



## **A guide to Billing, Collection & Recovery for Council Tax & Business Rates**

### **CONTENTS**

- 1. Bills**
- 2. Instalments and Payments of Bills**
- 3. General Administration of accounts**
- 4. Standard Collection & Recovery Flowchart**
- 5. Reminders**
- 6. Summons**
- 7. Liability Orders**
- 8. Attachment of Earnings**
- 9. Attachment of Benefits**
- 10. Enforcement Agents**
- 11. Further Recovery Action**
- 12. Bankruptcy Action**
- 13. Charging Orders**
- 14. Committal Action**
- 15. Vulnerable Persons**
- 16. Absconders**

#### **1. Bills**

Two types of bills are issued; annual bills despatched every March for the forthcoming financial year and amended bills that are issued as a result of changes to the Council Tax database or as a result of adjustments to Council Tax Reduction.

Where two or more persons are shown as being "jointly and severally" liable for payment of Council Tax the bill will show all the names that are held by us as jointly & severally liable.

In March annual bills are sent out to all taxpayers, whatever the value, to inform them of their liability for the forthcoming year including any Reduction entitlement. Annual bills are sent for zero balances to taxpayers in receipt of 100% Council Tax Reduction or exemptions. Credit documentation is also issued.

#### **2. Instalments and Payment of Bills**

The bills are payable in accordance with the Statutory Instalment Scheme with the annual bills having 10 or 12 instalments (customers have a right to request 12 instalments) and the amended bills having the number of whole months left in the year as at the date of billing, less one.

The Council's preferred method of collection is direct debit as the charges incurred by the Council are far lower than those incurred from collection by any other method. Customers should therefore be encouraged to pay by direct debit wherever possible. Provided their bank/building society account remains in credit, the customers will not normally incur any charges with their bank.

Customers adopting Direct Debit as a method of payment can opt for one of a choice of the following direct debit dates: -

- Richmond Council Tax – 2 payment dates in the month – 1 or 18.
- Richmond Business Rates - 2 payment dates in the month – 14 or 21

Payment can also be made by the following methods:

- Debit or Credit card via the Website
- Debit or Credit card by telephone line
- Internet through the Council's Website
- Telephone banking by the customer telephoning his/her bank and quoting the Council's relevant sort code and bank account number
- Cash only by Pay-Point at any shop displaying the symbol, using payment barcode on bill
- Cash or cheque at the Post-Office, using payment barcode on bill
- Payment at the customer's own bank using a giro slip

All instalments, other than direct debit, are due on the 1<sup>st</sup> of the month

### **3. General administration of accounts**

At all stages of billing, collection and recovery of Council Tax, the Council will give customers the opportunity to make individual arrangements to pay. We will also include information regarding the Citizens Advice group so that customers can seek independent help and advice if they wish.

The Council will promote the take-up of all available reductions, exemptions and reliefs to reduce our customers' liability where circumstances allow.

When making arrangements to pay, the Council will seek to clear debts within the financial year of the liability. Where this is not possible, the Council will seek to reach an agreement that allows, as a minimum, the payment of the following year's liability plus an affordable amount off any arrears.

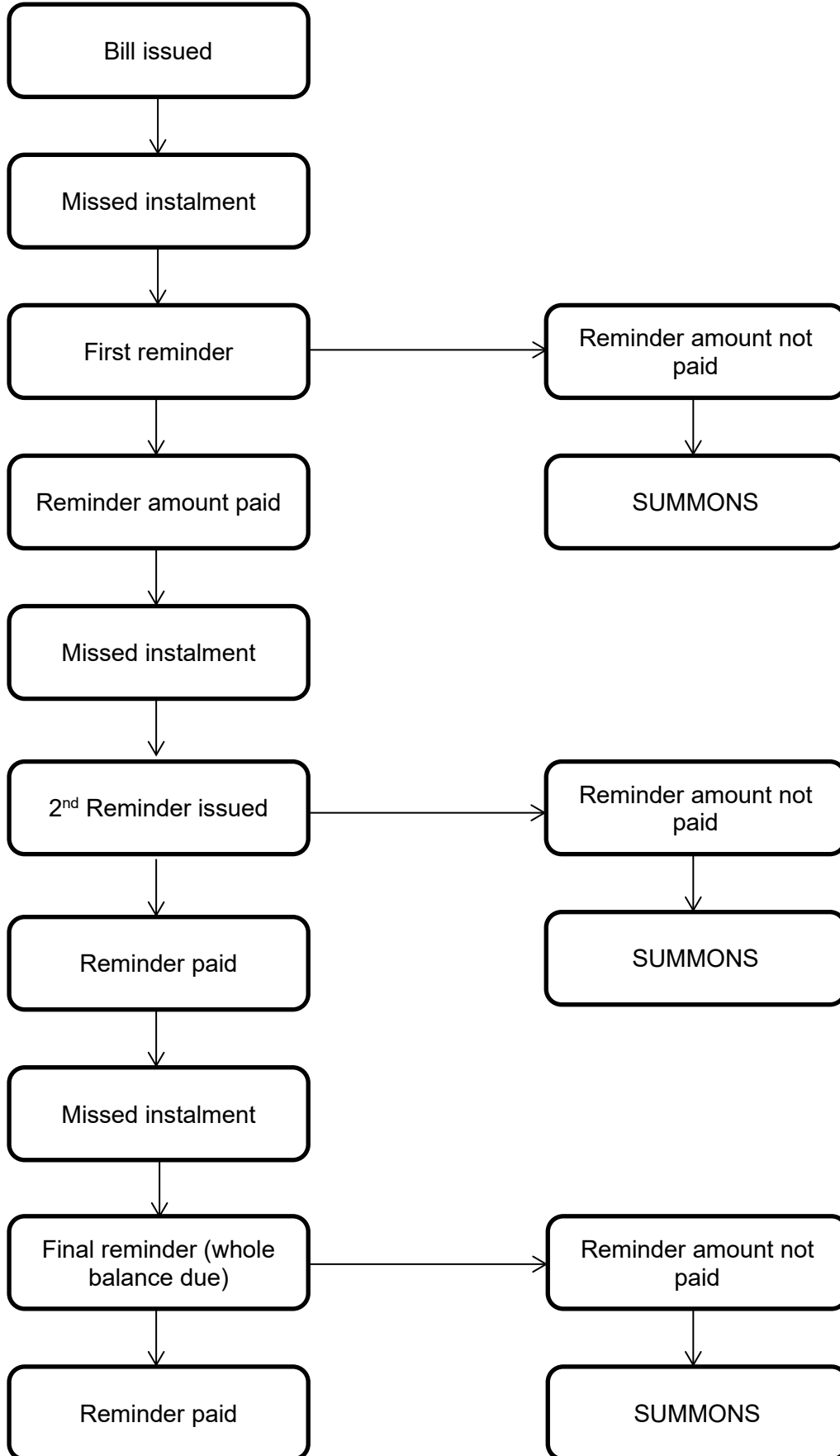
Arrangements will be assessed based upon the individual's total level of outstanding debt, affordability, previous payment history and any other relevant circumstances that we are aware of. This must be balanced against the need to ensure that the debt is paid off within a reasonable period. Although a combined arrangement cannot be made, it is important to consider what overall debts the individual has for Council Tax, Business Rates and Housing Reduction Overpayments.

It may not be possible to agree a payment arrangement in all cases. Where this is the case, the debtor should always be encouraged to pay as much as possible on a regular basis.

Direct Debit will be promoted to customers as this is the easiest, most cost-effective method of payment.

### **4. Standard collection process flowchart**

A Bill will be sent giving the amounts and dates of the instalments due. If payments are not made as requested the following process is followed



## 5. Reminders

Reminders will be issued if an instalment is missed. The reminder will be issued for a total equal to the amount in arrears plus any instalment due within the next 7 days (as allowed by law) and that payment is required within 7 days, otherwise failure to pay will result in further recovery action being taken for the full year's charge. Therefore, if the reminder is issued towards the end of the month e.g. 25<sup>th</sup>, it will include the next instalment due on the 1<sup>st</sup> of the next month.

Following a reminder, if instalments are brought up to date or a payment arrangement is made, no further action will be taken providing future payments are made correctly.

If instalments fall into arrears for a second time, a second reminder will be issued as above. If instalments are brought up to date and then fall into arrears for a third time a final reminder will be issued requiring the full remaining balance to be paid because the customer's right to instalments has been lost.

Where debtors fail to comply with the requirements of a reminder, 2<sup>nd</sup> reminder or final reminder notice, the Council may apply to the Magistrate's Court for a summons to be issued and this may result in additional costs being charged to the tax payer.

Throughout this period, recovery action may be held in abeyance where appropriate, for example where there is outstanding correspondence.

## 6. Summonses

By agreement with the Magistrates Court hearings against defaulters take place at regular intervals.

At least four weeks prior to the hearing the Complaint is made to the Magistrates and summonses sent to the taxpayers named on the complaint.

Summons issue incurs the summons costs of

- Richmond - £71.50
- Richmond Business Rates - £130.50
- Richmond BIDs - £20.00

This figure represents the costs incurred by the Council in administering the collection and recovery of council tax arrears through the courts and includes the apportioned staffing and running costs necessary within the council tax teams, customer services and system support staff necessary to handle council tax arrears. This figure has previously been agreed with the Magistrate's Court.

The summons states the date when the Council will apply for a liability order. Where full payment of the Council Tax liability including summons costs is received after the issue of a summons but before the date of the application for a Liability Order, all further court action will be terminated.

If a person contacts and agrees to pay, an arrangement can be given that is outside of the statutory scheme but that is acceptable to the Council. This will include the summons costs of £71.50 and will also include the Liability Order Costs if the repayment time goes beyond the hearing date of the summons.

Payment by Direct Debit should be encouraged wherever possible. Where payment is to be made by direct debit, the payment will be taken on the 2<sup>nd</sup> of the month.

If no response is received by the date of the Court the Magistrates will be requested to issue a Liability Order for the outstanding debt plus additional liability order costs of: -

- Richmond - £26.50.
- Richmond Business Rates - £42.00
- Richmond BIDs - £10.00

All summonsed taxpayers have the right to attend the hearing (in attendance or “virtually” and to enter a valid defence against the issue of a Liability Order. The valid defences are:

- That the Council Tax has not been charged in accordance with the Valuation List
- The Tax has been incorrectly set
- The Tax has not been demanded in accordance with Statutory provisions
- That the Council Tax has been paid
- The application for the summons is made more than six years after the sum became due
- Demand notices have not been served as soon as practicable
- The person is not liable
- Bankruptcy proceedings have been initiated

Where it is necessary to issue more than one summons in a year because of changes in liability, costs will be payable for each occasion.

Reports will be produced of all arrangements not kept for further action to be taken.

## **7. Liability Orders**

Where no valid defence is offered the Magistrates will issue a Liability Order for the amount of the unpaid Council Tax plus costs as described above. The Liability Order provides a range of further powers in order that the Council can continue its efforts to collect the unpaid debt.

Following the issue of every Liability Order a letter is sent to the defaulting taxpayer, together with a form on which the taxpayer is required to provide income details and requested to provide expenditure details. This form also gives the taxpayer a further opportunity to make an offer of payment.

Recovery staff will determine further action based on the information given on the form.

The following powers of recovery are now available:

- a) Attachment of Earnings Order;
- b) Deduction of Income Support/Job Seekers Allowance;
- c) Pass collection of the debt to an Enforcement Agency firm appointed by the Council;

- d) Accept a payment arrangement with the customer;
- e) Committal to Prison;
- f) Insolvency action;
- g) Charging Order.

For persons who are employed or in receipt of Income Support/Job Seekers Allowance, collection is normally by way of an Attachment of Earnings or Benefits Order where that information is known. However, if an offer of suitable direct payments is made either on a financial circumstances form or other communication these will be reviewed and if accepted set up within the Council Tax System.

An Attachment of Benefits will not normally be used if the ongoing liability (accrual rate) exceeds the standard amount payable under the Department of Work & Pensions regulations.

Customers are warned that failure to return the financial circumstances form with no offer to pay or enter into an agreed arrangement, will result in the debt being passed to an enforcement agent appointed by the Council for collection.

## **8. Attachment of Earnings (Council Tax only)**

Where the Council is aware of an individual's employment details, we may issue an order to their employers to make deductions from earnings. In exceptional circumstances, where a debtor will suffer hardship because of an attachment, it may be possible to take alternative action.

Employers are legally required to comply with the order and may deduct a nominal charge which is defined in law for each deduction made towards the costs of administering the order.

Only debt outstanding on one account may be applied for at a time. Only one application letter can be sent, though this may detail up to two Liability Orders. The employer will only make one deduction from the debtor's wages as per the relevant schedule

The amount of the deduction depends on the debtors Net Earnings.

## **9. Attachment of Benefits (Council Tax only)**

Where the Council is aware that a debtor is in receipt of a relevant state Benefit (IS, JSA(IB), ESA, PCGC) we may apply to the Department for Work and Pension (DWP) for deductions to be made from these benefits. The DWP regulations specify the fixed weekly amount deductible.

Deductions can be made from Income Support or Jobseekers Allowance or Employment Support Allowance. If the Charge Payer is in receipt of Pension Credit Guaranteed Credit (PCGC) we can apply to the Pension Service for an AOB. The current rate of deduction is £3.80 a week, and this usually goes up by a small amount each year.

A deduction may not be possible for various reasons. These include:

The amount of state Benefit being paid is less than:

- the specified amount (currently 50p).
- the specified fixed amount is left after the amount of Benefit that is being paid has been reduced by deductions already being made which have a higher priority (e.g. arrears of rent or fuel).

When the Local Reductions Agency receives a request for Deductions it shall notify the Council whether or not deductions can be made.

They will also notify the debtor when a request is received and when deductions end.

Payments of sums deducted from a relevant Benefit are made to the Council every 4 weeks.

## **10. Enforcement Agents**

Following the granting of a Liability Order, the Council may issue instructions for Enforcement Agents (EA) to recover the debt.

The Enforcement Agent will enter the debt into a `Compliance stage` where they will make several calls, SMS and e-mails, at different times, to the debtor in order to enter into an agreement to pay, either in full or in instalments. This stage will incur fees of £75.00.

Compliance stage will also involve using data analytics and cross matching to ascertain if the debtor may be financially or personally vulnerable, in which case the case will be dealt with the EA's Welfare Team, who may signpost debt advice, offer hardship schemes or allow longer to make payment.

If the Compliance stage is not successful, the debt will be moved on to the `Enforcement Stage` where the EA will visit the property and either make an arrangement with the debtor to repay the sums due or take control of goods owned by the debtor to satisfy the amount outstanding. This stage incurs further fees of £230.00 for the first and any subsequent visits and £110.00 if goods are removed and taken to a place of sale.

Taking control of goods is where the bailiff secures the debt against assets owned by the debtor.

Actual removal and sale of goods will only take place following approval from a Council Officer.

Once a case has been passed to the EA, if a debtor contacts the Council they will in most cases be advised to contact the relevant company to make an arrangement to clear their debt.

However, if we are contacted and it is clear that the debt was passed to the EA in error or if new information is received and the debt would not have sent had it been available at the time, we will ask them to return the case.

The Council's agreement with its EAs is that they should attempt to make arrangements that will clear the debt within 3 months. If a debtor approaches us with an offer of a longer arrangement, we can at our discretion ask the EA to accept this.

It will always be made clear to customers that they should make payment direct to the relevant EA this is particularly important under the new rules due to the way in which payments are to be allocated between debt and fees..

Where a debtor continues to pay the Council after a debt has been passed to an EA and no arrangement has been made, the EA will be informed of these payments on a regular basis

#### **11. Further recovery action**

Where the action above has either been unsuccessful or is not considered to be appropriate, the Council may pursue other recovery options.

These actions are:

- Charging Orders
- Bankruptcy
- Committal Proceedings

Any action to recover amounts by these methods will be considered on its merits on a case-by-case basis. In addition, the Council will have regard to the vulnerability of the debtor and other members of their household.

**In the case of Bankruptcy and Charging Orders these can lead to debtors losing their homes and whilst both methods of recovery are useful they do not provide a one size fits all approach and must be taken on an individual case basis by an experienced officer and in line with the specific recovery procedures. There is not a requirement to use these methods of recovery in a specific order but especially with Bankruptcy the action needs to be taken with a view to the Local Government Ombudsman's guidelines.**

**All action undertaken under these powers of recovery will be authorised by one of the following authorised officers:**

**Graham Russell - Assistant Director of Resources (Revenue Services)**

**Gaven Downton IRRV - Head of Council Tax and Business Rates**

#### **12a. Instigating Bankruptcy Proceedings against a Debtor**

Where the total debt is £5,000 or more, the Council can take action to have the debtor declared bankrupt (or in the case of a company take winding up proceedings).

Cases are sent to an insolvency practitioner.

Debts to be referred for bankruptcy are those where we have a liability order (not legally necessary but good proof of debt) and the liable person is the owner. This can be either an owner occupier or a landlord where there can be several properties involved.

A letter must be sent to the taxpayer advising them that the debt is being considered for recovery by one of three methods (Bankruptcy/Charging Orders or Means Enquiry/Committal to Prison and asking for income & expenditure figures. If no reply is received the debt is moved to one of the three options.

For potential Bankruptcy cases, checks are made with other Council



Departments to establish any other debts with the council that may be included in a combined action

Once selected for bankruptcy the debt is passed to an Insolvency Company who will first issue a warning letter and then proceed (if no positive response) to issue a Statutory Demand that gives a set period of time for the debtor to pay or refute liability. If not paid or refuted after this set period proceedings will commence along normal Bankruptcy lines. (See Bankruptcy Procedure)

The costs of applying for a bankruptcy petition are substantial and are born mainly by the debtor, although in some circumstances the Council will have to pay them.

**\*\*See Section 15 regarding vulnerable parties\*\***

## **12b. Compulsory Liquidation**

Liquidation is only available against Customers who are Companies. Liquidation is not only administratively costly for all parties but can also have considerable impact both on the customer and their employees.

The minimum debt for liquidation is £5,000. However, in view of the serious nature of this action, in most cases we would not consider it for debts of less than £10,000.00. Before we start the proceedings, we will do a company search to establish its assets and a Land Registry search if applicable to look at the charges that already have been made against the property.

If we decide to start liquidation action then we will pass the customer details to solicitors acting on our behalf.

If the debt remains outstanding and no contact is made or it is not possible to agree a payment arrangement, the next stage is for a "Statutory demand" to be issued. The Council will ask solicitors to arrange for a "Process Server" who will try to deliver this by hand to the customer; if they are unable to do so then they need to deliver by substituted service. This means leaving it at the property, they can only do this if they sign a document to say that they have made reasonable efforts to make a personal delivery and that they believe the charge payer to be resident.

Once a statutory demand has been issued, we can agree an arrangement, but this can only last for a maximum of three months. This is because the statutory demand only lasts for four months, after that we would need to issue another one incurring further costs.

The customer may apply to the County court for the demand to be set-aside within eighteen days of its service by completing a particular form – an "affidavit" – that states the reasons why it should not proceed.

If the customer fails to pay in full, submit an affidavit or contact us to make an arrangement our solicitors will then issue a "Winding up Petition" again this will ideally be personally served. If the petition needs to be delivered by substituted service then we need to get permission from the court, they will only agree if they are satisfied that the charge payer can be contacted at the address we are using.

The petition will give a date for a court hearing, at this point the only the court can withdraw the petition so even if the debt is paid in full the hearing will still

need to go ahead so that the action can officially be stopped. The other effect of the petition is that a caution is placed on land registry showing that liquidation action is pending.

Once the debt is paid in full the customer needs to apply to get this caution withdrawn it does not happen automatically.

It is essential that the customer attends this or any adjourned hearing to make representation to the judge as to why the order should not be made. Where the customer fails to attend, the Court will determine whether the issue of a liquidation petition should be made. A liquidation order can still be made even if the person refuses to acknowledge or agree with the proceedings and their outcome.

If the Court approves the petition the customer becomes subject to a Winding up Order.

The impact for the customer can include

- Freezing of bank accounts and assets of company.
- Liquidator – initiated investigation of company affairs.
- Determination of Liability of directors on company debts.

The Council also receives notifications from the Official Receiver, Administrators and other sources, information that confirms details of companies that have become insolvent or entered Administration.

In such instances the Council will provide a proof of debt for any debts up to the insolvency date, amend accounts and stop enforcement action pending the outcome of the proceedings. In certain circumstances enforcement action can still continue if a liability order has been obtained before the liquidation date.

Before we start proceedings a pre action letter warning the customer if they do not either make payment in full or contact us a winding up petition will be issued which will mean that they will incur additional costs which can be substantial.

**\*\*See Section 15 regarding vulnerable parties\*\***

### **13. Charging Orders (Council Tax only)**

A Charging Order can be an effective method of recovery in some limited cases and should not be overlooked at the post enforcement stage of debt recovery.

Debts that are considered for this recovery method must be of an aggregate of £1,000 and have Liability Orders.

Type of debtors to be considered are

- a) Those that own their own home and are elderly, in care or receiving care. For these cases the charge would normally be left on the property until a sale occurs.
- b) Non-resident landlords where a letting agency is managing the property on behalf of an owner and the debt is not the responsibility of the tenants (HMO) and where other collection methods have failed to obtain payment. In this instance a charge can be put on the property and may proceed to the stage below:

In certain circumstances as in (b) above, following the granting of a charging order, if the debt is not paid the Council may apply to the County Court for an order for sale, which may result in the property being sold and the amount subject to the charging order, including costs, being paid from the proceeds of sale. This would only be granted if the court felt that it would be reasonable to do so and that the interest of any other creditors or people with an interest in the property would not be unduly disadvantaged. Alternatively, the Court may make an instalment order or give the debtor a time limit by which they must raise the money that is owed.

Before proceeding we would check ownership with the Land Registry and also investigate the amount of equity and any other charges against the property. We will issue a pre action letter warning the charge payer that if they do not either make payment in full or contact us, action will start which will mean that they will incur additional costs which can be substantial and that they could be forced to sell their house. The letter will invite the debtor to give us information to show that they are vulnerable.

This method of recovery may be considered suitable where a large debt has arisen, but Bankruptcy is not considered appropriate due to the age or circumstances of the debtor. This is because unless an order for sale is granted it would not result in the forced sale of the property.

The application for a Charging Order will be made by the South London Legal Partnership acting on our instructions.

**\*\*See Section 15 regarding vulnerable parties\*\***

#### **14. Committal to Prison**

In cases where the enforcement agent has been unsuccessful in obtaining payment and has provided proof of Enforcement Agent Activity the Council can apply to the Magistrates Court for the debtor to be committed to prison for non-payment.

When this occurs the defaulter can either be summonsed to appear or where appropriate the Magistrates can issue a warrant for the defaulter's arrest in order to secure attendance.

The standard procedure is for the debtor to be summonsed to Magistrates' Court. Where the debtor fails to appear a warrant of arrest will be applied for, this is likely to be issued with bail in the first instance and then without bail on a second or subsequent failure to appear.

There is no minimum value for which committal action can be taken.

Committal action is not taken in cases where the current address of the debtor is not known.

When a debtor attends a Court hearing, Recovery staff will interview him/her before the hearing in an attempt to reach a payment arrangement and obtain full details of the financial circumstances. The debtor will be advised that the case will be adjourned to a future date for payments to be made.

Committal action will not normally be considered where the debt is for a balance of less than the relevant tax year's band charge for the property.

**\*\*See Section 15 regarding vulnerable parties\*\***

## 15. Vulnerable Persons

A vulnerable adult is a person aged 18 or over and receiving care either in a residential care home or at home, as well as those who require assistance in conducting their affairs and those who have been detained.

A vulnerable adult is or may be unable to take care of him or herself or is unable to protect him or herself from significant harm or serious exploitation.

How do we recognise a Vulnerable Adult?

A vulnerable adult may be a person who:

- Has a physical or sensory disability
- Is physically frail or has a chronic illness
- Has a mental illness or dementia
- Has a learning disability
- Is old and frail
- Misuses drugs and/or alcohol
- Has social or emotional problems
- Exhibits challenging behavior

A person's vulnerability will depend on their circumstances and environment, and each case must be considered individually.

The Equality Act 2010 lists the following groups of people that may face discrimination and therefore be shown as vulnerable persons:

- Age (including children and young people),
- Disability,
- Gender reassignment,
- Pregnancy and maternity,
- Race,
- Religion or belief,
- Sex and sexual orientation,

Whilst a person's age does not automatically make them Vulnerable for this purpose "Old" is deemed to be someone who is over the age of 68 being the future planned retirement age set by the government in its last review which also means that the retirement age will be the same for both Men and Women reflecting the changing role of Women in the workplace. Age itself does not mean that a person is necessarily vulnerable but does indicate that a cautious approach needs to be taken along with other identifiable indicators. Further enquiries and caution should be taken when dealing with someone over 68 years old.

Other examples of vulnerable cases which are not listed above may be identified as the above list is not exhaustive. Therefore, both caution and discretion must be used when information regarding a person and or their circumstances comes to light. In these cases the Council Tax Manager and/or Head/Deputy Head of Service must be consulted

Before recovery action in the form of Bankruptcy or Committal is taken each case is subjected to a series of stringent checks to ensure the correctness of the debt in line with the collection policy. These checks include those shown below in relation to vulnerability.

Any linked Council Tax Reduction/reduction record is checked for the date of birth of the debtor to establish that they are not of retirement age.

Correspondence is checked for content again to pick up the age of the person or any vulnerability. All known active Council Tax and Housing Reduction claims result in the debtor being excluded from the Bankruptcy processes and Committal work.

Information gained by our enforcement companies and entered onto their case reports is also screened for picking potential vulnerable and vulnerable people

Before either Bankruptcy or Committal action is taken two warning letters with a minimum of 2 weeks between are sent to the debtors advising them that they are being selected for potential recovery action and asking for details of Income and Earnings on a "Statement of Means", the correct completion of the "Statement of Means" form will again indicate vulnerability by means of any Reduction entitlement or other comments written on the form.

Potential cases are checked against the Social Services caseload to establish if the debtors are known cases on the Social Services Department Register. If they are known active cases these debtors may be excluded from both Bankruptcy and Committal proceedings.

For potential Bankruptcy cases, checks are made with other departments to establish any other debts with the council that may be included in a combined action.

During the Bankruptcy process checks will be made with Social Services at the Key points in the process to make certain that there have been no changes in mental or physical health that would have an impact on the recovery action.

## **16. Absconders**

Where a charge payer leaves a property without notifying the Council of their forwarding address the Council will make every effort to trace their current whereabouts and to collect the amount outstanding. This will include, where permitted by law, the sharing of information between other Council departments and using external tracing agencies.