

# Corporate fair debt collection policy

Promoting rights, responsibilities, fairness, consistency and proportionality

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## Version history

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## Introduction

Luton Council has a legal duty to act solely in the interests of residents, and businesses and other organisations that are active in the borough, to ensure the prompt and cost effective billing, collection and recovery of all sums due to the council.

Delays in collection or non-recovery of debts can lead to:

- higher administrative costs
- increased borrowing requirement
- reduced resources available for the provision of essential services

We've developed this policy to promote our aims to be fair and consistent but also firm in the collection of monies owing.

The policy therefore details the principles we'll apply when undertaking the collection of debt from citizens and businesses that is owed to us.

The policy outlines:

- the objective
- where it applies
- to collect due amounts cost effectively and on time
- the key actions that we'll take to support debtors to assist in the recovery of due debts
- the priorities of debts where citizens have multiple debts
- the monitoring commitments that debt raising and recovery areas in the council have

The policy should be read and understood in relation to the financial inclusion desires of the council.

## Overview

### Policy intention

Our intention in agreeing this policy is to achieve the prompt collection of all sums of money due to us, whilst ensuring that a fair, proportionate and consistent approach is taken to the recovery of sums that are not paid when due.

The prompt collection of monies due is essential to providing the financial resources we need to provide services to the benefit of local residents, businesses and other organisations.

### Scope of the policy

This policy relates specifically to the collection of the forms of revenue shown below:

- Council Tax
- Non-domestic rates (business rates)
- Business Improvement District (BID) levies
- Housing Benefit overpayments
- sundry debts
- council and temporary accommodation housing rental charges
- Adult Social Care debts
- parking debts

The policy may be extended to include other forms of revenue collected by the council. Whilst we'll use our best endeavours to follow the policy, there may be occasions when it's not practical or

reasonable to do so. Non-compliance with the policy does not in itself negate any debt recovery action taken or render it unenforceable.

## Commencement and duration

This updated policy took effect from December 2019 and replaces the corporate debt policy adopted in March 2015. These changes also reflect the enforcement regulations introduced in April 2014.

The policy will have continuous effect but shall be reviewed from time to time, as required, to ensure that it:

- continues to encourage best practice in the field of local authority revenue collection
- meets current legislative requirements

A review of the policy approved by the finance portfolio holder shall be conducted at least once every three years to reflect emerging best practice

## Definitions

The following definitions apply for the purpose of this policy in respect of the terms shown below.

- **Arrears:** for the purposes of this policy the term 'arrears' is used to refer to a sum that is due to be paid to us, has not been paid and the date on which payment was due has passed.
- **Debt:** for the purposes of this policy the term 'debt' is used to refer to an amount that is payable to us.
- **Debtor:** for the purposes of this policy the term 'debtor' is used to refer to a person, persons, organisation or other legal entity that owes a sum of money to us. The term is used for convenience and is not intended to be pejorative.
- **Severe remedy:** for the purposes of this policy the term 'severe remedy' refers to an application to:
  - have the debtor declared bankrupt or other forms of insolvency
  - register a charge against a property
  - apply for the sale of a property against which a charge is registered
  - apply for the debtor to be committed to prison
- **Vulnerable person:** for the purposes of this policy the term 'vulnerable person' refers to a person who has exceptional difficulty dealing with the payment of a bill because of their personal circumstances and who requires additional assistance in dealing with the bill in order to meet their financial obligation. [Further explanation is provided here.](#)

## Effective revenue collection

### Good practice in revenue collection

We aspire to achieve good practice in revenue collection. Good practice is considered to be achieving the best possible cash flow for the council whilst ensuring that:

- the liability to pay is calculated correctly
- enforcement action is reasonable
- those who are vulnerable are assisted in meeting their financial obligation to us

To achieve good practice we'll follow the principles shown below.

1. Issue requests for payment promptly and accurately.

2. Provide clear bills and recovery notices which show clearly what to pay, when to pay it and how to pay.
3. Respond quickly to notifications of changes in circumstances and applications for exemptions, discounts and reliefs
4. Deliver benefit, discount, relief and/or reduction entitlements promptly and accurately.
5. Use digital channels where possible of email and or SMS text to notify debtors promptly,
6. Commence action to recover unpaid amounts promptly to avoid the build-up of arrears.
7. Make it as easy as possible to pay bills by offering a wide choice of convenient payment options.
8. Ensure that all debt recovery documents are clear and inform of the recovery procedures, consequences of not paying and the options available to the council to recover unpaid debts.
9. Provide information about discounts, reliefs, reductions, exemptions and benefit and encourage the take-up of entitlement.
10. Make it easy to contact us through a range of options including online, face to face, by telephone, by email, in writing, or by authorised third parties.
11. Respond to all enquiries promptly and courteously.
12. Signpost to sources of independent money and debt advice.
13. Be proactive in identifying vulnerable persons and in providing them with advice to assist them in meeting their financial obligation to us.
14. Wherever possible use the least severe method of recovering a debt (subject to the method realising payment in a suitable period of time).
15. Instigate legal proceedings promptly where sums due are not paid.
16. Recover the full cost of enforcement action from the debtor, but avoid imposing unnecessary or excessive charges.
17. Respect the debtor's privacy by conducting enforcement activity as discretely as possible.

It's acknowledged that the easier it is to make a payment, then the more likely it is that payment will be made promptly. Therefore, a choice of convenient methods will be offered for payment of bills and invoices and details of these options will be provided with requests for payment.

Whatever the method of payment chosen it's the responsibility of the person making the payment to ensure that payments made reach us by the date they are due. The date payment is due and the due date of any instalments will be shown on each request for payment.

Those having difficulty in paying will be actively encouraged to contact us as early as possible by information on bills, leaflets or the website. Where a debtor contacts us because they're experiencing difficulty in making payment the following actions will be taken:

- check whether the bill should be less or nothing at all by ensuring that all the relevant benefits, discounts, reliefs, exemptions and reductions are being claimed
- provide advice on the most appropriate payment methods
- consider [agreeing a payment arrangement](#)
- provide advice regarding the next course of action that will be taken if payment is not made as required
- where appropriate advise them to contact an independent advice agency

### Multiple debts and our priorities

Where individuals have multiple debts to us where one or more are outside of due dates, we'll seek, when making arrangements, to deal with all council debts that the officer or agent are made aware of.

The priority of multiple debt recovery is to take into account the total impact on the citizen and the council. To this end these guiding principles of priority below will be followed.

Council debts over due dates will be prioritised and paid off in the following order.

Priority 1: social housing debts - current year then earlier years most recent first

Priority 2: fees and fines - as per the regulations stipulate where applicable

Priority 3: Council Tax and Non-Domestic Rates debts - oldest debt first

Priority 4: other recurring debts - oldest debt first

Priority 5: any other non-recurring debts - oldest debt first

Court payment orders will take precedence over informal payment arrangements. For fines (priority 2) only post charge registration may be considered in arrangement processes, providing severe financial hardship is identified as a result of the fine debt.

Where appropriate, new charges for goods, services or fines will still be levied and these new charges should be paid by the due date, with any outstanding amounts used to pay arrears.

### Making it easy to pay

We recognise the need to make it as easy as possible for our customers to pay their bills. In order to reduce the cost to us and, therefore, local taxpayers, the most cost effective methods of payment will be encouraged.

For most bills this will be Direct Debit because it is, by far, the most economical collection method available for both us and the customer. It's also:

- very reliable
- easy to set up and cancel
- backed by a refund guarantee

Where Direct Debit is not available the preferred payment method will be online by debit or credit card.

The [range of payment methods offered is shown in appendix 7](#).

### Promoting the take-up of benefits, reductions and entitlements

We'll take a proactive role in ensuring that no one pays more than they're legally required to, by promoting the take up of entitlement to benefits, reductions, discounts, exemptions and reliefs.

When a benefit or reduction application form is received it will be reviewed in the light of any entitlement to other welfare benefits or tax credits or, in respect of Council Tax, eligibility for a reduction in the bill such single person discount.

Where eligibility for these or other benefits is identified the claimant will be notified accordingly and advised how to claim.

### Responsibilities of debtors

We expect any person or organisation that owes a sum of money to us, or should have a liability to pay, to comply with any and all legal obligations in respect of the liability or potential liability.

Our commitments to a fair debt collection process are set out in this policy and it's our expectation that those owing sums to us will contribute to this process by abiding with the following principles:

- pay amounts due promptly to ensure receipt by the council on or before the date that payment is due
- follow instructions provided regarding the making of payments to ensure payments are credited correctly against the amount due
- inform us promptly of any changes to their circumstances that may affect the amount to be paid or the ability to pay
- notify us promptly if their address changes

- contact us promptly if it is believed the amount charged is not correct, both where the amount may be too much or too little
- contact us promptly if they're unable to pay an amount that is due
- respect the council, its employees and its agents, and respond to them courteously
- be frank and honest when providing information in connection with the billing, collection or recovery of sums due to us

### Arrangements for repayment of arrears

It's our expectation that all bills should be paid promptly as due. However, we recognise that occasionally a debtor will experience genuine difficulty in making a payment when it is due.

Anyone experiencing such difficulty is encouraged to contact us at the earliest opportunity to discuss repayment options. Where contact is made, consideration will be given to entering into an individual repayment arrangement based on the debtor's personal circumstances.

Our staff will seek to obtain as much information as possible about the debtor's circumstances, as considered necessary in order to:

- make the best assessment of their ability to pay
- determine a realistic payment arrangement

More detailed personal and financial information is likely to be required where:

- the debtor claims to be unable to pay the debt over a short space of time
- the debt will not be repaid in full by the end of the financial year

Where a debtor refuses to divulge any information that is considered essential to assessing their ability to pay, then no payment agreement will be entered into.

When undertaking a detailed assessment of a person's financial situation and evaluating their ability to pay, the [Citizen Advice Bureau income and expenditure form](#) will be used. Expenditure declared will be measured against the [Money Advice Trust's common financial statement](#). This will ensure a consistent approach is taken to assessing a person's financial circumstances using a widely recognised methodology.

In accordance with recognised good debt management practice, we'll expect the debtor to undertake to pay priority debts in preference to other debts. Priority debts are those debts that can result in loss of an essential service, loss of a person's home or imprisonment such as:

- County Court Orders or Judgements and Magistrates Liability Orders
- mortgage or rent
- fines
- Council Tax
- service charge or ground rent
- electricity and gas
- telephone
- water
- secured loan
- Child Support Agency deductions
- Child Support payments
- maintenance arrears
- Income Tax
- VAT
- court fines

The principles that will be followed in determining repayment arrangements are:

- we'll seek repayment of all outstanding arrears as soon as possible and in all instances before the end of the financial year
- payment arrangements extending beyond the end of the financial year will only be made in exceptional circumstances following a detailed assessment of the debtor's ability to pay and their personal and family circumstances
- repayment should commence promptly and the first payment of any payment arrangement should normally be payable within no more than one month of the agreement being reached
- where liability is ongoing any arrangement will require payments to be over and above the on-going monthly liability, except in the most exceptional circumstances (for example where a debtor's financial circumstances are expected to improve in the near future)
- where a payment arrangement is accepted at less than the rate at which liability is accruing, the arrangement should be for a maximum of three months but may be extended further following review, but on each occasion shall not be extended for more than three months
- payment of current year debts should be given priority except where this would conflict with arrangements already in place for previous years' debts
- payment arrangements will not be for less than could be obtained by attachment of earnings or deductions from benefits unless there are extenuating circumstance
- payment arrangements in respect of local taxes and BID Levies will be made on the basis that we'll progress enforcement action to the point of obtaining a liability order from the magistrates' court
- payment arrangements should be refused where it is considered that entering into an arrangement may jeopardise the likelihood of us recovering payment in full, for example where there is a risk the debtor will be declared insolvent
- payment arrangements may be refused where the debtor appears to have sufficient assets which could be realised to pay the debt but the debtor is unwilling to take steps to realise the assets

It's recognised that debtors may occasionally make unrealistic offers of payment that they cannot afford. Where we have reason to believe that an offer of repayment is unrealistic, for example a person is known to be on a low income but offers to make substantial payment, further information will be sought in order to agree an affordable rate of repayment.

Payment arrangements will normally be confirmed in writing so that the debtor is aware of the amount and frequency of their payments.

The responsibility for making sure that payment reaches the account by the due date remains with the debtor. This means that debtors must allow sufficient time for the payment to reach us by the due date.

We reserve the right to refuse to accept offers to repayment.

Where a payment arrangement has been agreed but payment is not received strictly in accordance with the agreement, action to enforce payment will be recommenced promptly following the default in payment.

Where a debtor has failed to make payments as agreed further payment arrangements will not normally be considered unless the debtor's circumstances have changed.

Anyone experiencing difficulty in making payments under a payment arrangement due to a change in circumstances should contact us as soon as they experience difficulty.

# Debt recovery

## Enforcement action

It is widely recognised to be good practice to take prompt action where a payment becomes overdue. Commencing action promptly ensures that the debtor is reminded of the requirement to make a payment as early as possible, allowing them the opportunity to bring payments up to date before the debt increases or more severe action to recover payment is commenced.

We'll contact promptly in writing, within the appropriate legislative timescale, any person or organisation that fails to make a payment to inform:

- that the payment is overdue
- the payment options available
- the consequences of failing to pay

Wherever possible correspondence issued in relation to debts will be provided in simple language.

Where the collection of sums due results in increased cost to us, the person owing the debt should be responsible for paying the full cost incurred to recover the amount. Therefore, we'll seek to recover all costs or fees that are legitimately due from a debtor. It's a requirement of this policy that any costs or fees should be reasonable and should reflect the actual cost incurred.

Due to the volume of accounts payable to us, we'll employ automated processes to progress the recovery of sums due. However, where a debtor contacts us in response to enforcement action we'll consider each case individually. Automated processes will not be used to progress severe remedies.

We recognise that people do not pay their debts for a variety of reasons:

- some people genuinely struggle to meet their payments and need advice and assistance in budget management
- some people are not receiving the benefits or reductions they are entitled to
- some people go through personal difficulties that result in short-term problems in paying their debts
- some people deliberately choose to set out to delay and not pay their debts
- some people are not very organised in managing their finances resulting in erratic payments

Where the debtor is willing to provide information about their personal and financial circumstance, we'll take this into account in determining the enforcement action to be taken, and in agreeing any payment arrangement.

The debtor's previous history in paying sums due to us will also be taken into account.

## Recovery processes

We'll establish timely and vigorous processes for the recovery of overdue sums and will start to recover unpaid debt promptly when:

- a payment becomes overdue
- an instalment plan or payment arrangement is not maintained

We'll be stringent in recovering overdue amounts from persistent non-payers and late-payers.

Details of the recovery processes for rent arrears can be found in our [rent arrears policy](#).

Details of parking enforcement processes can be found in the [parking exemptions and permit policy](#).

Details of the processes to be followed for the other types of debt are contained in the appendices to this document.

In pursuing the payment of overdue sums we may utilise any and all of the methods available to us in law. However, the enforcement actions employed in each case should be on an escalating basis, with repayment being sought by the least severe action, and then actions of increasing severity used where actions are not effective in securing payment.

### Severe remedies

For Council Tax, Business Rates and sundry debts the following enforcement actions are considered to be severe remedies and should only be used in accordance with the use of severe remedies appendix to this policy:

- application to have the debtor declared bankrupt or for other forms of insolvency
- application to register a charge against a property or apply for the sale of a property against which a charge is registered
- application to have the debtor committed to prison

Charging Orders are a severe enforcement process, but they can and will be applied to protect the council's debt, especially with larger debts. Normally these are helpful to get an outstanding debt paid without recourse to selling the property.

### Vulnerable people

We recognise that some members of the community may be considered to be more vulnerable and, therefore, may require additional support in dealing with their financial affairs.

Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay. However, where a person is recognised to be vulnerable, depending on the individual circumstances of each case consideration may be given to:

- allowing longer to pay
- postponing enforcement action for a period
- assisting the person to claim benefits, reductions, discounts or other entitlements
- referring the person to sources of independent advice including financial
- providing information in an accessible format
- a temporary payment arrangement
- informing relevant council services of any concerns regarding the debtor's safety or welfare

The cause of vulnerability may be temporary or may be permanent in nature and the degree of vulnerability will vary widely. The following list identifies some of the characteristics of persons who may be considered vulnerable although each case will be taken on its own merits.

### Disabled persons

Where the disability affects the person's ability to deal with their financial affairs they should be considered to be vulnerable.

### Persons with mental impairment or learning difficulties

If it is evident that the debtor has mental impairment or learning difficulties they should be considered to be vulnerable.

### Persons experiencing serious illness, including mental illness

Where the debtor (or the debtor's partner) appears to be suffering from any condition which is serious or life threatening they may be considered to be vulnerable.

### Persons receiving benefits (or where a benefit application has been made but not yet determined)

Benefits include Income Support, Job Seeker's Allowance, Employment and Support Allowance or Pension Credit,

If the debtor is in receipt of benefits and in serious financial difficulties due to loss of employment for example and the person is suddenly unable to meet their existing financial commitments they may be considered vulnerable.

### A person who has difficulty understanding English

Where a person does not understand either spoken or written English they may be considered to be vulnerable, particularly if they do not have support from family members who can speak and read English. Appropriate translations should be provided where necessary.

### Persons aged under 18

It is unlikely that a person aged less than 18 years will owe any sums to us. However, it's possible that:

- a person may assist or care for a parent or other older person and could contact us on their behalf
- a person aged less than 18 years may be the only person at home when an enforcement visit is made

Anyone aged less than 18 years should automatically be considered to be vulnerable and no enforcement action should be pursued on that visit even though the law allows this where a person over 16 is present.

### Elderly persons

Elderly people who are frail, confused, ill, and living on fixed and limited incomes may be considered to be vulnerable.

### A person recently bereaved

A person suffering the recent bereavement of a close relative may be considered to be a vulnerable person.

### Lone parents

Lone parents, and in particular those with very young children, may have difficulty in undertaking employment and, therefore, rely on benefits may be considered vulnerable.

### Late stages of pregnancy

A person in the later stages of pregnancy may find dealing with serious financial issues stressful, particularly if they're:

- not supported by a partner
- on a low income or benefits

This may be compounded by additional essential expenditure due to the pregnancy or birth of a child and may be considered as vulnerable.

### A person that has difficulty reading or writing

A person who has difficulty reading or writing should usually be regarded as vulnerable because they'll have difficulty in understanding written notices. People who have difficulty reading or writing may be reluctant to reveal their difficulties and where there is concern that a person has such difficulties the issue should be addressed in a sensitive manner.

This list is not intended to be exhaustive and each case will be considered on an individual basis taking into account all relevant factors.

For the purpose of this policy the key factor in determining that a person should be regarded as vulnerable will be that the circumstances which give rise to the concern that the person (or a person in that household) is vulnerable affect their ability to deal with their financial affairs or ability to pay.

Particular care will be taken in authorising enforcement action where the debtor is known to be vulnerable.

[Further guidance relating to the use of severe remedies is provided in appendix 6.](#)

### Enforcement agents and debt collection agents

A [code of practice](#) to be followed by enforcement agents and debt collection agents appointed by us.

The Ministry of Housing, Communities and Local Government also issued a [good practice guide for the collection of Council Tax arrears](#). This must also be followed by any debt collection agent appointed by us. Finally, any enforcement agent appointed by us must follow the [CIVEA code of practice](#).

The Housing department also uses debt collection agents and will use court appointed bailiffs to repossess a home.

### Evasion and fraud

The unlawful evasion of payments due to us reduces the financial resources available and has a direct impact on all residents, businesses and other organisations that rely on council services.

Unlawful evasion or fraud to avoid payment will not be tolerated and where this is identified then in addition to taking action to enforce payment, we'll seek to impose such further penalties or sanctions as the law allows, which may include prosecution for such offences.

Where debts arise through evasion or fraud we'll seek to recover payment in full as quickly as possible and whilst each case will be considered on its own merits, we'll only agree payment arrangements in very exceptional circumstances.

## Promoting good practice

### Maintaining good practice

We'll seek to comply with current good practice guidance in respect of local authority revenue collection published by recognised bodies, except where to do so would conflict with the best interests of the council or local residents.

In particular we'll have regard to good practice guidance provided by professional institutes such as:

- Chartered Institute of Public Finance and Accountancy
- Institute of Revenues
- Rating and Valuation
- CIVEA

We'll also seek to comply with the following guidance:

- [Collection of Council Tax arrears good practice protocol](#) (Published by Citizens Advice July 2013)
- [National Standards for Enforcement Agents January 2012](#) (Published by Ministry of Justice)
- [Council Tax – guidance to local councils on good practice in the collection of Council Tax arrears](#) (June 2013)
- [CIVEA Code of Conduct and Good Practice Guide](#) (2012)

Staff employed in the collection of revenue will receive appropriate training commensurate with their duties. This will include child protection and safeguarding training.

Professional development and membership of professional institutes such as the Institute of Revenues Rating and Valuation (IRRV) will be encouraged, as well as ongoing professional development.

### Propensity to pay data

A common approach, often referred to as 'propensity to pay', involves scoring accounts based on their likelihood to pay. We use credit bureau data to score accounts based on their likelihood of payment.

We use this data to classify accounts into 5 categories of propensity:

- very high
- high
- medium
- low
- very low

Those with a very high or high propensity to pay have little to no consumer debt but have an outstanding debt with us. Those with a low or very low propensity to pay have high consumer debts as well as a medium to high debts with us. This information is used by officers to help them to determine the appropriate recovery action.

### Promoting wider good practice

We encourage all organisations and individuals collecting sums due from residents, businesses and other organisations in Luton to follow good practice in the collection and recovery of debts.

Please note that this fair debt collection policy is based on that of Bedford Borough Council, who has given permission for this.

Organisations that are not conducted or established for profit wishing to use this policy as a basis for their own good practice may do so, but should indicate that their policy is based on the [Bedford Borough Council fair debt collection Policy](#) in any published version of their policy.

The contents of this policy are the copyright of Bedford Borough Council and may not be used for commercial purposes without express consent from Bedford Borough Council.

Organisations adapting the policy for their own purposes should satisfy themselves that their policy is suitable for their purposes and complies with the relevant law. Bedford Council or Luton

Council will not be held liable for any losses or damages that may arise as a result of an individual or organisation adopting this policy or any revised version of the policy.

### Working with advice agencies

We'll seek to work in partnership with local advice agencies and refer people who appear to have complex benefit or money advice problems.

Wherever possible summonses issued on behalf of the magistrates' court for non-payment of local taxes will also include information about advice agencies and the services they offer.

When assessing a person's financial situation an income and expenditure form replicating the form used by the Citizens Advice Bureau will be used and expenditure declared will be measured against the [Money Advice Trust's common financial statement](#). This will ensure a consistent approach is taken to assessing a person's financial circumstances using a widely recognised methodology.

Advice agencies will be provided with an email address and telephone number on which to contact the relevant council service so that issues can be taken up and resolved quickly.

We'll seek to comply with [Collection of Council Tax arrears good practice protocol](#) published by Citizens Advice in 2013.

## Miscellaneous

### Equality duty

As set out in [section 149\(1\) of the Equality Act 2010](#), we have a statutory equality duty to:

- eliminate unlawful discrimination
- advance equality of opportunity
- foster good relations

In determining this policy, consideration has been given to our statutory equality duty and an equality analysis was conducted. It was concluded that this policy has a positive effect on our duty.

Acting in accordance with this policy will help to ensure that the collection of sums due is conducted in a consistent and objective manner that will reduce the risk of inadvertent discrimination against persons with protected equality characteristics.

It will also ensure and that revenue collection and recovery is delivered in an equally accessible manner to all members of the community.

### Exceptions to the policy

On rare occasions it may be in the best interests of the council or local residents for action to be taken in the collection or recovery of a debt other than in accordance with this policy.

On such occasions a decision may be taken by an appropriately senior officer (service manager or above) to allow an exception to the Policy having considered the normal requirements of the Policy, the specific case and the interests of the council and local residents.

Where such an exception is made to the policy, the decision and the reason for the decision shall be recorded in writing by the officer making the decision and should be open for audit/inspection. Any declaration of interest in any such decision should be declared and any such decision made by a more senior officer in consultation with the finance portfolio holder.

## Measuring performance

We aspire to be a high performing council in all our undertakings including the collection of revenue. The collection of revenue will be monitored through the use of performance indicators. Key indicators of performance will be reported as part of our performance management framework.

Where comparative information is available either nationally or locally, we'll aim to be in the top 25% performing of similar unitary authorities and will publish performance information annually on its website.

The performance of external service providers such as appointed enforcement agents will be monitored to ensure services are provided in accordance with this policy. We reserve the right to amend the amount of work it sends to enforcement agents based on their performance. This will be discussed in review meetings.

## Disputes, complaints and mistakes

We recognise that mistakes in the billing, collection or recovery of amounts due can cause distress and we aim to:

- issue all bills for the correct amount
- ensure enforcement action is necessary and proportionate

If an apparent mistake is brought to our attention the issue will be investigated promptly and where a mistake has been made an apology will be made and the mistake rectified.

Compensation will not normally be considered except where it can be demonstrated that the mistake has directly resulted in a financial loss to the debtor. Requests for compensation will be considered in accordance with the [council's constitution](#) and in considering requests, the interests of local taxpayers must be taken into consideration.

Any disputes raised regarding the application of this policy should, in the first instance, be raised with the relevant council service. In the event that the dispute cannot be resolved then the dispute shall be dealt with in accordance with [our complaints procedure](#).

## Disclaimer

We'll seek to adhere to this policy. However, no omission in respect of the requirements of this policy shall invalidate a requirement to make a payment, nor shall it be accepted as a basis for delay in the making of a payment.

The policy does not affect our statutory rights or those of any appointed enforcement agents, their companies or the debtor.

## Use of data

We'll collect and store personal data for the purposes of the effective billing, collection and recovery of sums due. Data retained for this purpose will be processed in accordance with the [Data Protection Act 2018](#) and will be stored securely at all times.

Data will be shared with agents or contractors appointed by us for the purposes of the billing, collection and recovery of sums due. Data may also be shared within the council or with external organisations where the law allows and, in particular:

- where it is in the interests of the debtor
- where it will prevent fraud or the unlawful evasion of payment of sums due

What information is shared and with who can be found in our [Revenues and Benefits privacy notice](#).

## Appendix 1 - Council Tax recovery process

The collection of Council Tax is governed by [The Local Government Finance Act 1992](#) and other subsequent legislation. Every dwelling within the borough of Luton is subject to the Council Tax based on the valuation band of the dwelling.

A bill is issued annually to the liable person, usually the resident of an occupied dwelling or the owner of an unoccupied dwelling, requiring payment in either ten or twelve monthly instalments.

The income received from Council Tax is kept by us, with the exception of approximately 15% which is collected on behalf of Bedfordshire and Luton Fire and Rescue Authority and Office of the Police Commissioner for Bedfordshire.

### Explanation of recovery terms

**Reminder:** a legal document issued when an instalment is overdue.

**Final notice:** a legal document issued when an account is in arrears and the right to pay by instalments has been lost or where there is no statutory right to instalments.

**Liability order summons:** a document issued by the magistrates' court summoning the debtor to attend a hearing where the court will consider making a liability order.

**Liability order:** an order made by the magistrates court, if they're satisfied the Council Tax is outstanding, which gives us the power to take further action to enforce payment. The main options are:

- ordering deductions to be made from earnings or benefits where appropriate
- ordering an attachment of earnings order where appropriate
- ordering deductions from the allowances of a member of a local authority
- the case is referred to the enforcement agent for further enforcement action - the enforcement agent:
  - will charge additional fees in accordance with the relevant statutory provisions
  - must abide by the council Code of Practice whilst seeking to enforce payment
- small debts may be referred to a collection agent rather than an enforcement agent.

A payment arrangement may be considered at any stage in the enforcement process and we aim to consider an individual's circumstances and ability to pay. However, we may refuse to accept payment arrangements where they are unreasonable or it is considered there is little likelihood the arrangement will be kept.

Where a payment arrangement is defaulted upon the case will be dealt with immediately under the normal collection procedure. The case will be checked thoroughly to establish which method of recovery is appropriate prior to enforcement action being taken.

However, if the taxpayer contacts us to explain why the arrangement has been broken then consideration may be given to making a further arrangement.

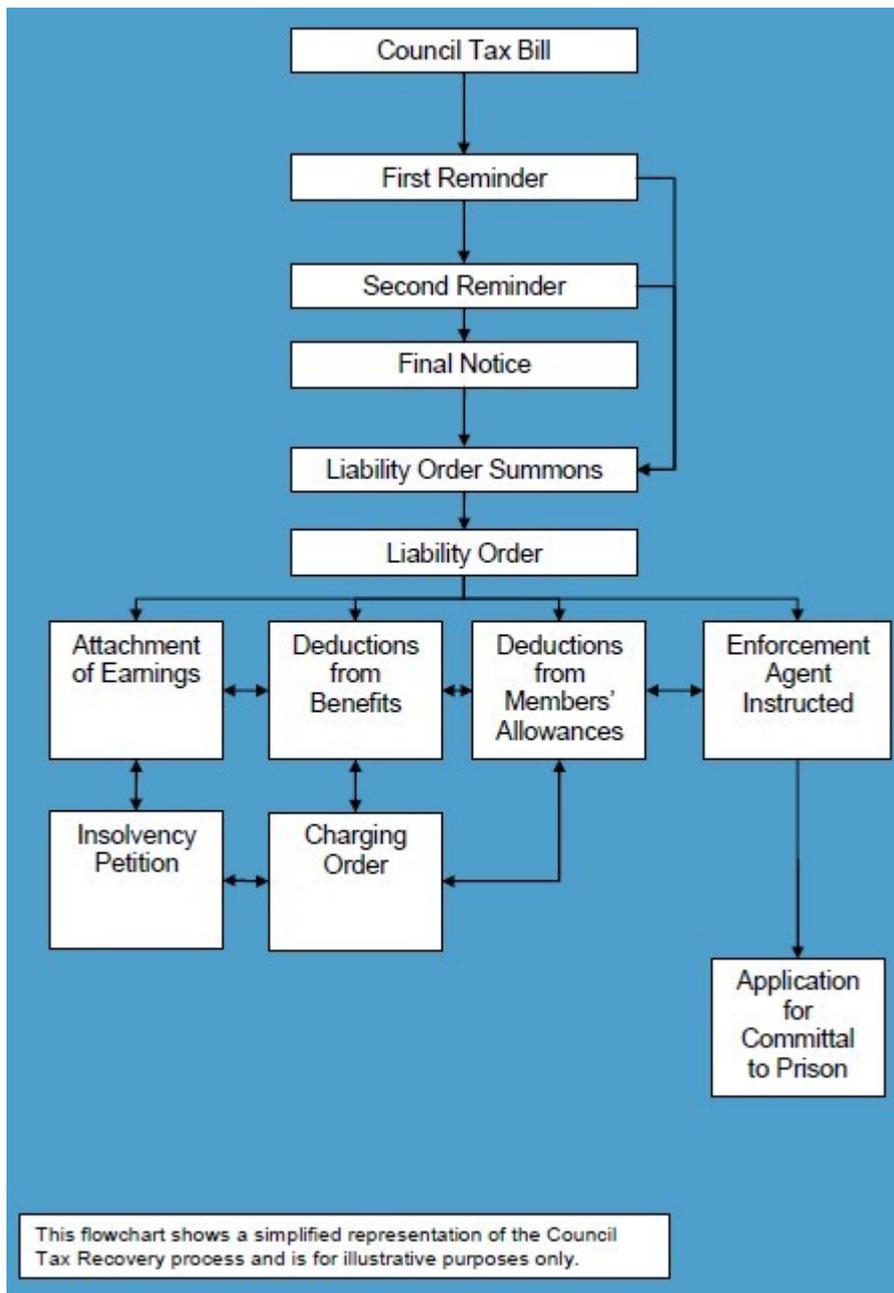
If all other enforcement options fail then we'll consider using more severe remedies to collect the debt.

The remedies available are to:

- instigate bankruptcy proceedings
- apply to the county court for a charging order to be registered against the property
- applying to the magistrate's court for the debtor to be committed to prison

Use of these remedies will only be considered in line with [use of severe remedies appendix](#) of this policy.

## Council Tax recovery process flowchart



## Appendix 2: non-domestic rates (NDR) recovery process

The collection of NDR is governed by [The Local Government Finance Act 1988](#) and other subsequent legislation. Every non domestic property within the borough of Luton is subject to NDR based on the rateable value of the property which can include but not limited to:

- land
- advertising rights
- telecommunications masts
- moorings

A bill is issued annually to the liable person, usually the person entitled to possession, requiring payment in ten or twelve monthly instalments. We retain a proportion of the income from, with the remainder being paid over to central government and Bedfordshire Fire and Rescue Authority.

### Explanation of recovery terms

**Reminder:** a legal document issued when an instalment is overdue.

**Final notice:** A legal document issued when an account is in arrears and the right to pay by instalments has been lost or where there is no statutory right to instalments.

**Liability order summons:** a document issued by the Magistrates' Court summoning the debtor to attend a hearing where the court will consider making a liability Order.

**Liability order:** an order made by the Magistrates, if they're satisfied the rates are outstanding, which gives us the power to take further action to enforce payment. The main options are:

- instructing an enforcement agent to seize and sell the debtor's goods
- commencing bankruptcy or winding up proceedings
- applying to the court for the debtors committal to prison

Where payments due have not been made we'll take the following actions.

We'll issue a **reminder** advising the amount that is overdue and requesting payments be brought up to date within seven days. Should the amount due not be received then after a further seven days the full remaining balance of the year's rates will become due. A complaint will then be made to the Magistrates' Court requesting the issue of a **liability order summons**.

Where payments are brought up to date following the issue of a reminder, but then a further payment becomes overdue, a **final notice** will be issued advising that:

- the right to pay by instalments has been lost
- the full remaining balance of the year's rates should be paid within seven days

In the event payment in full is not received a complaint will then be made to the Magistrates' Court requesting the issue of a **liability order summons**.

Once a complaint is made to the court the Magistrates will normally issue a **summons** to attend a liability order hearing. The costs we incur in making the complaint will be added to the outstanding rates and the application for a liability order will include these costs. The costs to be charged will be determined in accordance with our normal procedure for setting fees and charges.

Once a liability order has been obtained in court we'll monitor payment arrangements where business ratepayers have already us and agreed a payment arrangement.

In most other cases the liability order is referred to an enforcement agent for collection. The enforcement agent will charge additional fees in accordance with the relevant statutory provisions. The enforcement agent must abide by our code of practice whilst seeking to enforce payment.

If the enforcement agent is unable to collect the debt, consideration will be given to the use of more severe recovery proceedings such as:

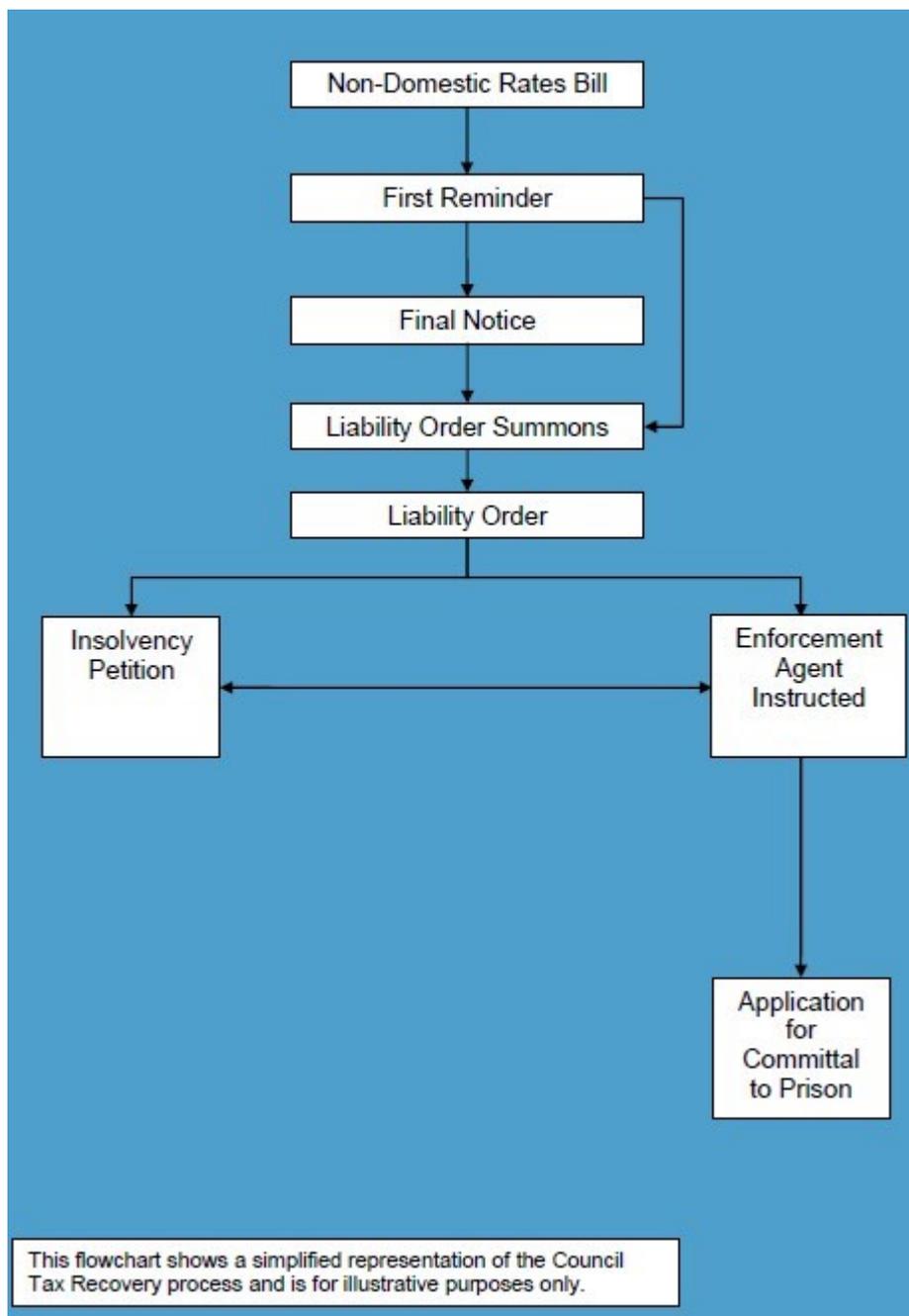
- bankruptcy
- winding up proceedings
- applying to the Magistrates' Court to have the ratepayer committed to prison

[Use of these remedies will only be undertaken in line with appendix 6 to this policy.](#)

A payment arrangement may be discussed at any stage and we aim to consider the business's specific circumstances and ability to pay.

If a payment arrangement is not adhered to the case will be dealt with immediately under the standard recovery action procedure. The case will be checked thoroughly to establish which method of recovery is appropriate prior to enforcement action being taken.

## NDR recovery process flowchart



## Appendix 3: Business Improvement District (BID) levy recovery process

The collection of BID levies is governed by the [Business Improvement Districts \(England\) Regulations 2004](#).

A levy notice is issued annually to the liable person, the non-domestic ratepayer, requiring payment in one instalment.

Where payment is not received as requested by the levy notice, the recovery process required to be used is the same process used for the recovery of unpaid NDR ([as listed above](#)).

Since payment is due in one instalment there's no requirement to issue a reminder notice and the first document issued after the levy notice will be a final notice.

Due to the requirement to pay in one instalment, and the relatively small amount of the levy, we'll only enter into arrangements to pay by instalments in exceptional circumstances.

## Appendix 4: overpaid Housing Benefit recovery process

[Section 75 of The Social Security Administration Act 1992](#) provides us with the power to prescribe the circumstances when an overpayment is recoverable. This act underpins [The Housing Benefit Regulations 2006 \(HBR 2006\)](#) and outlines:

- our right to recover
- discretion to recover
- whom to seek recovery from
- methods of recovery

### Decision making

We must make a number of decisions in the course of calculating overpayments of Housing Benefit and undertaking recovery action. In making these decisions we'll have due regard to the circumstances of each case and will not apply 'blanket' policies which may constitute a fettering of its discretion.

We specifically undertake to ensure that no person is required to repay unrecoverable overpayments. An unrecoverable overpayment (as defined in HBR 2006) is one that:

- has been caused by official error
- the claimant or recipient of the benefit did not contribute to
- the claimant or recipient of the benefit could not reasonably have been expected to know that an overpayment was occurring at the time that payment was made or at the time of notification

In respect of recoverable overpayments, due consideration will be given to the question of whether or not we should exercise its discretion not to recover the debt.

No landlord or agent will be required to repay an overpayment where the conditions of [regulation 101\(1\) of the HBR 2006](#) are satisfied. We'll then decide whom to seek recovery from in accordance with HBR 101 (2).

### Principles of overpayment recovery

We'll seek to recover overpaid Housing Benefit in the most efficient and cost-effective manner, having regard to its statutory obligation to protect public funds. We will, however, have regard to the circumstances of the individual from whom recovery is sought.

The person from whom recovery is sought shall have the right to request a revised repayment arrangement based on their financial circumstances. The minimum rate of recovery is set in accordance with the lower level rate of recovery, as determined by the Department for Work and Pensions (DWP).

We'll review all concessionary payment arrangements periodically. If the overpayment is subject to an appeal, either with us or the DWP, we'll consider whether recovery should be suspended or not, pending the outcome of the appeal.

### Specific methods of recovery

#### Instalment recovery

We may use instalment recovery where the debtor has continuing entitlement to Housing Benefit. A portion of the weekly entitlement is withheld and offset from the outstanding debt until it has been fully recovered.

The provisions of regulation 102 limit the maximum amount that may be recovered each week and

we will not exceed these maximum amounts without express written agreement from the debtor. In any case, we won't reduce a person's minimum weekly payable benefit below 50 pence.

At the outset of instalment recovery, we'll decide on the level of deduction to be made on the basis of the information available. The claimant will be notified of the commencement of instalment recovery.

If the claimant is experiencing financial hardship they may request a revised repayment arrangement based on their financial circumstances notwithstanding the minimum rate of recovery. We may request such reasonable information as is necessary to decide on an amended level of recovery.

#### Offset of entitlement (netting off)

We may offset some or all of any amount of benefit owed to the claimant to recover an overpayment in part or full (HBR102 (1)). This may occur, for example, where an amount of benefit is owed due to the effect of a 'backdated' advantageous change of circumstances.

Wherever applicable, underlying entitlement to benefit during the overpayment period will be taken into account and, if the necessary information for calculation of underlying entitlement is not available, claimants will be given at least one opportunity to provide that information.

#### Recovery from 'blameless tenants'

Where an overpayment is recoverable from a third party, such as a landlord or agent, and Housing Benefit continues to be paid to that third party, we may recover the overpayment by deducting some or all of any due payments to the third party.

Recovery may be made in this manner even if the third party is no longer receiving payment of benefit direct for the person in respect of whom the overpayment was made

In this case recovery is said to be being made from the entitlement of the third party's 'blameless tenants'.

#### Recovery from other Social Security benefits

If recovery from ongoing entitlement to Housing Benefit is not available, we may seek to recover overpaid benefit from another social security benefits (as detailed in HBR 105(1)) in payment to the claimant.

#### Recovery from Housing Benefit paid by another council

This method of recovery may be appropriate where the debtor has left the creditor council's area and it can be established that they are in receipt of Housing Benefit in another council's area. The debt may then be recovered by way of the new council, which will make deductions from ongoing entitlement on behalf of the creditor council.

#### Recovery via sundry debtor invoice

Where no other method of recovery can be used, we'll issue an invoice to the debtor for payment. Payment is due on demand unless the debtor is experiencing financial hardship and cannot make full payment. In this instance, the debtor should contact the overpayment section to advise them of this.

Unless a mutually acceptable arrangement can be agreed, the debtor will be asked to complete an income and expenditure form and a payment arrangement will be made based upon the information provided.

Following the issue of the first invoice, if neither payment nor any contact is made from the debtor, we'll issue a reminder invoice 28 days later. If neither payment nor any contact is made from the debtor, we'll issue a final invoice 7 days later. Where payment or contact is still not received, we'll take further recovery action.

### Collection agents

Where no payment has been received 7 days after the final invoice has been issued, we may instruct our collection agents to visit the debtor with a view to securing payment or a payment arrangement.

### Deduction from earnings

We can apply to undertake a deduction of earnings without the need to go to court.

### Registration of debts at County Court

Where recovery by any of the methods outlined above is unavailable or impracticable, we may seek to enforce recovery by registering the debt at a County Court. This has the effect of enabling us to use recovery methods that are otherwise unavailable without obtaining a County Court judgement (CCJ).

We will not seek to register a debt at County Court:

- before the debtor has had the opportunity to dispute the overpayment decision (one calendar month)
- where a request for revision or appeal is outstanding

We will incur costs when registering a debt and these will be added to the total debt owed. The effect of registering the debt at County Court will enable us to enforce the order via one or any of the methods detailed below:

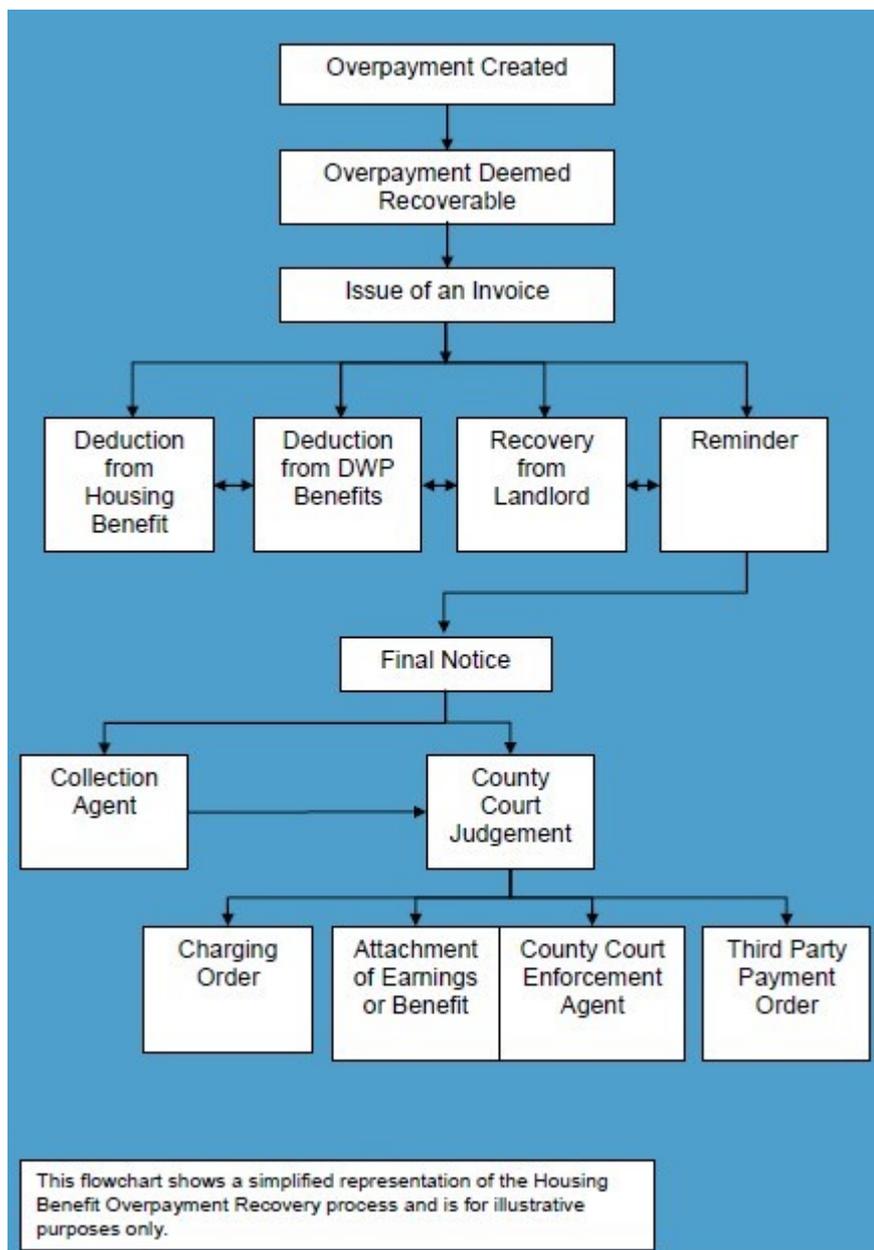
- attachment of earnings order
- charging order
- warrant of execution
- third party debt order

This list is not exhaustive and we'll seek to enforce the order through whichever method of enforcement is the most practicable and cost effective.

### Adjustment of Council Tax Reduction (CTR)

CTR is paid to a claimant by way of a credit to the claimant's Council Tax account. Where an adjustment is required which reduces the amount of CTR, the amount will be debited from the Council Tax account. The resulting outstanding Council Tax will be recovered in the same manner as other sums of Council Tax.

## Housing Benefit overpayment recovery process flowchart



## Appendix 5: sundry debt recovery process

We'll issue an invoice as soon as possible after the event giving rise to the charge occurs. All sundry debt invoices will be issued for payment due immediately except where there is a contractual agreement to make payment at agreed intervals (such as monthly direct debit payments). All the available payment methods will be stated clearly on the invoice.

The customer can contact us at any stage following receipt of the invoice to discuss payment by instalment arrangement if payment in full is not possible for the customer.

For adult social care (ASC) sundry debts we have an ASC income collection debt recovery procedure for collecting debt from customers of ASC in Luton who have been assessed as having to pay a charge in relation to their care.

For other sundry debts, if payment is not received within 28 days from the invoice date, and no request is received to consider a payment arrangement, we'll send a first reminder letter.

Should payment not be received after the issue of the first reminder and within 50 days of the invoice date, we'll send a **second reminder** giving the debtor seven days to pay to avoid the debt progressing to the legal recovery stage.

Should no payment be received within seven days from the date of the second reminder the debt will proceed to the legal recovery stage and be subject to one or more of the following actions.

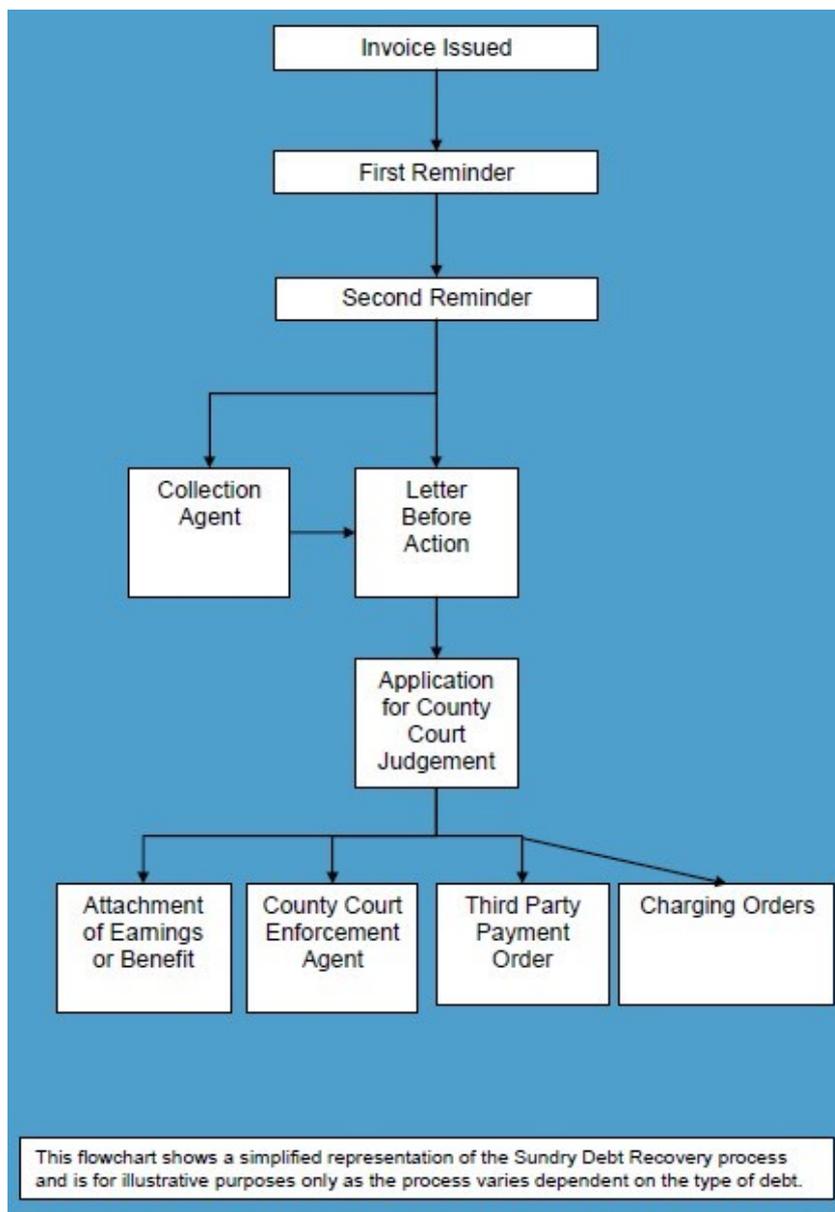
1. Referral to our approved **collection agent**.
2. Issue a **letter before action** giving notice that the debt should be paid within seven days or the debt will become the subject of a **county court action**. This letter should include a reference to claiming court costs, fees and interest, otherwise these will not be possible to add.
3. If no response within the seven days the council will file a claim in the county court. The legal costs incurred in the county court proceedings and any statutory and/or contractual interest claimable may also be added to the principal debt owed.

The effect of issuing the claim and obtaining judgment in the county court will enable us to enforce the order via one or any of the methods detailed below:

- a. attachment of earnings order
- b. warrant of execution against the debtors goods - this means we'll refer the debt to the county court's enforcement agent
- c. any of the other enforcement processes permissible under the [Civil Procedure Rules 1998](#) that we may deem appropriate, dependent on the circumstances of the debtor

We may charge interest on overdue commercial debts in accordance with our policy for the charging of interest on late payment of commercial debts.

## Sundry debt recovery process flowchart



## Appendix 6: housing rent arrears

### Purpose and scope

This appendix is intended to be a brief summary of our [rent arrears policy](#), to give information and guidance to tenants who find themselves in need of a clearer understanding of their position.

The intention is to explain the processes clearly to show the transparent nature of the work, rather than give a detailed analysis of the legislation, policies and procedures involved.

### Communication and contact with us

In order to make rent payment easier, several payment options have been made available, including:

- direct debit
- paying online
- banker's standing orders
- PayPoint
- telephone payment

Advice is available on alternative methods of payment online, and is also provided at the pre-tenancy/sign-up and subsequent interviews – [see pay my rent](#).

To help you in managing your own rent accounts, a statement of account is sent to you on a bi-annual basis. You can also, at any time, request a printed balance of your account that will show transactions for the previous ten weeks.

## Confidentiality

Members of staff must correctly identify the person to whom they are talking as the tenant, and this can be done either by the use of the tenant password facility, or by questions to establish identity.

Private interview facilities exist in all points of service delivery.

In the case of home visits members of staff must identify themselves by the use of their Luton Council identity badge. They must gain your consent to talk, and ensure that privacy is maintained.

## Arrears actions

Payment of rent is not a choice. An arrears action occurs when you fail to pay your rent that is due.

If you fail to pay your rent we'll start recovery which may include:

- correspondence
- telephone calls
- home visits
- referrals to specialist agencies
- applications for direct payments from Department for Work & Pensions benefits
- in severe cases, the use of the legal process

All letters and contact with you will seek to recover the full balance of any arrears due and encourage you to contact the Income Management team to discuss your account, whilst they offer advice and support in meeting their rent obligation.

If it's not possible to recover the full balance outstanding, we'll seek to establish a realistic arrangement for the repayment of the arrears with due regard to your ability to pay.

Any contact with you will:

- seek to establish the reason for non-payment
- offer support to maximise income by claiming any benefit entitlements
- offer support with budgeting
- refer to specialist money/welfare benefits advisors as appropriate

The consequences of continued non-payment and failure to comply with the arrangement made will be discussed. We'll offer to confirm any rent arrears contact in writing and may in some circumstances do so as a matter of course.

## Possession action

For persistent non-payment of rent, where all efforts to contact and establish payment have failed, we'll use the legal processes available to take possession of the property and obtain a money judgment for the debt and associated costs.

Legal action taken will depend on the type of tenancy held, whether it is an introductory or secure tenancy.

- As a secure tenant, you can normally live in our property for the rest of your life, as long as you don't break any conditions of your tenancy.
- As an introductory tenant you are offered one of our properties on a 'trial' like period. This lasts normally for 12 months. If you do not break any conditions of your tenancy you will become a secure tenant.

For a secure tenant, we would usually ask for a **suspended possession order**, on terms that you keep to an agreed, realistic payment plan that will reduce the debt as quickly as is reasonably possible.

If these terms are not maintained, or if an **outright possession order** is granted, an application will be made for a **bailiff warrant** to evict you from the property.

For introductory tenancies, a **notice of termination** is served which brings the tenancy to an end.

You do have the right to a **review panel** hearing before the notice expires. If the panel decide the notice will stand, application is made to the courts for a **mandatory possession order**.

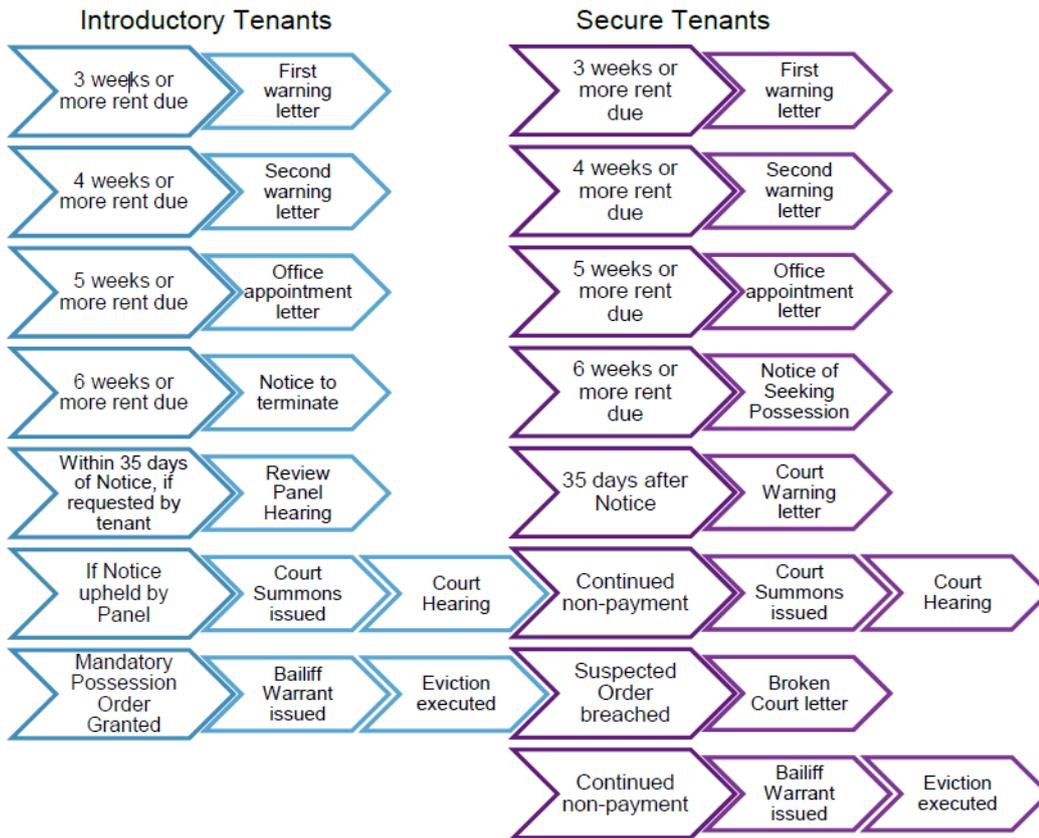
Unless we've made a mistake, the court must grant the order. A bailiff warrant for eviction will then be sought.

- A review panel consists of two or more independent managers familiar with housing law, local policies and practice.
- The review panel decides upon cases where you have broken the conditions of your introductory tenancy.

Whenever a court action is taken for rent arrears, court costs are incurred. These costs are currently £250 per action. A further £110 costs are added if a bailiff warrant is issued.

### Flow charts

The flow charts below show the steps taken in the arrears process. For those on a low income; the weekly rent payable is an amount after help is afforded by the Housing Benefit scheme.



## Other information

- Secure tenancies are regulated by the [Housing Act 1985](#)
- Introductory Tenancies are regulated by the [Housing Act 1996](#)
- In addition, social landlords must comply with the [national pre-action protocol](#)

## Appendix 7: parking debt

### Purpose and scope

We're responsible for the collection of all parking fines issued under [part 6 of the Traffic Management Act 2004](#).

A legal framework exists for the collection of these fines. Two types of notice may be issued:

- for parking contraventions such as where you parked in a bus lane
- for vehicles unlawfully driving in a bus lane

It's expected that customers pay for parking fines. However, if customers are having difficulty paying then we, as a reasonable authority, will agree a timescale for payment promptly. Our processes are outlined in the flow charts detailed below.

This is a civil debt and will be enforced when failure to make payment occurs through the county court. If necessary we will refer to our enforcement agents to recover the amount outstanding. Further costs of £420 will be incurred.

A persistent offender or evader of parking fines is at risk of their vehicle being removed. Removing a vehicle incurs additional recovery costs.

### Communication and contact with us

As this is a legal process we recommend communication is in writing. Please contact us at:

Email: [parkingoffice@luton.gov.uk](mailto:parkingoffice@luton.gov.uk)

Or our postal address is:

Penalty Charge Representations  
Parking Services  
Luton Council  
LU1 2BQ

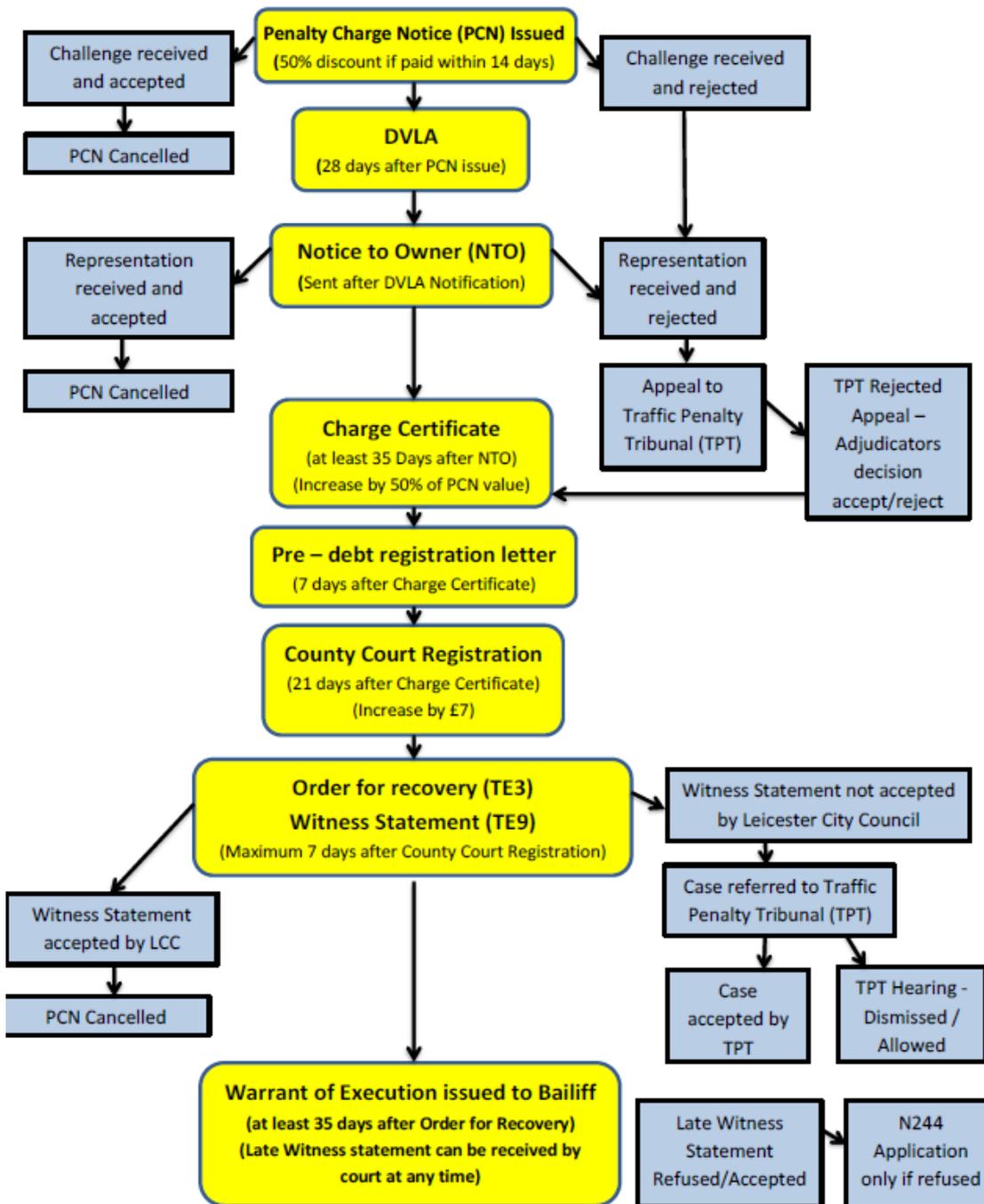
Please quote your name, address, telephone number, vehicle registration number and also the PCN number.

### Useful contact details if you need to know more about parking fines

- Luton County Court: telephone 0300 123 5577
- DVLA: telephone 0179 278 2351
- Traffic Penalty Tribunal: telephone 0162 544 5555 or email [info@trafficpenaltytribunal.gov.uk](mailto:info@trafficpenaltytribunal.gov.uk)
- [Department for Transport – Traffic Management Act 2005](#)

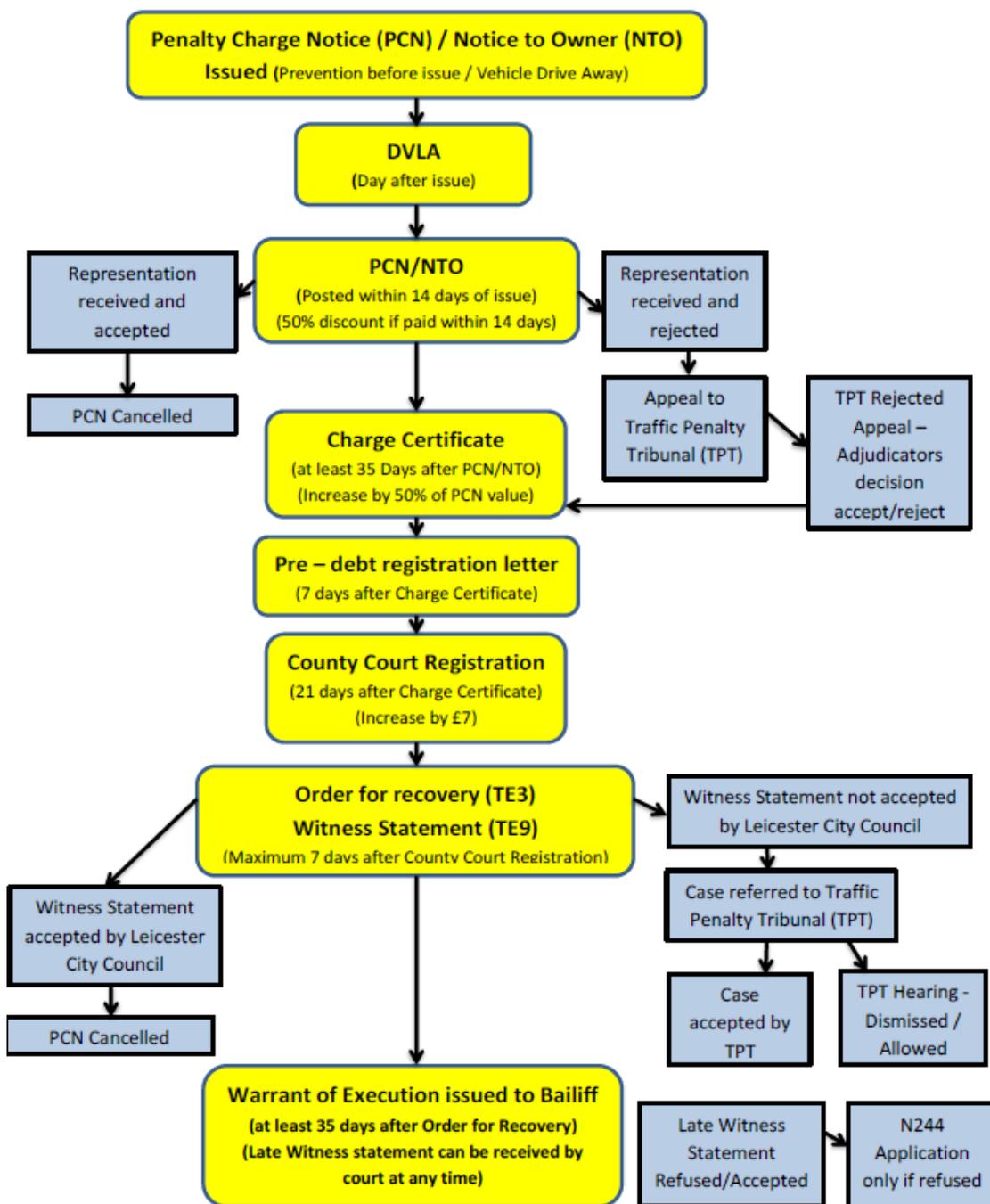
Penalty charge notice (PCN) chart – parking contraventions

**Penalty Charge Notice Process Chart – Parking Contraventions**



## Penalty charge notice (PCN) chart - unlawfully parking in a bus lane

### Penalty Charge Notice Process Chart – Unlawfully driving in a bus lane



## Appendix 8: use of severe remedies

### Introduction

This appendix to the fair debt collection policy sets out our policy for the use of the following remedies to recover unpaid council tax business rates or sundry debt debts:

- petitions for bankruptcy or other forms of insolvency
- charging orders against properties and subsequent orders for sale
- applications for means enquiries with a view to committal to prison for non-payment of local taxes or BID levies if applicable

For ease of reference these actions are collectively referred to as ‘severe remedies’ throughout this policy.

## Commencement of proceedings

No proceedings in respect of a severe remedy shall be commenced without written authorisation from the service head of service or an officer delegated by them to perform this duty.

The officer appointed will be the head of service or above or at least hold a relevant qualification or service specific knowledge for the service.

Commencement of proceedings is defined as:

- **insolvency:** issue of a statutory demand
- **charging order:** application for an interim charging order
- **means enquiry:** application for a means enquiry summons

## Requests for authorisation

Requests for authorisation shall be submitted to the head of service or delegated officer in writing and shall incorporate:

- a) accurate history of the origin of the debt and of the attempts made to recover it
- b) details of any other debts owed to us by the same debtor
- c) information about any past, present, disputed or outstanding benefit and/or reduction claims or any discounts or exemptions that might be relevant
- d) information about any other disputes in respect of the debt
- e) assessment of the debtor's assets and of whether they are sufficient to clear the debt if a severe remedy is pursued
- f) assessment of the prospects of recovering the debt by other means in a reasonable timescale
- g) sufficient evidence about the debtor's circumstances to support the decision making process
- h) consideration of whether a debtor's failure to pay and to respond to other recovery measures could arise from a disability (including a mental impairment) with a long-term and substantial effect on normal day-to-day activities
- i) consideration of whether the debtor's personal circumstances warrant them being protected from the consequences of recovery action
- j) confirmation that we've made enquiries to the Population Wellbeing department to establish if they're aware of:
  - any reason that the individual may have difficulty in managing their financial affairs
  - any potential adverse impact on the wellbeing of the individual or a person in their care that may arise from the use of the severe remedies, together with details of any information provided by those services
- k) details of visits made in an attempt to contact the debtor and of the outcome of the visits
- l) confirmation that information has been provided to the debtor regarding sources of help and advice on dealing with debt
- m) assessment of the likely costs that will be incurred by us and the debtor if use of the remedy is approved (based on a straight forward case)

## Action to be taken prior to making a request

Before making a request to utilise a severe remedy the following actions must be carried out:

- all statutory processes required to be undertaken before the severe remedy can be used must be conducted
- the debtor must be provided with clear information in simple language about the availability of sources of free information and advice on dealing with debts, with the first visit letter, for example Citizens Advice, National Debtline

- the debtor must be provided with clear information in simple language about the severe remedies that may be used if they do not take action to resolve the debt including information about the consequence of the severe remedies and potential cost
- enquiries should be made of the Population Wellbeing department to establish whether they hold any information about the individual that is relevant to the decision, such as:
  - their ability to repay the debt
  - their ability to manage their financial affairs
  - the potential for the use of a severe remedy to be detrimental to the individual's wellbeing

### Visits by a council officer

A minimum of three visits should be made by a council officer in order to try to establish contact with the debtor. At least one of these visits should be made in the evening or at the weekend if no contact is made on the first two occasions.

Where no contact is made a letter should be left inviting the debtor to contact us to make an appointment to discuss the debt at either the council's offices or at the debtor's home.

Where the debtor's address is beyond a reasonable travelling distance from the borough's boundary the case should be referred to the severe remedies officer to consider the appropriate and proportionate action to be taken to seek to establish contact with the debtor.

If no contact is made, the visiting officer shall make discrete enquiries with neighbours in order to attempt to identify a way to contact the debtor. However, under no circumstances should details of the reason for the visit be disclosed.

Where the debtor is a limited company, visits are not necessary other than those in connection with the taking control of goods. However, prior to the commencement of a severe remedy a letter should be sent to the registered office of the company advising the organisation in simple language of:

- the intention to commence action
- the consequences for the organisation of those actions

If the debtor is an unincorporated organisation visits should first be made to the organisation's address. Where this is unsuccessful a visit may be made to the home address of the appropriate officer of the organisation.

The following information, as a minimum, should be recorded for each visit:

- date and time of the visit
- description of the premises and of any other assets which it appears may belong to the debtor

Where contact is made the following questions should be asked and the answers recorded:

- name of the person spoken to
- their date of birth (to avoid any confusion about the person's identity)
- confirmation that they owe the debt
- whether the debt is disputed in any way and if so on what grounds
- their proposal for repayment
- details of their income and expenditure, including the name and address of their employer if they are in employment
- whether they have any assets that could be used to pay the debt
- whether they're aware of where to go to seek free advice about their debts

- whether they have any disabilities or medical conditions that affect their ability to repay the debt or to understand the situation
- any other information that they consider to be relevant to the debt and its repayment
- whether the person has any difficulty understanding written communication in English
- details of other persons resident in the household including their ages and relationship to the debtor
- whether there are any concerns regarding the debtor's mental capacity

## Mental capacity

In considering the use of a severe remedy, due regard must be given to the debtor's mental capacity. In accordance with the [Mental Capacity Act 2005 Code of Practice](#) it should be assumed that the debtor has mental capacity unless there are grounds for concern.

Where there are grounds for concern the five principles set out in the code of practice should be applied.

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help them to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because they make an unwise decision
4. An act done, or decision made, under this act for or on behalf of a person who lacks capacity must be done, or made, in their best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Where cause for concern is identified advice should be sought from our Legal team and this advice should be taken into consideration in considering further action under this policy.

In the event that concerns are identified that require further action under our safeguarding policy, for example suspicions that a debt has arisen through financial abuse of the debtor. In this instance, action to enforce payment should be suspended until the completion of an investigation in accordance with the safeguarding policy.

## Approving the use of severe remedies

The severe remedies authorisation officer shall consider in each instance whether use of the proposed remedy is a fair and proportionate action giving consideration to the individual circumstances of the case.

The interests of local residents, businesses and taxpayers shall be taken into consideration by the officer in reaching its decision.

The officer shall only approve use of the remedy where it is satisfied that the action is fair and proportionate given the particular circumstances of the case.

The officer's decision will be recorded in writing together with the reasons for reaching the decision.

## Sharing of information within the council

Requests for information from other council departments shall be made using an approved form.

In sharing personal data for the purposes of this policy, due regard must be given to the requirements of the [Data Protection Act 2018](#) and [GDPR regulations](#) and the guidance provided with the approved form. Officers providing information shall do so using the approved form and

should be satisfied that information they provide is relevant to consideration of the use of the severe debt.

## Appendix 9: ways to pay

### Direct Debit

Direct Debit is offered for payment of:

- Council Tax
- non domestic rates (NDR)
- rents
- sundry debts

A choice of four payment dates is available each month for payment of Council Tax and NDR, with an option for paying over ten or twelve months. If a payer requests it by 15 April we must allow that years payment over 12 months.

### Online via the council's website

The following may be paid by debit and credit card through the [pay it page on our website](#).

This includes:

- Council Tax
- NDR
- business improvement district (BID) levies
- Housing Benefit overpayments
- Rents
- penalty charge notices
- sundry debts

### 24 hour automated telephone payment line

The following can be paid by debit or credit card by telephoning **0300 456 2725**:

- Council Tax
- NDR
- BID levies
- penalty charge notices
- rents
- Housing Benefit overpayments
- sundry debts

[See more about telephone payments here.](#)

### Bank transfer or standing order

Payments for the following can be made directly to our bank account, details of which are provided with requests for payment:

- Council Tax
- NDR
- BID levies
- rents
- Housing Benefit overpayments
- sundry debts

## Telephone banking

Payments for the following can be made directly to the Council's bank account:

- Council Tax
- NDR
- BID levies
- rents
- Housing Benefit overpayments
- sundry debts

You need to have signed up with your bank in order to pay by this method. Simply quote:

- our bank sort code
- our account number
- your reference or account number

## At our payment kiosk

Payments for the following can be made by cash, cheque, debit or credit card at our payment kiosk:

- Council Tax
- NDR
- BID levies
- penalty charge notices
- rents
- Housing Benefit overpayments
- sundry debts

Payments can be made Monday to Friday, 9am to 5pm (opening hours may be subject to change).

## Post Offices and PayPoint outlets

Council Tax and rents can be paid free of charge at any Post Office or PayPoint outlet provided the customer presents their demand document.

## By post

Cheques (not accepted for business rates) should be made payable to Luton Borough Council with the account reference number written on the back and sent to:

<Billing department name, eg Council Tax, Housing Rents>  
Luton Council  
Town Hall  
George Street  
Luton  
LU1 2BQ

Please allow up to seven working days for your payment to reach your account.

Additional payment methods may be offered in the future where it is economically viable to do so.

# Appendix 10: fraud investigation process

## Fraud Investigation flowchart

The flowchart below explains the three lines of action that can follow on conclusion of a fraud investigation:

- an administrative penalty
- a Council Tax penalty
- prosecution

