renewed emphasis on the collection of NNDR for local authorities, and preceptors, as this now has a larger impact on local funding.

## **4. Legislation**

4.1 The billing, collection and recovery of Council Tax and NNDR are covered by several pieces of legislation and regulation (listed below, as amended), all of which are followed closely and which form the basis of many of our policy decisions.

- The Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government Finance Act 1992
- The Local Government Finance Act 2012
- The Council Tax (Administration and Enforcement) Regulations 1992
- The Council Tax Reduction Schemes (Default Scheme) (England) Regulations 2012
- The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012
- The Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
- The Council Tax (deduction from income Support) Regulations 1993
- The Insolvency Act 1986
- The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013

## **5. Billing**

5.1 Council Tax rates are set in February each year and annual bills are printed and delivered in the third week in March. We bill 36,600 properties for Council Tax and 3400 for NNDR. All bills are delivered at least 14 days before the first instalment is due in April.

5.2 We deliver a combination of paper bills and electronic bills – e-billing customers receive an email informing them that their new bill is available to view online. As part of our suite of e-services it is hoped that this method of receiving bills is embraced in the coming years making our billing processes better value for money.

5.3 Annual bills or demand notices cover the billing period of 1<sup>st</sup> April to 31<sup>st</sup> March and are sent to the named individual(s) on an account who are liable for pay Council Tax or NNDR on the property or business premises concerned.

5.4 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 – all relevant regulations are applied: discounts, exemptions and payments are taken into account at all stages and the bills and adjustment notices sent are calculated and managed so that an accurate bill is sent.

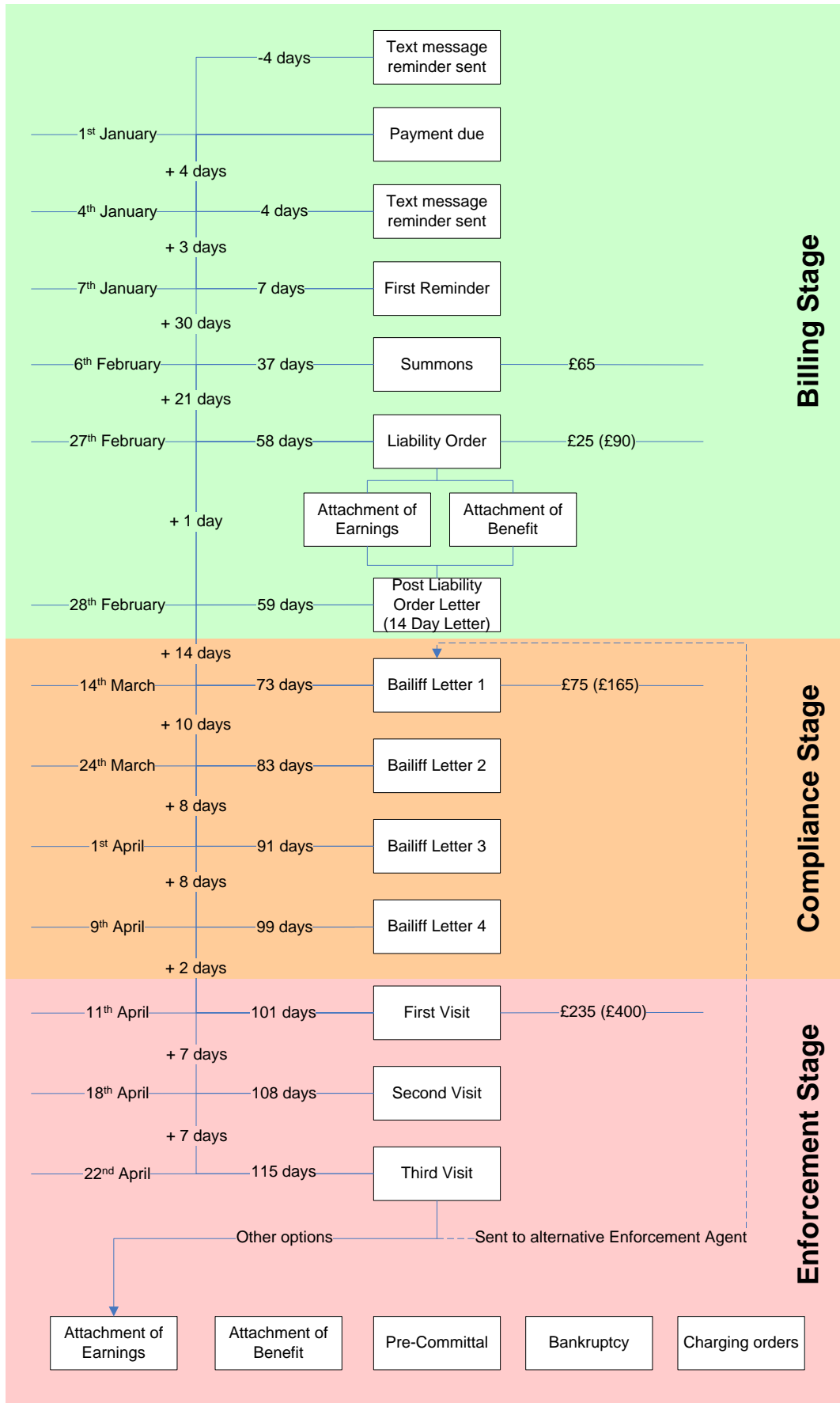
## **6. Payment methods**

- 6.1 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.
- 6.2 We offer four standard payment dates – 1<sup>st</sup>, 10<sup>th</sup>, 20<sup>th</sup> and 28<sup>th</sup> and a range of 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
- 6.3 Our preferred method of payment is direct debit and 60% of taxpayers choose this option.
- 6.4 Taxpayers are expected to make their payments on time or ahead of their instalment date.

## **7. Recovery**

- 7.1 For the purposes of this document, “recovery” refers to the collection of all Council Tax or NNDR which is not paid on time, i.e. on or before a payment instalment date. This includes all recovery from reminder notices through to committal hearings.
- 7.2 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.
- 7.3 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.
- 7.4 The days numbered on the right 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 left. To put the process into some context, the dates on the chart assume that a payment was due on 1<sup>st</sup> January.

Chart 1: Standard Recovery Process



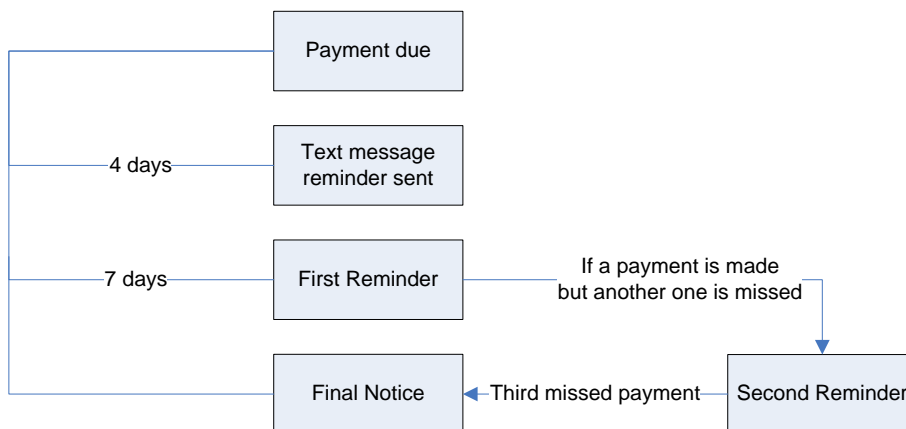
### Text Messages

- 7.5 As part of our aim to provide a proactive service we use SMS text messages as payment reminders. These messages are not part of the legal process of collection and recovery of Council Tax/NNDR but a proactive step we take which has yielded positive returns. We send a text message to participating customers 4 days before an instalment is due and again 4 days after an instalment if it has been missed.
- 7.6 Text messages are also sent prior to a final notice being issued and prior to a summons being issued; all steps to encourage taxpayers to contact us to make payment or to discuss and difficulties they may be experiencing.

### Reminders and Final Notices

- 7.7 A reminder is issued seven days after an instalment is missed. If the payment is made and the account is brought up to date, 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.
- 7.8 If a payment is made but 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.
- 7.9 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 – if a customer does bring their account up to date, we will 'remove' the final notice from the account and allow the account to be paid by instalments again. This additional flexibility will be normally only be applied once per billing year and will not be given in all circumstances.

Chart 2: Reminders and Final Notice



## Summonses and Liability Orders

- 7.10 In order to take further recovery action, other than the issuing of reminders and final notices, the Council must apply for a Liability Order. A Liability Order is granted by the Magistrates and;
- 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;
  - authorises the Council to take enforcement action;
  - imposes a duty on the taxpayer to provide information required by the Council to support further recovery such as employment and income details.
- 7.11 A Complaint is made by the Council to the Magistrates Clerks' Office and summonses are subsequently issued. Taxpayers are given at least 21 days' notice of a Liability Order hearing.
- 7.12 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.
- 7.13 A summons from the Council includes details of a provisional payment plan which puts the outstanding amount into equal instalments, usually to the end of the financial year. This is a proactive step that we include in order to demonstrate that payments can be broken down into more affordable instalments rather than focusing on the larger outstanding total and also to make the process of setting up a payment plan more efficient, the customer simply has to contact us to agree and the instalments are confirmed. The provisional arrangement is inclusive of summons and liability order costs.
- 7.14 We issue an information leaflet with a summons which is attached to this policy at Appendix 1.
- 7.15 Taxpayers do not have to attend the Liability Order hearing, it is a block application, names of individuals or companies are not read out and 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.
- 7.16 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.
- 7.17 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. In recognition of the sometimes difficult circumstances faced by individuals we will also remove summonses and liability orders on compassionate grounds in order to support individuals.

- 7.18 If the full amount due, plus summons costs is paid before the liability order hearing, the Council will not apply for a liability order.
- 7.19 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
- 7.20 When making an arrangement, we will obtain details of the 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.
- 7.21 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. This is known as the '14 day letter' and the issuing of this is outsourced to an Enforcement Agency.
- 7.22 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
- A copy of the Liability Order and 14 day request is at Appendix 2.
- 7.23 It is at this stage of the process that accounts are, generally, sent down two different routes; enforcement agents or attachments to either earnings or benefits.

### **Attachment of Benefits**

- 7.24 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
- 7.25 A standard deduction of 5% is taken from benefits and paid directly to the Council to clear outstanding arrears. Deductions are made after other priority debts have been paid. The Department for Work and Pensions places Council Tax deductions fourth after housing debts, fuel and water arrears.

- 7.26 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.
- 7.27 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 bailiff action.
- 7.28 If the benefit is stopped before the arrears are paid, other recovery options will be pursued.

### Attachment of Earnings

- 7.29 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 and not NNDR. Employers are legally obliged to comply with an attachment order.
- 7.30 The deductions made are based on the amount earned:

Monthly earnings	Weekly earnings	Daily earnings	Deduction
<b>Up to £300.00</b>	Up to £75.00	Up to £11.00	<b>0%</b>
<b>£300.00 - £550.00</b>	£75.00 - £135.00	£11.00 - £20.00	<b>3%</b>
<b>£550.00 - £740.00</b>	£135.00 - £185.00	£20.00 - £27.00	<b>5%</b>
<b>£740.00 - £900.00</b>	£185.00 - £225.00	£27.00 - £33.00	<b>7%</b>
<b>£900.00 - £1420.00</b>	£225.00 - £335.00	£33.00 - £52.00	<b>12%</b>
<b>£1420.00 - £2020.00</b>	£335 - £505.00	£52.00 - £72.00	<b>17%</b>
<b>Exceeding £2020.00</b>	Exceeding £505.00	Exceeding £72.00	<b>17% of the first £505.00 and 50% of the remainder</b>

- 7.31 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 will be in place at any one time, a third or any further attachments can be obtained and ‘stacked’ or queued and will begin to make deductions once one or both running attachments have been paid.
- 7.32 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 bailiff action.

- 7.33 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.
- 7.34 An employer may make an administration deduction of £1 per transaction, this is prescribed in the regulations but not all employers make this deduction.
- 7.35 The Council will consider suspending an attachment of earnings order if a reasonable offer of payment is made and any arrangement is maintained. If a payment arrangement is not maintained and payments are missed, the Council will reinstate the attachment order and will in most cases not consider suspending the attachment again.

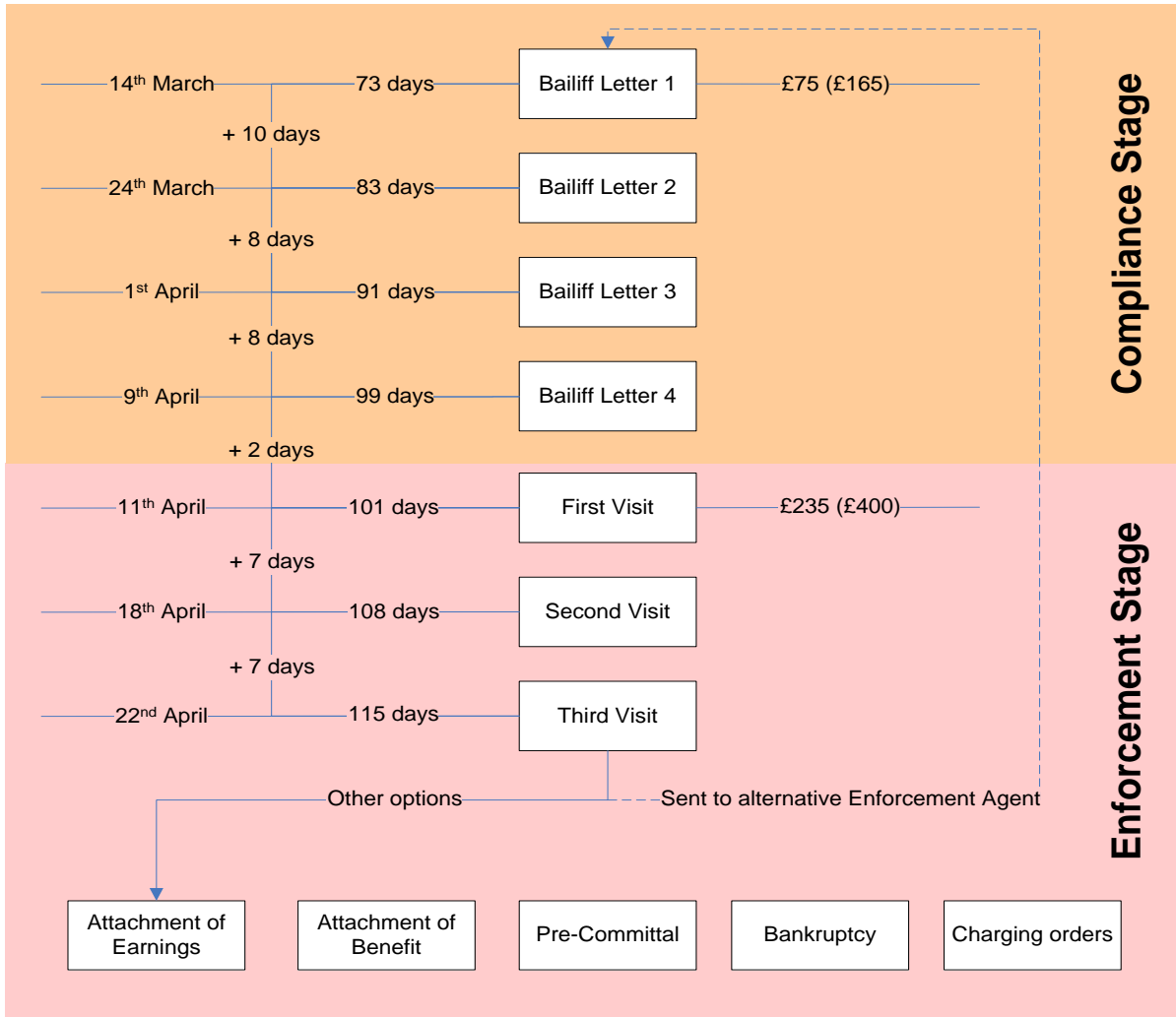
### **Payment arrangements**

- 7.36 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. We operate many flexible policies to support our residents including a range of payment methods and dates, we will be happy to spread payments out as much as we can to reduce monthly or weekly amounts.
- 7.37 When setting up a payment arrangement we have two main priorities:
- Paying the Council Tax/NNDR by the end of the financial year in which it is due
  - Making an affordable arrangement with the customer in order to prevent payment arrears.
- 7.38 If a payment is missed or it is clear by looking at payment history that the instalment date on the account is not suitable for the customer and a different date would prevent missed payments, we will move the instalment date. This is common when a customer's payment date is the 1<sup>st</sup> of every month but they may not get paid until the 15<sup>th</sup> of each month – changing the payment date to the 20<sup>th</sup> of each month may prevent recovery action. Payments can be spread out over any remaining months in the financial year at any point in order to reduce monthly instalments. Both of these options are not defined as payment arrangements, but rather the management of an account. If a payment is missed, the account will progress to further recovery stages in line with our processes at table 1 on page 7.

### **Enforcement Agencies**

- 7.39 The Council has a separate code of conduct and individual service level agreements which we use to manage our relationships with enforcement agencies. Detailed in this policy are the enforcement measures we have agreed with our enforcement agents (formerly and commonly referred to as bailiffs) – known as the compliance and enforcement stages.

7.40 **Chart 3: Compliance and Enforcement Stage**



7.41 The Council currently outsources the issuing of post liability order hearing letters to an enforcement agency. This letter, sometimes referred to as the *14 day letter* or *further information letter* informs the taxpayer that a liability order has been obtained, requests further information and notifies them that they have 14 days to respond with an offer of payment (or to pay the balance in full) or further recovery action will be taken by an enforcement agency or bailiff.

7.42 If there is no response to this letter or no reasonable offer of payment has been made, the enforcement agent is instructed to commence further action which begins by issuing letters after the 14 days period has lapsed. Letters are issued on the first available day (day 15 post liability order), and then again after 10, 18 and 26 days. Currently an enforcement agency fee of £75 is added to the debt upon the issue of the first letter. This fee covers all four agreed enforcement agency letters in total.

- 7.43 Visits from enforcement agents will begin if after four letters have been issued, the taxpayer has either not engaged with the enforcement agent, not made a reasonable offer of payment or has made an arrangement and has not paid as agreed. Currently a fee of £235 is added once visits have commenced.
- 7.44 All fees added to accounts by enforcement agencies are in accordance with legislation and in agreement with the Council.
- 7.45 Enforcement agents are instructed to make all efforts to agree to 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 agents employ both visiting bailiffs and customer services staff who on hand to help taxpayers to make affordable arrangements and to manage their payments.
  2. Distraint or levying distress on goods: a bailiff is authorised to list saleable goods belonging to the taxpayer that could be removed and sold to pay off the debt if the taxpayer does not either make or honour a payment arrangement. In practise the goods remain with the taxpayer rather than being removed and held. The enforcement agent requires authorisation from us before goods can be removed.
- 7.46 The Council aims to send as few accounts to enforcement agencies as possible, minimising the additional charges on accounts and reducing the cost of recovering outstanding debts for the Council. In exceptional circumstances we will agree to bring an account back within Council management if we consider that in doing so we are either supporting a vulnerable taxpayer or maximising the Council's chances of recovering the outstanding debt.
- 7.47 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 an offer of payment, unless the account is cleared in full, making payments to the Council will not necessarily stop or prevent any enforcement agency action.
- 7.48 If an enforcement agency is unsuccessful in recovering the Council Tax or NNDR debt, the account will be returned to the Council. As part of our responsibility to maximise the recovery of all Council Tax and NNDR, the Council currently uses three different enforcement agencies and accounts are sent to a second and third agent in turn to make attempts at recovery.

### **Charging orders**

- 7.49 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.

7.50 Consideration should also be given as to whether there are any debts registered against the property which will take priority over the Charging Order, if obtained.

7.51 A charging order may be considered in the following circumstances:

- a. The debt is at least £1000;
- b. All recovery options have been exhausted;
- c. The billing and recovery process has been followed correctly and a liability order has been obtained;
- d. The Council and its enforcement agencies have made all reasonable attempts to establish a payment arrangements and to engage with the taxpayer;
- e. Details of the taxpayer's financial circumstances 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;
- f. The case must have been passed to at least one enforcement agent;
- g. Consideration has been made to other available recovery methods such as committal;
- h. Consideration will be made as to the potential impact on other individuals such as any joint owner(s), partners or dependents;
- i. Land Registry information has been obtained and confirms ownership of the property;
- j. The property in question is the property for which Council Tax is owed;
- k. 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.

7.52 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.

7.53 Once the Council has obtained a Charging Order on a property, it 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.

### **Committal to prison**

7.54 The Council considers Committal to prison for the non-payment of Council Tax as an extreme measure and will not make a decision to pursue committal proceedings lightly. Committal proceedings may be considered in the following circumstances:

- a. All other recovery methods have been exhausted;
- b. Charging orders are not available or not considered to be potentially successful;
- c. Bankruptcy is not considered a viable option 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 reasonable offers of payment arrangements on more than one occasion;

- e. The debt has been passed to three enforcement agencies, all of which have been unsuccessful and have 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 bailiff 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);

7.55 If committal proceedings are being considered by the Council, we will write to the taxpayer to give them one more opportunity to pay the debt in full and inviting them to meet with Council Officers in person (at a pre-arranged time and place) in order to discuss management of the debt.

7.56 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.

7.57 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.

7.58 If the taxpayer attends the court hearing, the Council will discuss the debt with the taxpayer, 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.

7.59 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. If the Magistrates do not consider that the failure to pay was as a result of wilful refusal or culpable neglect then they may remit some or all of the outstanding debt.

7.60 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.

### **Bankruptcy and winding up orders**

7.61 Applications for bankruptcy or winding up orders are covered by our Insolvency Policy available on request or at [www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk)

## Fees

7.62 The Council's costs in respect of Council Tax/NNDR recovery are reviewed annually. Recovery fees are added only at specific pre-determined stages of the recovery process rather than ad-hoc and all fees are published.

7.63 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 (14 day letter) issued by Enforcement Agents on behalf of the Council is not included in the enforcement agency letters fee.

Recovery stage	Additional Fee
<b>Summons</b>	65.00
<b>Liability Order</b>	25.00
<b>Enforcement agency letters</b>	75.00
<b>Enforcement agency visits</b>	235.00

## Explanation of fees

7.64 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 Arrears<sup>1</sup>. This guidance states that "local authorities should be able to provide a breakdown showing how these summons and liability order costs are calculated and costs should only be sought to cover costs that have been actually and reasonably incurred". A breakdown of our fee structure is available on request.

## Vulnerable customers

7.65 Whilst there are no prescribed descriptions of vulnerable groups, local authorities must have regard to their responsibilities defined under:-

- The Equality Act 2010 – the public sector Equality Duty in respect of protected characteristics.
- The Child Poverty Act 2010 – duty to reduce and mitigate the effect of child poverty in local areas.
- The Housing Act 1996 – duty to prevent homelessness

7.66 Particular regard will be taken when dealing with recovery for the following people:

- a. Any elderly persons over the age of seventy-five;
- b. Any persons under seventy-five where it is apparent they are frail, confused, ill or having difficulty in dealing with their affairs;
- c. Any severely disabled persons;

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

- d. Any person considered to be mentally impaired;
- e. Any person considered to be impaired due to intoxication either through alcohol or drugs where the intoxication is severe enough that the person is not reasonably able to deal with their affairs;
- f. Any household where there has been bereavement within the last two weeks;
- g. Any customer (or their partner) who is in the last two months of pregnancy;
- h. Any household with a new baby under the age of six weeks;
- i. Any customer (or household member) who is suffering from long term or serious illness;
- j. Any customer who is suffering from a terminal illness;
- k. Any single parent of children under the age of twelve in receipt of a means tested benefit or who is experiencing financial hardship;
- l. Any property where the English language is not spoken read or understood in the household and where interpretation services are not readily available;
- m. Any customers living on any of the subsistence level benefits where the debt does not exceed £200.00, in which cases it is more appropriate for the Council to administer the debt by the application of an attachment;
- n. Any other person or household where the enforcement agent or council officer considers there to be any other vulnerability. The enforcement agent or council officer will be expected to explain the nature of the vulnerability and their use of this discretion to the Council.

7.67 When the nature of a person or household's vulnerability is temporary, we will consider a temporary hold on all enforcement action and will re-visit the account at a predetermined date.

7.68 This list is not exhaustive and our officers are trained to spot vulnerability in all contact with our customers, exceptions will be made if it considered appropriate. Should any taxpayer consider their circumstances to be exceptional or considers themselves to be in a vulnerable position they are encouraged to contact us as all efforts are made to work with our customers to help them to afford their payments.

## **8. Complaints**

8.1 Complaints about the handling of any account will be dealt with in accordance with the Council's general complaint policy.

## **9. Equality and diversity**

9.1 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.

## **10. Review/approval**

10.1 This policy will be reviewed annually and updated if required. Approval for the implementation of this policy was obtained by Cabinet on 29<sup>th</sup> July 2015

## **11. Appendices**

1. Summons information leaflet
2. Further information or '14 day letter'
3. Customer First Analysis

**A summons has been issued by a Magistrates Court because you have not paid your Council Tax in accordance with your bill instalments and reminders.** You have now lost the right to pay by instalments and the full amount, plus costs, is now due. If this leaflet does not answer your questions please contact us.

**Do I have to attend court?**

No – this summons is a notice that the Council has applied for a Liability Order in your name. The hearing is a block application for many accounts at the same time and is not for you as an individual.

**What happens at the court hearing?**

The Council will make a block application to the court to grant liability orders on all outstanding Council Tax accounts. **Your name is not read out and it will not appear in the local paper.** If you decide to attend, there will be Council officers there to talk to beforehand about your payment options.

**What is a liability order?**

A liability order confirms that you are the correct named person(s) on this Council Tax account and it gives the Council further powers to recover the outstanding amounts from you.

**How can I stop any further action?**

If you pay the outstanding Council Tax in full, plus the costs of this summons, a liability order will not be requested and no further action will be taken. You must do this before the hearing date.

**We have received more than one summons; does each person have to pay costs?**

Each person liable for Council tax at this address has been summoned but only one lot of court costs has been applied to the account.

Summons Costs:	£65.00
<u>Liability Order:</u>	<u>£25.00</u>
Total:	£90.00

**Can I make a payment arrangement?**

Yes, and we encourage you to contact us to do so. We have set a provisional payment plan up for you and all you have to do is agree to it. If you make these payments on time, no further action will be taken.

**I am not liable at this address, what are my options?**

If you believe that a mistake has been made or your circumstances have changed then please contact us as soon as possible. The Council makes all efforts to issue summonses correctly but occasionally mistakes are made and we can only fix it if you tell us.

**What happens next?**

At the hearing, the court will grant a liability order which gives the Council further powers to recover the debt from you using other methods. We prefer to make a payment arrangement with you but if you do not do this, we have several options available to us. The main recovery options are:

**Enforcement agencies or bailiffs** – your account will be sent to a bailiff who will contact you directly and may visit your home. There may be additional costs to pay.

**Attachment of earnings** – we will write to your employer to have money taken directly from your earnings.

**Attachment of benefits** – money can be deducted from your benefits such as Employment and Support Allowance, Job Seekers Allowance or Universal Credit.

**What if I cannot afford the payments?**

Many people fall into debt at some point in their lives and we aim to make affordable payment plans to help you. We encourage you to talk to us as soon as possible about your payments and options. Talking to us now may prevent any further action being taken.

### How can I make payments?

There are several ways to pay your Council Tax:

- By Direct Debit – go on line or call us
- Using your barcoded bill at any Post Office or PayPoint
- Online at [www.hyndburnbc.gov.uk](http://www.hyndburnbc.gov.uk)
- Over the phone by calling 01254 389 178 (automated) or 012554 388 111

Payments are not made to the Court Clerks.

### What is the further information form for?

When a liability order is granted, the court requests that you provide further details to the Council. This includes your employment details. The form also gives you the chance to offer an alternative payment arrangement. You do not have to return this form if you provide this information over the phone to us.

### I am happy with the payment plan you have suggested, what do I need to do?

To agree to the payment plan, please contact us by telephone or email. If you contact us before your account is sent to an enforcement agent, we can normally make a flexible arrangement with you and can help you decide which payment method is best for you.

### Where can I get money management advice?

Citizen's Advice Bureau – 03444 889 622

[www.citizensadvice.org.uk/hyndburncab](http://www.citizensadvice.org.uk/hyndburncab)

Money Advice Service – 0300 500 5000

[www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)

National Debt Helpline – 0808 808 4000

[www.nationaldebtline.org](http://www.nationaldebtline.org)

Debt Advice Foundation – 0800 043 4050

[www.debtadvicefoundation.org](http://www.debtadvicefoundation.org)

### Contact Us

We are available Monday –Friday 9am to 5pm  
(Wednesdays from 10am)

Online: [www.hyndburnbc.gov.uk/counciltax](http://www.hyndburnbc.gov.uk/counciltax)

Telephone: 01254 388 111

Email: [enquiries@hyndburnbc.gov.uk](mailto:enquiries@hyndburnbc.gov.uk)

Face to face appointments are available, please call or email us to book.

Write to us at Accrington Town Hall, Broadway  
Offices, Accrington, BB5 1EZ



# Your Council Tax Summons Explained

Appendix 2: 14 Day Letter



Wavell House  
Holcombe Road  
Helmshore  
Rossendale  
Lancashire  
BB4 4NB

Tel: 0844 701 3980  
Fax: 0844 701 3982

Calls may be recorded/monitored for quality control  
and training purposes

Joe Bloggs  
Wavell House  
Holcombe Road  
Rossendale  
Lancashire  
BB4 4NB

Re Address  
Wavell House  
Holcombe Road  
Rossendale  
Lancashire  
BB4 4NB

Our Ref: 6632361  
Clients Ref: 21351541

Date: 7 Mar 2013

**NOTICE OF REQUIRED FINANCIAL INFORMATION**

Liability Order Dated 10 Sep 2012 - Amount and Costs Outstanding	£276.22
Bailiff Fees Outstanding	£0.00
<b>Total Outstanding for this application</b>	<b>£276.22</b>

Re: Test City Client - Council Tax

As you have failed to make payment arrangements on this account I am formally serving upon you a request to complete the enclosed Financial Information Document.

This request is made under **Regulation 36, of the Council Tax Administration and Enforcement Regulations 1992, Statutory Instrument 1992/613.**

You **must** complete the form and return to us at the above address within 14 days of the date of this letter.

If you do not comply with this request, please take note of the **INTENTION to PROSECUTE** under Regulation 56 of the above Regulations, because failure to comply with this request is an offence which on conviction, carries a **FINE of up to £500** and a criminal conviction.

To avoid this next course of action you must complete and return the form within 14 days, including any offer of payment.

If you fail to contact us to deal with this matter before the above date the local authority reserves the right to present this correspondence to the magistrates as evidence of your continued failure to pay your council tax.

Please also note that if convicted, in addition to having to pay a fine to the Magistrates' court, it is likely that you will have to declare your conviction:

1. In any future job application
2. In any credit application
3. If you work with or intend to work with Children.
4. On any passport application to the UK Border Agency

**Rossendales Limited**

### **Appendix 3: 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 and procedures.

- 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 policy and practices. Residents of the borough all benefit 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?

This policy is clear on how the Council will operate its collection and recovery of Council Tax and NNDR, it is accessible, written in plain English and additional support or explanations of the policy is available. The service is accessible and officers operate flexibly within the policies established.

- 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 these policies, 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?

No.

- Have you identified any potential improvements to customer service?

Formalising our practise will allow our staff to provide a consistent service which will benefit all customers.

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

n/a

- 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 the policies in the future.



# HYNDBURN

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The place to be  
an excellent council

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## ENFORCEMENT AGENT CODE OF CONDUCT

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June 2015

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## **1. Introduction**

- 1.1 This code of conduct explains the requirements placed upon any enforcement agency and its representatives, hereafter referred to as “the Agent”, contracted by Hyndburn Borough Council (“the Council”) for the purpose of assisting in the collection of Council Tax and National Non Domestic Rates due to the Council through the use of a range of enforcement means.
- 1.2 Responsibility for administering the code lies with the Council.
- 1.3 This code replaces all previous codes and working arrangements. Subsequent variations to the code that result from either legislative changes or improved working practices will be included in the document and recorded through a change control process.
- 1.4 Copies of this code must be freely available from the offices of both the Council and the Agent; it must also be available on the Council’s website, and offered readily to any person who requests it.

## **2. General**

- 2.1 At no point must the reputation of the Council be brought into question through the actions of any contracted Agent.
- 2.2 The Agent must comply at all times with the statutory provisions of The Council Tax (Administration and Enforcement) regulations 1992/613 (as amended), The Non Domestic Rating (Collection and Enforcement) (Local Lists) regulations 1989/1058 (as amended), the Data Protection Act 1998, the Taking Control of Good Regulations 2013 and the Taking Control of Good National Standards 2014. Any doubt over the interpretation of the law needs to be referred to the Council for reconsideration.
- 2.3 The geographic scope for enforcement is anywhere in England and Wales.
- 2.4 Enforcement Agents must not state or infer the Council employs them; they are required to confirm they are acting on behalf of the Council. They must carry at all times full and proper photographic identification, issued and authorised by the agent, and produce this without being asked whenever attending a debtor’s property, and show it to any other person having reason to require it. Enforcement Agents must also carry a copy of the Council’s authorisation to the agent to act on behalf of the Council, and be instructed to produce the document if requested to do so by any person having reason to require it.
- 2.5 The Agent’s employees will maintain an acceptable standard of dress consistent with the provision of a professional service. They must act in a lawful, dignified and courteous manner, being firm but fair at all times.

- 2.6 The Agent must not discriminate on any grounds including those identified in the Equalities Act 2010 as protected characteristics. Enforcement Agents will be respectful of the religion and culture of others.
- 2.7 The Agent will ensure interpreter services are called upon whenever it is apparent the customer's first language is not English or there are clear difficulties in understanding matters at issue.
- 2.8 Enforcement Agents must possess a detailed knowledge of the Law of Distress and revenue collection procedures. Enforcement Agents levying distress on behalf of the Council must hold a current and valid certificate issued by the County Court, and ensure it remains in date at all times.
- 2.9 The Agent must ensure that its recruitment, selection and training purposes are suitably robust to ensure its employees are wholly capable of delivering the contracted service to the standards required by the legislative and regulatory frameworks and the demands of this code of practice.

### **3. Caseload Administration**

- 3.1 The Council will forward caseload to the Agent usually in an electronic file format, if necessary hard copy referrals will be made. The level of information contained in the files will be as agreed between the Council and the Agent, and wherever possible instructions will be uploaded automatically into the Agent's computer systems.
- 3.2 Personal information transmitted between the Council and the Agent and vice versa is confidential. Data must be encrypted/password protected to ensure it cannot be obtained by an unauthorised source, and the use of all data must comply with the requirements of the 1998 Data Protection Act.
- 3.3 Where either the Council or the Agent retains data on its computer system for access by either party, the data must be kept under secure conditions to prevent its access by an unauthorised source.
- 3.4 Caseload allocated to the Agent will consist either of accounts for processing as 14-day letter stage, or accounts where enforcement agent action is the required course of action. The Council will ensure caseload is clearly identified as to which enforcement route is required. Suitable checks must be undertaken to ensure the number and value of the cases exported balance when imported into the Agent's systems.
- 3.5 The 14-day caseload will require the Agent to issue pre-enforcement agent action warning notices, the content of which must have been agreed in advance with the Council, and administer all subsequent customer contact in response to the documents. Statistical information must be provided to the Council in respect of the caseload that includes detail on the number of phone calls and value of payments received.
- 3.6 Accounts the Agent administers through 14-day stage where full payment is not obtained may be progressed thereafter as enforcement agent cases without

prior referral to the Council. Enforcement agent only cases do not require the issue of a pre-enforcement agent action warning notice, as the Council will have undertaken this action.

- 3.7 Caseload allocated to the Agent must be uploaded and monitored via the Agent's client web, which must be kept up to date to ensure reliable data can be viewed at all times. The Agent needs to ensure the Council has constant access to its client web throughout office hours, and provide sufficient training to ensure the Council can interpret accurately the progress of its caseload at all times. Full and unambiguous notation needs to be available on the client web to document the administration of any case passed to the Agent.
- 3.8 The Council reserves the right to recall any case referred to the Agent. In such circumstances the Agent will cease its action immediately and enforcement agent fees will not normally be payable.

#### **4. Visiting Standards**

- 4.1 Visits to domestic properties should take place during the hours specified in the between 08:00 and 20:00 on weekdays and between 08:00 and 20:00 on Saturdays. The Council will retain an option to permit Sunday visits on specified dates to be agreed with The Agent.
- 4.2 The hours of business of a commercial organisation like a nightclub may also warrant visits outside of the above stated hours. The Agent needs to be mindful that during extended visiting hours and weekends or Bank Holidays, the Council is unlikely to have officers available to assist with any enquiries.
- 4.3 Arrangements may be made between the Agent and the Council to vary or reduce visiting arrangements at certain seasonal times such as national and/or religious holidays and festivals.
- 4.4 A minimum of three visits must be made to make contact. The enforcement agent may revisit on the same day for the purposes of either levying distress or removing goods if there is good reason, based on investigations made, to believe the customer will be in during the subsequent visit.
- 4.5 Enforcement Agents will make themselves available by mobile phone during their working hours and have appropriate messages on voicemail to assist customers.
- 4.6 Accounts will progress to a compliance strategy that involves the issue of the statutory enforcement notice and 4 additional letters (after an additional 1, 10, 18 and 26 days after the '14 day letter' has expired) with an enforcement stage visit scheduled after day 30 if required.
- 4.7 The Agent will agree the templates for standard documentation with the Council, and ensure that all notices and other documents left with, or sent to

customers are on pre-printed stationery, unambiguous and clear in their content, comply with all relevant regulations, and meet plain English standards.

- 4.8 Reasonable checks need to be made to ensure that Enforcement Agents visit the correct address, and they must have access to accurate details concerning each customer's case. If during their visit it is apparent to the enforcement agent that the customer has moved address, discreet enquiries need to be made with the current/new occupier to establish a forwarding address without revealing the nature of the visit to such third parties. The information gathered including details about the new occupier(s) need to be confirmed on the Agent's client web and referred to the Council without delay.
- 4.9 In the event of a visit resulting in no contact with the customer, notification must be left in a sealed envelope addressed to the customer marked private and confidential. The notification must confirm the enforcement agent's contact details, the date and exact time the visit was made and details of the balance outstanding including any fees incurred.
- 4.10 The enforcement agent should seek to establish the identity of all persons present, and must ensure that when discussing debts they are dealing with the customer and/or their agreed representative.
- 4.11 Entry must not be attempted if the only people at the property are understood to be under the age of eighteen. In such circumstances the procedure detailed at 4.10 above needs to be followed. Entry must be peaceful and Enforcement Agents must under no circumstances seek to gain physical access to a property by use of deception.
- 4.12 The customer's privacy needs to be respected at all times. No conversations concerning a debt should occur in a public area, and wherever possible, customers should be interviewed in private unless they wish other persons to be present.
- 4.13 Enforcement Agents must maintain a calm and professional manner at all times, irrespective of whether they are subject to provocation in the course of fulfilling their duties. Physical confrontation must be avoided at all costs, and if the customer becomes violent or the enforcement agent fears for their personal safety they should seek to withdraw and report the incident to the police, their line manager and the Council.

## **5. Payment Arrangements & Payments Received**

- 5.1 The enforcement agent's initial contact with a debtor will be with the intention of levying distress and seeking immediate and full payment of the debt. Where this is unrealistic a payment arrangement should be established, which the Agent must monitor.
- 5.2 Arrangements must be confirmed in writing, and give a clear explanation of the total amount due, the repayment amounts and due dates, and the consequences of it not being maintained. The Agent has the discretion to issue

a maximum of one payment arrangement reminder letter, which will require the arrangement to be brought up to date within five working days and maintained thereafter. At all stages of the distress process, apart from where the removal of goods has started, customers are to be encouraged to make a payment arrangement within the agreed guidelines as the Council would wish to avoid the removal of goods unless absolutely necessary.

- 5.3 Council Tax debts ideally need to be cleared within the relevant financial year to assist in-year collection wherever appropriate. However this may be impractical dependent on when in a year a case is referred to the Enforcement Agent, what the amount outstanding is, and what the customer's circumstances are. Any account referred progressing to the compliance stage after the 1<sup>st</sup> February will be given a rolling three month period in order to clear in-year debt. For example, arrangements made in February can be agreed for three months from February to April and arrangements made in March can include payments up to the end of May.
- 5.4 In arrears cases i.e. debt raised in a previous financial year, repayment periods of up to one year may be offered at the Agent's discretion, and arrangements exceeding this period must be referred to the Council for agreement.
- 5.5 Where a customer offers a payment arrangement that appears to be beyond their means, the enforcement agent has a responsibility to advise the customer accordingly.
- 5.6 As with Council Tax referrals, there is a similar need to collect Business Rates due within the year it is referred. For Business Rates the first visit may be an enforcement van call, and if full payment is not made at that time the preferred time frame is for payment within one month, with the possibility of allowing up to three months at the enforcement agent's discretion if the customer's circumstances merit such an extension.
- 5.7 In the event of the enforcement agent not receiving full payment on their first contact, which includes their statutory attendance fee, any payment arrangement ideally needs to be secured by a signed Walking Possession Agreement. The agreement must specify any goods on the premises, which could be removed, and the enforcement agent must make it clear to customers that no goods will be removed if payments are received in accordance with the arrangement.
- 5.8 Enforcement Agents should take reasonable steps to ensure that the value of the levy goods is proportional to the debt outstanding. Care must be taken to ensure the goods are not already subject to a levy by a third party. If the customer refuses to sign the agreement, this must be noted on the document. Payment arrangements may be made where it is possible there are insufficient goods to cover the debt as the levy may act as an incentive to the customer to ensure payment.
- 5.9 There may be occasions where no goods are available on which to levy such as where a property is rented fully furnished, or where a levy occurs in the

customer's absence such as when a vehicle is parked on a drive or where the contact is with a spouse or parent.

- 5.10 The enforcement agent must seek to obtain employer details and financial circumstances when negotiating any payment arrangement, which will be shared with the Council. If it is established that the customer receives Income Support, Jobseekers Allowance, Pension Credit Guarantee (PCG) or Employment Support Allowance (ESA) or Universal Credit, and the debt is more than £200, the enforcement agent needs to obtain their National Insurance number and date of birth, and should make a payment arrangement equivalent to benefit deduction levels of 5% unless it is apparent there are good distrainable effects that would help discharge the debt quicker. In the event of the arrangement failing, or the debt being less than £200, the case should be returned to the Council, which will set up an Attachment of Benefits.
- 5.11 If the customer works but their income is only equivalent to subsistence levels state benefits, and the enforcement agent is shown evidence to this effect, an arrangement needs to be made that is equivalent to the deductions usually secured through attachments to these benefits, which is 5% of the benefit received.
- 5.12 If the enforcement agent considers the customer's circumstances are such that they may be eligible for some form of benefit but have not applied, the enforcement agent should advise the customer to apply.
- 5.13 There will be occasions when the Council will direct the Agent to accept an arrangement and require the Agent to monitor its payment thereafter.
- 5.14 Official, numbered company receipts must be given in all instances where payment is received in person by an enforcement agent. The receipt must state the date and the exact amount received the method of payment, and confirmation of any balance outstanding. The enforcement agent must advise the customer to keep all receipts in the event that they are required to verify payment.
- 5.15 Where the Agent receives payment by post, a receipt will only be required if the debtor provides a pre-paid self-addressed envelope for this purpose.
- 5.16 Postal payments received by the Agent prior to the start of an enforcement agent visit that clear a debt in full must be accepted by the Agent as final settlement without the additional enforcement agent fees being added.
- 5.17 Where the removal of goods is imminent the Council will not endorse payment by a non-guaranteed method like cheque; cash is the favoured option.
- 5.18 Any online payment functionality offered by the Agent must include the facility for customers to obtain a receipt for any payment made.

- 5.19 The scale of charges the Agent applies to payment by certain methods like debit or credit card will be agreed with the Council in advance of its application and displayed clearly to customers.
- 5.20 The Council will notify the Agent of payments made directly to the Council, ideally on a daily basis.
- 5.21 There may be occasions where the Council refers an additional liability order to the Agent, who has an existing arrangement with the customer. In such instances the Agent will visit to make the necessary levy. However it is at the Agent's discretion (dependent on the timing of the additional referral, how much the referral is for, and how much remains to be paid on the original case), as to whether a separate payment arrangement is set up for the new debt or if its payment is scheduled to begin when the existing one ends.
- 5.22 For Council Tax and Business Rates, if there are sufficient goods and the debtor refuses to make an arrangement, a notice of removal must be left confirming that if neither payment in full (including enforcement agent fees) nor an acceptable payment arrangement is made within five working days, the enforcement agent will revisit with the intention of removing goods from the sixth day onwards.
- 5.23 For Business Rates where the removal of goods may result in the business's closure, or job losses, the enforcement agent must contact the Council for guidance before action proceeds.
- 5.24 If the customer is unable to make a reasonable payment offer, or has insufficient goods or refuses legal access, the Agent will return the case to the Council with a full report of the circumstances duly certified "nulla bona" so further enforcement action may be considered.

## **6. The Removal and Sale of Goods**

- 6.1 The Agent may remove goods with a view to their sale if a suitable payment arrangement is neither made nor maintained with a customer who owns sufficient goods duly identified which, when sold, would discharge a minimum of 50% of one case and the related fees. No removal must be attempted unless there has been prior contact with the customer and all other legal requirements have been fulfilled.
- 6.2 The Agent must only remove goods in accordance with prescribed regulations and codes of practice however some items are exempt from distress as detailed in appendix one, The Agent must never knowingly remove any items which form part of an existing levy by a third party.
- 6.3 The Agent needs to notify the Council of any intended forced entry to any part of the premises for the purpose of removing goods where walking possession has been secured previously. If the action is agreed, a police officer must be advised of the intention to force entry, and the premises must be secured before departure.

- 6.4 The Agent may make the Council aware of its intention to remove goods if it considers such action to be prudent.
- 6.5 All goods removed need to be listed on an inventory that also details any obvious defects to the items, a copy of which must be left with the customer. Additionally the customer must be provided with written confirmation of the total balance outstanding, including enforcement agent fees, and notification of the intention to commence sale proceedings if payment in full is not received within a further five working days.
- 6.6 If the customer is not present, the authorised possession notice and associated documentation needs to be left in a prominent place within the premises for their attention in a sealed envelope marked private and confidential. Time and date-stamped photographs should be taken of the goods removed to indicate their condition and reduce the possibility of a subsequent claim for damages, where considered appropriate.
- 6.7 The Agent or contractors acting under their supervision must ensure that the removal, transportation and storage of goods occur with due care and attention; the items taken into possession must be covered by an adequate insurance policy.
- 6.8 Where a vehicle is seized a report must be completed detailing its condition prior to removal. Any third party used to remove the vehicle and the customer (if present) must countersign the report. If the customer is present and refuses to sign, the document should be noted to this effect.
- 6.9 The cost of transporting goods to the place of sale and the auction costs must be kept to a minimum. Reputable auction facilities must be used to ensure the sale is properly publicised with a view to encouraging as many potential buyers as possible to assist in securing the best price for the goods. A reserve should be placed on any goods of high value, which is defined as any single item with an estimated value of £500 or more for Council Tax and £1,000 or more for Business Rates.
- 6.10 A specialist sales room should be engaged for the sale of any particularly high value and specialised items like jewellery and antiques.
- 6.11 The Agent must advise the customer where the goods will be stored, which must be a reasonably accessible location, and the anticipated date and place of auction. The customer must be given an opportunity to redeem their goods by paying in full prior to the auction.
- 6.12 The Agent must provide the Council with confirmation of the amount realised through the auction.

## **7. Fees**

- 7.1 Fees must be levied in accordance with legislation.

- 7.2 Where “reasonable fees and expenses” apply, the Agent will agree the scale of charges with the Council, which the Council agrees to review annually.
- 7.3 The Council will inform the Agent of any instances where it is considered fees have been added incorrectly or inappropriately. In any such instance where the customer has paid such fees, the Agent will refund these without delay; unpaid fees will be written off.
- 7.4 Fees must not be added for a future action, although clear information about potential charges that may be incurred for subsequent late or non-payment should be included on documents.
- 7.5 All fees incurred must be clearly stated in a legible manner on documentation provided to customers, with no reference to phrases like “ring for balance”. There may be occasions like where the removal of goods occurs where it is initially impractical to be able to confirm the fees level. Any inappropriate application of fees or alteration or pre-printed stationery identified by the Council will be referred to the Agent, who will be expected to apply their disciplinary code to any of its staff identified as having been involved in such practices. Practices such as this may be considered by the Council to be in breach of this agreement and as such, no further referrals will be made and any agreements may be terminated.
- 7.6 Where the Agent administers more than one liability order for a customer, fees must be calculated on the aggregate balance of all, not individual, orders.
- 7.7 Enforcement/van charges must only be added once where goods are not removed unless removal has commenced and goods are returned due to payment.
- 7.8 Enforcement agent levy fees must be calculated on the amount outstanding at the time of the levy rather than the original amount referred.
- 7.9 Any percentage fees will be rounded to the nearest pound.

## **8. Warrants**

- 8.1 Following the issue of a committal summons and its subsequent approval by the magistrates, the Council will issue a contact letter to customers confirming that unless they pay in full or make an arrangement within seven days, bail warrant or warrant of arrest (no bail) enforcement will proceed.
- 8.2 Cases will be issued to the Agent thereafter, and action to execute the warrants must begin within a maximum of 28 days.
- 8.3 The Council will confirm to the Agent the dates, times and limit on numbers of persons that can attend Court as agreed with the Magistrates for scheduled committal hearings where “no bail” warrants can be executed; the Council will

also confirm to the Agent the dates on which the Court have agreed to accept customers arrested under bail conditions.

- 8.4 When executing a bail warrant the Agent's enforcement officer must, unless payment in full including fees is received, arrest and bail the customer to appear before the magistrates on a date agreed with both the Council and the Court. Payment may be by cash, cheque or debit/credit card and in the event of a cheque payment funds must have cleared by the surrender date.
- 8.5 When executing bail warrants the Agent's enforcement officer must explain to the customer the reason for their arrest, full details of the charge outstanding, the type of warrant being executed, the time, date and place of the committal hearing the customer has been bailed to attend, and the consequences of non-attendance. Documentation must also be left with the customer that clearly confirms these details.
- 8.6 The Agent must notify the Council of the full details of the bail warrants executed no later than three working days before the hearing.
- 8.7 If the customer refuses to sign a bail warrant the Agent's enforcement officer must return the warrant to the Authority, which will return to the Court and apply for a "no bail" warrant instead.
- 8.8 When executing "no bail" warrants the agent's enforcement officer must, unless payment in full including fees is received, arrest and escort the customer to the Court, informing the Council without delay of their actions, who in turn will notify the Court that the customer is being brought in. Payment may be by cash or debit/credit card. In the event of card payment not being honoured further action may continue to execute the warrant.
- 8.9 When executing "no bail" warrants the Agent's enforcement officer should, where possible, inform another member of the customer's household that an arrest has been made.
- 8.10 The Agent shall, wherever possible, provide a female enforcement officer to either execute or assist in the execution of a "no-bail" warrant whenever the customer is female, and provide a male enforcement officer where the customer is male.
- 8.11 "No bail" warrants must not be executed where it is apparent that such action would result in children being left unsupervised in a property.
- 8.12 Where it becomes apparent to the agent's enforcement officer that the customer is in receipt of Income Support, Jobseekers Allowance, Pension Credit Guarantee, Employment Support Allowance or Universal Credit, the warrant does not need to be returned to the Council. The customer should still surrender to the warrant with a view to the Magistrates undertaking a full means enquiry, resolving to either remit/direct for attachment as appropriate.

- 8.13 The Agent must return bail and “no bail” warrants as soon as it is apparent that they are unenforceable, or within a maximum of six months, whichever is the soonest, unless the Council gives approval to extend this time frame. It is recognised that access to Magistrates’ Court time may require the six month time frame to be extended regularly. Cases need to be returned with a full report that details the actions undertaken.

## **9. Statutory or Financial Requirements for the Agent**

- 9.1 The Agent must ensure that audited accounts are kept and available on request.
- 9.2 An annual audit of the agency’s accounts by independent accountants should be undertaken at least once a year for businesses where this is appropriate.
- 9.3 The Agent must comply with all statutory obligations.
- 9.4 A separate account for monies due to the Council should be maintained. In addition, accurate books and accounts should be kept and made available to establish monies owed to the Council.
- 9.5 The Agent must maintain suitable and comprehensive insurance cover for both professional indemnity and other risks including employer’s liability and public liability.
- 9.6 Insurance requirements must actively be re-visited each year to the satisfaction of the Council, and to ensure adequate and appropriate arrangements are in place.

## **10. The Council’s Responsibilities**

- 10.1 The Council must notify the Agent of all payments received and other contacts with the debtor.
- 10.2 The Council has a responsibility to tell the debtor that if payment is not made within a specified period of time, action may be taken to enforce payment.
- 10.3 The Council must not request the suspension of a warrant or make direct payment arrangements with debtors without notifying the Agent.
- 10.4 The Council must not issue a warrant knowing that the debtor is not at the address, as a means of tracing the debtor at no cost.
- 10.5 The Council must provide a contact point at appropriate times to enable the Agent to make essential queries particularly where they have cause for concern.

## **11. Information**

- 11.1 All notices, correspondence and documentation issued by the Agent must be clear and unambiguous and to the satisfaction of the Council.
- 11.2 On returning any un-executed warrants, the Agent should report the outcome to the Council and provide further appropriate information, where this is requested.
- 11.3 The Agent should provide clear and prompt information to debtors and where appropriate, to the Council.

## **12. Staff Confidentiality Agreement**

- 12.1 The Agent should require that staff (full/part-time, temporary, agency, students) who have access to, or are likely to come into contact with, personal information to sign a confidentiality Agreement as part of their terms and conditions of employment.
- 12.2 The agent will have in place appropriate measures to investigate and deal with the inappropriate or unauthorised access to, or use of, personal information whether intentional or inadvertent.
- 12.3 In the event of personal information having been compromised, whether accidental or intentional, the Agent will without delay:
  - a) Inform the Council of the details;
  - b) Take steps to investigate the cause;
  - c) If appropriate, take disciplinary action against the person(s) responsible;
  - d) Take appropriate steps to avoid a repetition.
- 12.4 On being notified that an individual's personal information has or may have been compromised, the Council will assess the potential implications for the individual whose information has been compromised and if necessary:
  - a) Notify the individual concerned;
  - b) Advise the individual of their rights;
  - c) Provide the individual with appropriate support.
- 12.5 Any matter which is found to involve serious misconduct or unacceptable contravention of the code of practice may lead to termination of the Council's Agreement with the Agent unless the Agent satisfies the Council that the member of staff or enforcement agent whose misconduct or contravention is at issue has been properly dealt with through the Agent's formal disciplinary processes.

### **13. Storage and Retention of Personal Information**

- 13.1 The Agent will put in place policies and procedures governing the secure storage of all personal information retained within their manual and/or electronic systems.
- 13.2 The Agent will provide details of these policies and procedures to the Council on request and shall inform the Council of any changes to such policies and procedures.
- 13.3 The Agent will put in place policies and procedures governing the retention and destruction of records containing personal information retained within their Manual and/or electronic systems.
- 13.4 The Agent will provide details of the policies and procedures to the Council on request and shall inform the Council of any changes to such policies and procedures.

### **14. Disputes, Correspondence & Complaints**

- 14.1 In the event of the customer disputing aspects of their liability or payment history the Agent will contact the Council for clarification on the nature of the charge outstanding and payments received, and how to proceed.
- 14.2 The Agent will answer all correspondence from customers within 5 working days of it being received, wherever possible, supplying copies of such to the Council for its own records where considered appropriate.
- 14.3 The Agent will administer an internal complaints procedure, with which its representatives must be conversant, and provide a monthly statement that summarises the complaints it has administered in respect of the Council's customers, to include confirmation of the number of complaints that were or were not upheld.
- 14.4 The Council will investigate all complaints it receives relating to the actions of the Agent and its representatives, responding to the complainants in accordance with the Council's complaints procedure and informing the Agent of its findings.
- 14.5 The Agent will provide the Council with a copy of its complaints procedure, and advise the Council of any subsequent amendments to the process within five working days of their occurrence.
- 14.6 The Council and Agent will share appropriate documentation to enable either party to administer its complaints caseload efficiently and to respond to customers fully within ten working days.
- 14.7 The Agent should make use of the complaints and disciplinary procedures of professional organisations like the Association of Civil Enforcement Agencies or the Enforcement Services Association.

14.8 The Agent must make available to customers and stakeholders details of their complaints procedure on request and publicise it in accessible places like its website and offices.

14.9 Facilities should be in place to ensure the complaints procedure is available by means accessible to disadvantaged customers like those with visual impairment or whose first language is not English.

## **15. Vulnerable Customers**

15.1 Attempt should not be made to levy or remove goods from the following type of customers due to their vulnerability without prior reference to the Council:

- a) Any elderly persons over the age of seventy-five;
- b) Any elderly persons under seventy-five where it is apparent they are frail, confused, ill or having difficulty in dealing with their affairs;
- c) Any severely disabled persons;
- d) Any person considered to being mentally impaired;
- e) Any person considered to be impaired due to intoxication either through alcohol or drugs where the intoxication is severe enough that the person is not able to deal with their affairs;
- f) Any household where there has been bereavement within the last two weeks;
- g) Any customer (or their partner) who is in the last two months of pregnancy;
- h) Any household with a new baby under the age of six weeks;
- i) Any customer (or household member) who is suffering from long term or serious illness;
- j) Any customer who is suffering from a terminal illness;
- k) Any single parent of children under the age of twelve in receipt of a means tested benefit or who is experiencing financial hardship;
- l) Any property where the English language is not spoken read or understood in the household and where interpretation services are not readily available;
- m) Any customers living on any of the subsistence level benefits where the debt does not exceed £200.00, in which cases it is more appropriate for the Council to administer the debt by the application of an attachment;
- n) Any other person or household where the enforcement agent considers there to be any other vulnerability. The enforcement agent will be expected to explain the nature of the vulnerability and their use of this discretion to the Council.

15.2 When the nature of a person or household's vulnerability is temporary, the agent will place a temporary hold on all enforcement action and will re-visit the account at a predetermined date. This must be communicated clearly with the customer.

## **16. Indemnity**

- 16.1 The Agent indemnifies the Council to the extent to which it is liable for any cost, charge, damages, expenses or loss it has incurred in respect of the failure by the Agent to act in accordance with the requirements of this Code of Conduct.

## **17. Actions at the end of the arrangement**

- 17.1 Upon the termination of the arrangement between the Agent and the Council the Agent shall, at the choice of the Council, return all the personal data transferred and copies thereof to the Council or shall destroy all the personal data and certify to the Council that it has done so unless legislation imposed upon the Agent prevents the return or destruction of all or part of the personal data transferred. In that case the Agent warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data any more.

## **Appendix 1 – Goods Exempt from Distress**

In the process of executing a Council Tax or National Non Domestic Rates distress warrant the enforcement agent must exercise caution, consulting with the Council for advice where there is doubt about removing certain goods. The enforcement agent will not levy on the following items:

- a) For Council Tax only, any tools, books, vehicles and other items of equipment necessary to the debtor for their personal use in the course of their trade, employment, profession or vocation. (Note – while a mini cab driver’s vehicle is a tool of their trade, a car used for commuting purposes is not);
- b) Cooking and heating appliances where such items are not duplicated and where this would leave the customer and other household members with no means of preparing a hot meal and maintaining adequate heating within the premises;
- c) Refrigerators where such items are not duplicated and, where this would leave the customer and other household members with no means of keeping food cold;
- d) Food;
- e) Bedding or household linen that would leave the customer and other household members without the basics required for domestic life;
- f) Beds and chairs, where this would leave the premises without one bed and one chair for each occupant;
- g) Children’s toys and items reasonably required for the welfare or upbringing of any dependent child who is a member of the household;
- h) Medical aids or medical equipment reasonably required for the use of any member of the household;

- i) Books or any articles reasonably required for the education or training of the customer or any member of their household not exceeding an aggregate value of £500;
- j) Articles required for safety reasons in the property;
- k) Items purchased through authorised loans and grants advanced from the Social Fund;

## Appendix 2 – Customer First Analysis

### 1. Purpose

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

This analysis covers the Council’s Enforcement Agent Code of Conduct.

- 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 Code of Conduct which outlines what we expect from enforcement agents working on behalf of the Council. Residents of the borough all benefit 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 – the Enforcement Agent Code of Conduct is part of suite of policies concerning collection and recovery of Council Tax and NNDR.

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

This policy is clear on how the Council expects its enforcement agents, it is accessible, written in plain English and additional support or explanation of the policy is available. The service is accessible and officers operate flexibly within the policies established.

- 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 enforcement agents' 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 these policies, 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?

No.

- Have you identified any potential improvements to customer service?

Formalising our practise will allow our enforcement agents to provide a consistent service which will benefit all customers.

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

Hyndburn Borough Council Enforcement Agent Code of Conduct

n/a

- 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 the policies in the future.

**Name:** Pauline Duckworth **Signed:** \_\_\_\_\_

**Service Area:** Benefits, Revenues and Customer Contact

**Dated:** June 2015