

Extract from PAASC 26 June 2013 – Council Tax Recovery Process

2. Proposal and Issues

The Council Tax recovery process – key points

- 2.1** The recovery of Council Tax relies upon taxpayers being billed promptly with sympathetic, swift and decisive recovery action if payments are late.
- 2.2** Taxpayers may pay by 10 or 12 instalments. When an instalment is not paid a reminder is sent seven days later advising them of the amount to pay and the deadline by which the account must be brought up to date. After a further 7 days a final notice is sent, if there is no response 14 days later a summons should be issued.
- 2.3** Where a summons is issued costs are added to the account. Costs are structured as follows: £93 for the summons and an additional £30 when a hearing at the Magistrates' Court takes place making a total of £123.
- 2.4** There is a direct cost to the Council of £3 per summons which is paid to the court at the point they are issued. The remainder of the charge reflects the cost to the Council of processing the case. In some cases summonses are withdrawn and the costs not charged. This can occur for a number of reasons:
- i. The taxpayer pays in full before the hearing, only the £93 is then payable,
 - ii. There are acceptable reasons for non payment (bereavement, illness etc), or
 - iii. CTS is in the process of being assessed.
- 2.5** A total of 10,500 summonses were issued in 2012/13 and 28% were withdrawn.
- 2.6** The table below shows the impact and projections for 2013/14 based upon an estimated 5,000 additional summonses and similar rate of withdrawals (28%).

	2012/13 Actual	2013/14 Forecast
Summons (number)	10.2k	15.2k
Liability orders (number)	7.7k	12.2k
Costs raised	£1,179k	£1,779k
Withdrawn summonses (number)	2.9k	4.3k
Withdrawn liability orders (number)	2.1k	3.4k
Net costs raised	£849k	£1,281k

- 2.7** The account is taken to the Magistrates' court in order to obtain a liability order. The purpose of the liability order is to authorise further action to recover the debt, such enforcement action is not allowed without this order. With a liability order the following action can be used to recover the debt:
- i. Attachments to earnings or benefit,
 - ii. Recovery action by enforcement agents (bailiffs),
 - iii. Bankruptcy
 - iv. Charging Order

v. Committal to prison.

2.8 The above enforcement actions need to be taken separately and cannot be pursued concurrently, e.g. a debt cannot be sent to the bailiffs whilst an attachment is in place.

2.9 Enforcement action serves two main purposes, firstly it prompts payment in its own right and secondly it acts as a deterrent. Detail of these possible actions is set out below:

Arrangements	<ul style="list-style-type: none"> i. Although, by law, taxpayers are given instalments to pay their Council Tax, in many cases they default and request a payment arrangement outside their statutory instalment plan. The process used by the Council allows for such arrangements but specific criteria must be met before an arrangement is agreed. These criteria are: <ul style="list-style-type: none"> a. A summons must be issued and liability order obtained; this ensures that the debt will be secured in court and further debt recovery action can be taken if the arrangement is not kept. b. Employment details are recorded, this allows an attachment to earnings to be applied if the arrangement is broken c. Payment by Direct Debit is put in place, d. A payment of a proportion of the debt is made immediately
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Attachments	<ul style="list-style-type: none"> i. Where payment has not been received or payment arrangements broken attachments will be applied. ii. Where the taxpayer is in receipt of income support or job seekers allowance an attachment of benefit application will be sent to the DWP asking for payment to be deducted directly from their benefits. It is expected that a large number of applications could be sent in the new circumstances of CTS. However, there are restrictions placed upon this action and taxpayers may only have one attachment to their benefit payments at any one time. Given the multiple strands of Welfare Reform and the demands of other creditors this rule is important as deductions can also be made for housing costs, hostel payments, rent arrears, service charges for fuel and water, fuel costs, water charges, child support maintenance, and some loans. iii. Where employer details are known an attachment to earnings will be applied. In these cases the employer is legally obliged to deduct a percentage from the employee's earnings. This percentage is based upon a sliding scale dependent upon earnings, and is stipulated in the Administration and Enforcement
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	<p>regulations and therefore cannot be amended by the Council. This is the most effective method of debt recovery for Council Tax ensuring regular payment of a set amount towards the debt is made. In addition it may help the taxpayer to manage their finances.</p>
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Bailiff Action	<ul style="list-style-type: none"> i. Should the taxpayer fail to make the agreed payments and an attachment is not possible (as an attachment is already in place for another debt) the case is referred to the bailiffs. ii. Bailiffs will attend taxpayer's property with the intention of collecting payment or removing goods to the value of the debt. The amount the bailiff charges are prescribed in the regulations and include £24.50 for a first visit and then £18 for a second. Bailiffs are will also charge for levying, this is the process of making an inventory of goods within a property with the intention of removing. The charge for this is, by regulation, based upon a percentage of the debt and in the vast majority of cases a payment arrangement is agreed and the goods are not removed. However, if the arrangement is not maintained the bailiff has the right to remove the goods that have been levied upon. iii. Bailiffs are required to adopt and use the Council's Code of practice when recovering debt (Appendix 1).
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Bankruptcy	<ul style="list-style-type: none"> i. Bankruptcy action is taken where sufficient payment has not been received over a period of time and the debt has become large enough to warrant this kind of action. ii. This action cannot be taken against a taxpayer unless the total debt exceeds £750. iii. Checks are carried out to ensure that the taxpayer has sufficient assets to warrant the action. This is usually determined by ensuring that there is sufficient equity in any property owned and also includes an automatic referral to social services before action is taken.
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Committal action	<ul style="list-style-type: none"> i. Committal action is used as a last resort when it appears the debtor has the means but will not pay. The actual purpose of this action is to ensure the taxpayer attends a Means Hearing at the Magistrates' Court. At this hearing it is for the Court to determine the reason for non-payment and to assess the taxpayer's ability to pay based upon their income and expenditure. ii. Where wilful refusal or culpable neglect is found, the court may award a custodial sentence.
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2.10 Enforcement action has been used very successfully at Barking and Dagenham with increases in collection seen as described above. They can and are used where appropriate; however there is room for discretion and each case where appropriate is considered on its own merits where for example the taxpayer is experiencing extreme hardship, bereavement or illness.

2.11 Statistics relating to relating to recovery actions taken in 2011/12 and 2012/13 are shown in the table below:

Recovery action	2011/12	2012/13
Reminders	35,686	35,177
Final Notices	18,379	16,507
Summonses	10,836	10,205
Attachment to benefit	1,496	1,822
Attachment to benefit (pending)	723	1,002
Attachment to earnings	1,491	1,781
Bailiffs	8,129	8,413
Bankruptcy	2	9
Committal hearings	7	10
Committal action - custody	1	0
Charging orders	7	5

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