

Recovery Team, Revenues

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# Council Tax Debt Recovery Procedure (Revised September 2019)



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## **1 Purpose**

This document sets out the Council's procedures in relation to the recovery of unpaid council tax.

Its purpose is to ensure an effective, fair, proportionate and consistent approach is taken to the recovery of council tax that is not paid when due.

It is intended for both the public and for officers of the Council involved in the collection and recovery of council tax.

This document does not affect the statutory rights of the Council or taxpayers.

## **2 General matters**

### **2.2 Vulnerable people**

The Council recognises that certain groups of people may be especially vulnerable and require additional assistance in dealing with their financial affairs.

When it comes to the attention of an officer of the Council that a person is or may be vulnerable they must take action in line with this procedure.

The following is a list of circumstances and characteristics which may make a person vulnerable for the purposes of this procedure. The cause of vulnerability may be temporary or permanent.

#### **i. Disabled persons**

A physical or a mental impairment can be a disability if it has a substantial long-term adverse effect on someone's ability to carry out normal day-to-day activities. A person with a disability is not necessarily vulnerable however, where the disability affects, or may affect, the person's ability to deal with their financial affairs they should be considered vulnerable. Extra assistance should be given to help such people obtain independent advice and apply for benefits, exemptions or discounts. Home visits and the provision of information in a more accessible format should also be actively considered.

#### **ii. Persons with a mental Impairment or learning difficulties**

Where it is evident that the taxpayer has mental impairment or learning difficulties they should be considered to be vulnerable. Such persons may also be disabled.

#### **iii. Persons experiencing serious illness, including mental illness**

Where the taxpayer, their partner or any dependents appear to be suffering from any condition which is serious or life threatening they could be considered to be vulnerable. A person with a serious illness may also be disabled. Persons experiencing serious illness, especially mental illness, tend to have higher levels of debt and extra support should be provided by officers of the Council to help such people obtain independent advice and apply for benefits, exemptions or discounts.

**iv. Persons receiving Income Support, Job Seeker's Allowance, Employment and Support Allowance or Pension Credit**

Those on the benefits above are considered to be vulnerable procedure as they are living on a subsistence level benefit.

**v. Unemployed persons**

Unemployment does not automatically mean the taxpayer is vulnerable. However, loss of employment may result in serious financial difficulties if a person is suddenly unable to meet their existing financial commitments.

A person who has recently become unemployed after a long period of employment may be unfamiliar with processes for claiming benefits and may need additional assistance to understand their entitlements.

**vi. A person who has difficulty understanding English**

Where a person does not understand either spoken or written English they should be considered to be vulnerable. Appropriate translations should be provided as necessary.

**vii. Persons Aged Under 18**

It is unlikely that a person under 18 years of age will owe any sums to the Council. However, it is possible that a person may assist or care for a parent or other older person and could contact the Council on their behalf. Anyone under 18 years of age should automatically be considered to be vulnerable.

**viii. Elderly persons**

An elderly person is not necessarily vulnerable. However, an elderly person who appears frail, confused, ill, or is living on a limited income should be considered vulnerable.

**ix. A person who is recently bereaved**

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

**x. A person that has difficulty reading or writing**

A person who has difficulty reading or writing should usually be regarded as vulnerable because they will 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. Such persons should be considered vulnerable and extra support provided to them to understand their council tax account.

The above list is not exhaustive and each case should be considered individually, taking into account all relevant factors. For the purpose of this procedure, the key factor in determining whether a person should be regarded as vulnerable will be that the circumstances which give rise to the concern that a person is vulnerable affect their ability to deal with their financial affairs.

Where a person is or may be vulnerable an officer should give consideration to:

- Allowing longer to pay
- Postponing recovery action
- Assisting the person to claim benefits, discounts or other entitlements
- Referring the person to sources of independent advice
- Providing information in an accessible format
- A temporary payment arrangement with a lower repayment than would normally be agreed, or
- Other action as appropriate to avoid the vulnerable person being at a disadvantage as compared to a non-vulnerable person.

It is important to note that being vulnerable does not mean that the person will not be required to pay the council tax owed.

### **2.3 Equality duties**

The Council has a statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

In determining this procedure consideration has been given to the Council's statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

Acting in accordance with this procedure 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

### **2.4 Use of data**

The Council will collect and store personal data for the purposes of the effective billing, collection and recovery of council tax. Personal data retained for this purpose will be processed in accordance with the Data Protection Act 1998 and will be stored securely at all times.

Personal data may be shared with agents or contractors appointed by the Council for the recovery of council tax. Data may also be shared within the Council or with external organisations where the law allows.

## **2.5 Advice agencies**

We recognise that a taxpayer who fails to pay their council tax often has wider financial difficulties. We therefore provide information on how to contact a non-profit advice agency at each recovery stage in addition to providing information on how to apply for benefits, exemptions and discounts.

The Council also recognises the importance of the work of non-profit advice agencies. Officers will therefore always endeavour to work in partnership with them both in individual cases and on wider issues.

## **2.6 Complaints and Appeals**

While the Council's objective is to excel in our service provision, we recognise that things sometimes can go wrong. When it comes to an officer's attention that a customer is dissatisfied or that there is an error on an account, they should where possible address the dissatisfaction and fix any error immediately. This removes the need for the taxpayer to seek redress through a complaint or appeal.

### **2.6.1 Complaints**

If a taxpayer is unhappy with the service they have received they can at any stage lodge a complaint which will be assessed by a specialist Complaints Officer. Taxpayers can lodge a complaint by telephone, letter or by completing the web form located [here](#). All complaints will be dealt with as per the Council's complaints procedure located [here](#) or can alternatively be found on the Council's website at: <http://www.oxford.gov.uk/feedback>

### **2.6.2 Appeals**

If a taxpayer disagrees with a decision made by the Council as to council tax liability, discounts, or exemptions they can at any stage lodge an appeal

which will be assessed by a specialist Appeals Officer. Appeals must be submitted to the Council in writing. This can be done by letter sent to our main offices or using our web form located [here](#).

All responses to complaints and appeal decisions will contain information on what the taxpayer can do next if they are still dissatisfied.

While a complaint or appeal is pending a taxpayer must still make the normal payments towards their council tax. If a complaint or appeal is upheld, then any overpaid sums will be refunded to the taxpayer.

## **2.7 Arrangements**

At all stages, the Council will usually encourage and give taxpayers the opportunity to make individual arrangements to pay their debt. Once agreed, an arrangement will always be confirmed in writing to the taxpayer.

The Council will expect an arrangement that clears the debt within the current financial year, which runs 01 April to 31 March. Any arrangement should include payment in full of any council tax due in the current year in addition to the payment of other debt. The Council will only consider arrangements beyond these parameters on an exceptional basis and with the approval of a Senior Recovery Officer.

Arrangements will also be assessed on affordability and sustainability. To make this assessment the Council will require taxpayers to provide full details of their income, means and expenditure including evidence to support these details.

It is the responsibility of the taxpayer to ensure that their arrangement payments reach the Council on time. If any arrangement payments are missed or late the Council may proceed with further recovery action immediately and with no notice. A taxpayer should contact the Council straightaway if they have difficulty keeping to an arrangement to discuss the matter.

## **3 Recovery procedure up to a liability order**

### **3.3 Demand Notice**

At the beginning of the financial year, or when a new council tax account is opened, a demand notice will be sent to the taxpayer detailing the council tax owed for the tax year and the amount and due dates of any instalments. This is also called an annual bill.

If there are any changes to an account which alters the amount of council tax due for the year a further adjustment notice will be sent to the taxpayer. This informs the taxpayer of any changes to the council tax due or to any instalments.

If there is no right to pay by instalments, then the full amount on the notice must be paid within seven days. If it is not paid then a summons to appear at a liability order hearing at the Magistrates' court will be issued in due course.

### **3.4 Reminder and Final Notices**

The recovery of Council Tax is governed by legislation. If a taxpayer has the right to pay by instalments but does not pay an instalment by the due date then we will issue a reminder notice. We will ask the taxpayer to pay the missed instalment within seven days of the date on the notice.

If the missed instalment is received within seven days we will not take any further action. If it is not paid then the right to pay by instalments is lost and the remaining council tax for the entire year becomes due. If this is not, then a summons to appear at a liability order hearing at the Magistrates' court will be issued in due course.

If the instalment is received within seven days, but another instalment is not paid, then we will send a second reminder notice. If the missed instalment is received within seven days we will not take any further action. If it is not, then the right to pay by instalments is lost and the remaining council tax for the entire year becomes due. If this is not paid then a summons to appear at a liability order hearing at the Magistrates' court will be issued in due course.

If the account is brought up to date but falls behind for a third time, we will send a final notice for the full outstanding amount for the tax year, as the right to instalments is lost. If this is not paid in full within seven days then a summons to appear at a liability order hearing at the Magistrates' court will be issued in due course.

### **3.5 Summons**

Where taxpayers fail to respond to any reminder notice or final notice or defaults on an arrangement to pay following either, the Council will apply to the Magistrates' court for a liability order to be issued.

A summons to appear at a liability order hearing at the Magistrates' Court will be sent to each person named on the bill and summons costs will be added to the account. These costs are reviewed annually.

A summons will always be issued with at least 14 days between issue and the court hearing date. The summons will state the amount due and the time and place of the court hearing. The summons will normally be served by second class post.

If a taxpayer pays the amount of the summons including the £65.00 costs prior to the court hearing, then the application will not proceed and we will not obtain a liability order. If a taxpayer does not pay the summons amount including costs in full prior to the hearing, the hearing will proceed and we will ask the Magistrates to grant a liability order plus additional costs of £45.00.

Any time after a summons is issued the Council will still consider making an arrangement to pay the amount due on the summons including costs. If an arrangement is made at this stage, a liability order will still be obtained to secure the debt. However, if payments are received as per the arrangement no further action will be taken.

If the Council decides that a summons has been issued incorrectly then it will be withdrawn and no costs will be charged.

### **3.6 Liability order hearings**

A taxpayer has a right to attend a hearing and a right to give evidence as to why a liability order should not be granted. If they do not attend, the hearing will still proceed in their absence.

If the Magistrates are satisfied that the council tax is payable and remains unpaid, then they are required to issue a liability order.

If a taxpayer wishes to defend an application for a liability order, they must offer a valid defence against it. Valid defences include:

- the Council has not demanded council tax in accordance with the regulations
- the amount has been paid in full with costs
- the person named on the summons is not the liable person
- the Council has already commenced bankruptcy or winding up proceedings which include the unpaid council tax concerned.

It is not a valid defence if the taxpayer:

- is unable to pay
- has recently applied for council tax reduction
- has applied to the Valuation Office Agency against their council tax band
- has appealed their liability to the Valuation Tribunal.

Obtaining a liability order usually incurs a further cost of £45.00, making the costs for summons and liability order a total of £110.00.

### **3.7 Costs**

Summons and liability order costs will be added to a debtor's account and will be included as part of their debt.

Costs reflect both the administrative cost to the Council and the court fees incurred. Therefore, costs will only be removed from an account in exceptional circumstances including, for example, where a summons or liability order was incorrectly issued.

Where a summons was issued because a taxpayer did not provide necessary information to the Council in a timely manner they will still be expected to pay costs. Also, where a debtor pays the unpaid council tax due, but does not pay the costs owed these will still be pursued as a debt using the actions in sections 4 and 5 below.

Summons and liability order costs are reviewed annually.

## **4 Recovery procedure after a liability order is granted**

A liability order gives the Council certain powers to enforce the unpaid council tax. Once a liability order is granted we can:

- ask for financial information, including employment and employer details
- take money directly from wages using an attachment of earnings order
- take money directly from benefits including Universal Credit, Income Support, Jobseekers Allowance, Pension Credit or Employment Support Allowance
- take money directly from a Councillor's allowances using an attachment of member's allowances order
- instruct civil enforcement agents to collect the debt on our behalf
- seek a charging order against property
- start bankruptcy proceedings
- start committal proceedings for imprisonment of up to three months.

A liability order may be made against one or more joint taxpayers in respect of an amount for which they are jointly and severally liable. Recovery procedures for the full sum owed may be applied to one or more than one of the joint taxpayers.

### **4.2 Request for information**

A notice will be sent to debtors after a liability order is granted by the Magistrates' court. This notice includes a statutory request for information regarding the tax or rate payer's financial circumstances and employment details.

This request for information may include questions as to:

- the name and address of an employer
- earnings or expected earnings
- deductions and expected deductions from such earnings in respect of income tax, class 1 contributions under the Social Security Contributions and Benefits Act 1992 and amounts deductible for the purposes of a superannuation scheme and under certain attachments of earnings orders
- any work or identity number in an employment, or such other information as will enable an employer to identify the debtor
- sources of income of the debtor other than an employer
- whether another person is jointly and severally liable with the debtor for the whole or any part of the amount in respect of which the order was made.

It is a criminal offence to not provide this information to the Council within 14 days without reasonable excuse or to knowingly provide false information. This could result in a fine of up to £500 and a criminal record. If you knowingly supply false information you could be liable for a fine of up to £1,000 in addition to a criminal record.

### **4.3 Arrangements after a liability order**

Arrangements may be made after a liability order has been granted, subject to the specific requirements in addition to those in section 2.7 above.

Normally, only standard arrangements will be approved. These consist of instalments either greater than the value of attachment of earnings or which clear the debt within the current tax year. A debtor must also not have defaulted on any previous arrangement.

Non-standard arrangements will only be considered on an exceptional basis and must have the approval of a Senior Recovery Officer.

No arrangement will be made without first obtaining the debtor's employment and benefit details.

### **4.4 Attachment of earnings**

Where the Council has been given a debtor's employment details we may issue an order to the debtor's employers to make deductions from their earnings. Employers are legally required to comply with the order.

The amount that can be deducted is prescribed by law and depends on the debtor's earnings. A letter confirming the amount to be deducted will be sent to the debtor and to the employer when the order is issued. Each attachment is for one liability order, with a maximum of two attachments at any given time. Where we are considering issuing more than one order, the most recent debt takes first priority. A maximum of two attachments of earnings can be applied at any time.

The Council will usually attach earnings where it will clear the debt in the current tax year. Attachments that will not clear the debt in the current tax year will be decided on a case by case basis, considering the total amount of debt and time it will take to clear the debt. If an attachment will not clear the debt in a reasonable time or if it is otherwise considered inappropriate, then the Council will consider another recovery action.

An attachment to earnings will only be cancelled in exceptional circumstances. In cases where a debtor claims they will suffer hardship because of an attachment, the individual circumstances will be considered in deciding whether to cancel the attachment. The Council will require evidence of any claimed hardship. This will usually include evidence that they cannot afford to pay for essential expenses such as their housing costs, utilities or food.

#### **4.5 Attachment of members' allowances**

Where the debtor is an elected member of any local authority (with the exception of the City of London and the Metropolitan Police), the Council may ask that deductions be made from their allowances for the payment of the debt.

#### **4.6 Deduction from benefits**

Deductions can be made from Universal Credit, Job Seekers Allowance, Pension Credit, Income Support and Employment Support Allowance to pay liability orders for unpaid council tax.

If a debtor is receiving one of these benefits, the Council may ask the Department for Work and Pensions to make regular deductions from the benefit and make payments to the Council. Only one deduction can be applied at any one time.

The Council will usually take this action where we have details of the debtor's benefit and where the deduction will clear the debt in the current tax year. Deductions that will not clear the debt in the current tax year will be decided on a case by case basis, considering the total amount of debt and time it will take to clear the debt. If a deduction will not clear the debt in a reasonable time or if it is otherwise considered inappropriate, then the Council will consider another recovery action.

A deduction from benefits will only be cancelled in exceptional circumstances. In cases where a debtor claims they will suffer hardship because of a deduction, the individual circumstances will be considered in deciding whether to cancel it. The Council will require proof of any claimed hardship. This will usually include proof that they cannot afford to pay for essential expenses such as their housing costs, utilities or food.

#### **4.7 Civil enforcement agents**

This can be an invasive and expensive form of recovery for the debtor. For this reason, the Council will always prefer to pursue another recovery action first.

However, if there has been no contact from the debtor, if no payment arrangement has been agreed or if the debtor has not provided us with employer or benefit details then the debt will usually be passed to the Council's external civil enforcement agents.

Debtors will be advised in writing at least 14 days prior to the civil enforcement agents' visit together with the fees that may be charged.

Civil enforcement agents may make an acceptable arrangement with the debtor to repay the sums due or levy distress on goods owned by the debtor to satisfy the amount outstanding.

The fees charged by civil enforcement agents are prescribed by law. Details of these are in Appendix 5. Once a debt is referred to civil enforcement agents, any payments made either to them or directly to the council will be applied to the agent's fees first before paying the Council's debt. If a debt has been passed to civil enforcement agents and payment is made directly to the council without including the civil enforcement agent's fees, then the civil enforcement agent will continue the enforcement process for their fees incurred.

If civil enforcement agents cannot identify sufficient goods to clear the debt or cannot gain lawful entry to the property then they will send a certificate to the Council to confirm that no or insufficient goods could be found. Other actions in this procedure will then be considered.

Civil enforcement agents are required to follow the Council's "Code of Conduct" (see Appendix 4)

The Council will ensure as far as possible that the information the civil enforcement agent holds is up to date and accurate. Civil enforcement agents are expected to operate in a fair and consistent manner and any complaints we receive are treated

seriously and investigated thoroughly. Civil enforcement agents engaged by the Council are subject to regular review based on collection performance and conduct.

The Council will only consider withdrawing a debt from civil enforcement agents in exceptional circumstances, for example when a person is or may be vulnerable. However, the Council have determined that vulnerability itself does not stop use of civil enforcement agents, although an identified vulnerability will be taken into consideration when making any contact or agreement with the customer. Requests for withdrawal are judged on a case-by-case basis and the decision made will be based on individual circumstances.

Any cases that are identified as vulnerable will be dealt with by the enforcement agent's specialist vulnerability/welfare team.

## **5 Further recovery actions**

Where the actions in section 4 have been unsuccessful in recovering all of the debt owed or when they are considered inappropriate the Council may consider further recovery actions. These include:

- charging orders
- bankruptcy
- committal to prison.

These actions may have serious consequences for the debtor. They will therefore always be considered on a case by case basis, taking individual circumstances into account.

Other legal actions outside of this procedure may also be considered where appropriate.

### **5.2 Warning letter**

Debtors will receive notice in writing sent to their last known address when the Council is considering further legal action. These warning letters will include:

- clear warning of the actions being considered, their likely cost and the seriousness of their consequences
- a request that the debtor contact the Council to try and make an arrangement to pay the debt and information as to the consequences of failing to respond
- the date by which they must respond
- a recommendation that they seek debt advice from a local non-profit advice agency and details of how they can be contacted.

### **5.3 Factors to take into consideration**

When making a decision to proceed with a further recovery action, a Senior Recovery Officer will always investigate the circumstances of the debtor and then consider:

- The implications for overall payment levels if people come to believe that council tax debts will not be collected
- impact of non-payment on revenues and the need to deliver services to the community
- equality between those who do pay and those who don't
- why other recovery methods are not appropriate
- whether action is likely to be effective
- the potential debt that may be recovered by the action and whether the likely costs of the action are proportionate to it
- whether the debtor's failure to pay may result from a vulnerability or disability and, if so, what action is appropriate as a result
- the potential effect of the action on any known dependants, especially children
- the need to prevent homelessness and whether the action may cause it
- any other circumstances which may warrant protection from the consequences of the action.

An investigation into a debtor's circumstances will include:

- an attempt to contact the debtor in person, including a home visit if necessary
- data about the debtor shared by other areas of the Council including but not limited to Benefits, Rents and Electoral Registration
- data about the debtor shared by other public bodies as permitted by the Data Protection Act 1998.

The Senior Recovery Officer will always keep a written record of the above together with:

- details of attempts to contact the debtor
- the information gathered, consideration of whether the action is proportionate to the likely debt to be recovered and the reasons for proceeding with the action.

#### **5.4 Bankruptcy**

Where the debtor is an individual the Council can apply to the County Court or High Court for them to be made bankrupt if they have liability orders for a debt of more than £5,000.00.

This course of action is costly and can have a considerable impact on debtors and members of their household. Before taking this action, the Council will therefore make reasonable attempts to investigate the taxpayer's personal and financial circumstances to determine whether bankruptcy action is appropriate.

The Council is more likely to pursue this action where:

- the debtor has previously broken agreed payment arrangements
- from the information the Council holds they appear to likely have sufficient realisable assets to pay the debt and likely costs
- the likely costs are proportionate to the debt to be recovered
- the taxpayer and members of their household are not vulnerable
- all other enforcement remedies have been exhausted.

While the Council considers potential vulnerability at all stages of recovery (see section 2.2), particular regard to these will be made when considering bankruptcy action.

Once a decision is made to make a debtor bankrupt, the account will be referred to the Council's Legal Services team. Once a debt has been referred to the Legal Services team, they should normally be the only team to communicate with the debtor about that debt.

After referral, the Legal Services team will usually contact the debtor try and settle the matter without the need for legal proceedings. If no agreement is reached, legal action will commence.

A statutory demand will first be served on the taxpayer setting out the debt outstanding, and the options available to them to prevent further action, the time scales in which they need to respond and direct contact details of officers dealing with the case. A guide to the potential bankruptcy costs is included with the statutory demand. No additional costs are incurred at this stage, and the Council may still agree a payment arrangement with the taxpayer at this stage.

Where the taxpayer has not responded to the statutory demand within 21 days or where the Council is unable to agree arrangements that will discharge the debt, the Council will consider whether a petition for the taxpayer to be made bankrupt should be made to a court.

Where new information is received by the Legal Services team which suggests that the taxpayer or other members of the household may be vulnerable as per section 2.2, the information will be referred to a Senior Recovery Officer to consider whether this action is still appropriate.

Where a bankruptcy order is made, and a debtor has assets that might be sold to settle a debt, a licensed insolvency practitioner will be appointed as a trustee to safeguard and secure the assets of the debtor.

The costs associated with this type of action are high, typically running into several thousands of pounds, which are paid by the debtor.

## **5.5 Charging orders**

The Council may apply to the County Court or High Court for a charge to be put on a property owned by the debtor where a council tax debt of more than £1,000.00 is owed.

The Council is more likely to apply for a charging order against a property that is either fully or jointly owned by a debtor where:

- the debtor has previously broken agreed payment arrangements
- the debtor has failed to provide employment or benefit details
- no contact can be made with the debtor
- the debtor is vulnerable or has a vulnerable person in their household.

Where a decision is made to proceed with an application for a charging order, the account will be referred to the Council's Legal Services team. Once a debt has been referred to the Legal Services team, they should normally be the only team to communicate with the debtor about that debt.

After referral, the Legal Services team will usually contact the debtor again to try and settle the matter without the need for legal proceedings. They will then commence legal proceedings if no agreement is reached.

Where new information is received by the Legal Services team which suggests that the taxpayer or other members of the household may be vulnerable as per section 2.2, the information will be referred to a Senior Recovery Officer to consider whether this action is still appropriate.

The costs associated with this type of action are high, from £253.00 and upwards, and will be added to the amount of the order.

Where a charging order is granted, other methods of recovery may continue to be used to collect the debt.

The Council may also apply to the 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. The Council is more likely to apply for an order

for sale where the debtor owns more than one property, there is likely sufficient equity in the property to pay the debt and costs and the likely costs are proportionate to the debt owed.

## **5.6 Committal proceedings**

If enforcement agents have been unable to find any or sufficient goods to pay the debt, the Council can apply to the Magistrates' Court to have the debtor committed to prison for a maximum of three months. Committal proceedings are usually the recovery action of last resort when all other actions have either failed or are not appropriate.

The Council is more likely to take committal action against a debtor when:

- civil enforcement agents have not been able to recover all of the debt
- the debtor has no property or assets
- the debtor has previously broken agreed payment arrangements
- the debtor has failed to provide employment or benefit details
- the debtor is not considered vulnerable
- the debtor has no dependants
- it appears that the failure to pay may be the result of wilful refusal or culpable neglect
- no other recovery action is appropriate.

Where committal action may be appropriate, the Council will write to the taxpayer inviting them to attend an informal interview with Council Officers to discuss their financial and personal circumstances to attempt to resolve the matter without the need to commence committal proceedings.

Where the debtor fails to respond or where an agreement is not reached, the Council will then apply for a summons for the debtor to appear at a hearing before the Magistrate's court.

At the hearing the Magistrates will usually conduct a means enquiry to determine whether the failure to pay the council tax concerned was due to 'wilful refusal' or 'culpable neglect'. The Magistrates may make the following decisions:

*Commit to prison:* The Magistrates can decide to send the debtor to prison for up to three months.

*Fix a term of imprisonment and postpone on conditions:* The debtor is usually ordered to pay in instalments as determined by the Magistrates. If payments are made as ordered then no further action is taken. If payments are missed,

then the prison sentence will come into force and the debtor can be sent to prison for up to three months.

*Adjourn:* A hearing may be postponed to a later date if, for example, more information or evidence is needed before a decision can be made.

*Dismiss (take no action):* The Magistrates may decide that no further action is appropriate.

*Remit some or all of the debt:* The Magistrates can remit (write off) some or all of the council tax owed. If only some of the debt is remitted, the Magistrates may make a court order for the rest.

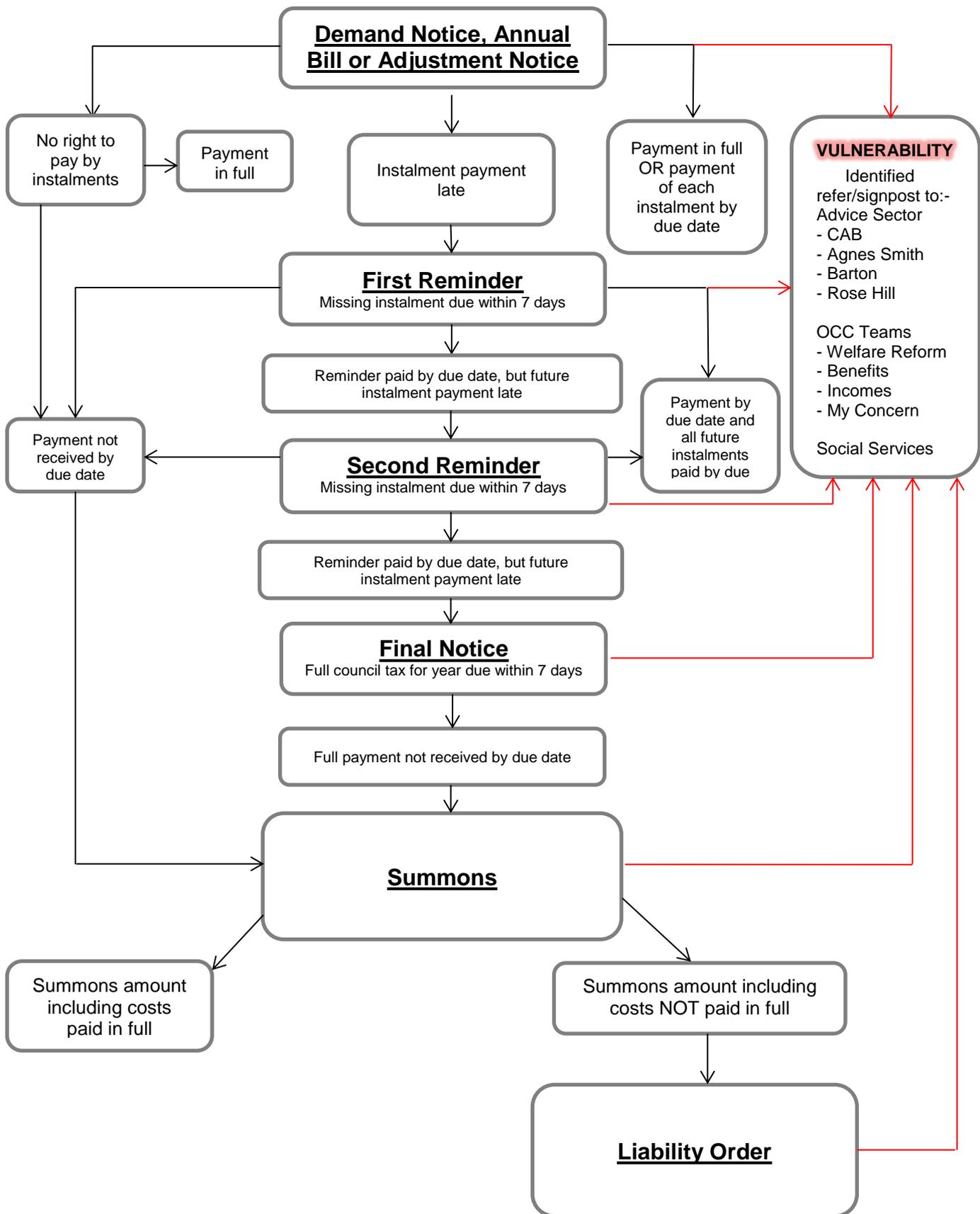
Where the debtor does not attend the hearing as required, the Council will ask for a warrant of arrest with bail to be issued for a further hearing at the Magistrate's court. A warrant of arrest without bail may be applied for in some circumstances, for example where a debtor has previously not complied with a warrant with bail.

If a term of imprisonment is served, the relevant amount of council tax will usually be written off as irrecoverable. A part payment will also reduce the term of imprisonment by the ratio of payment to the total amount of the debt.

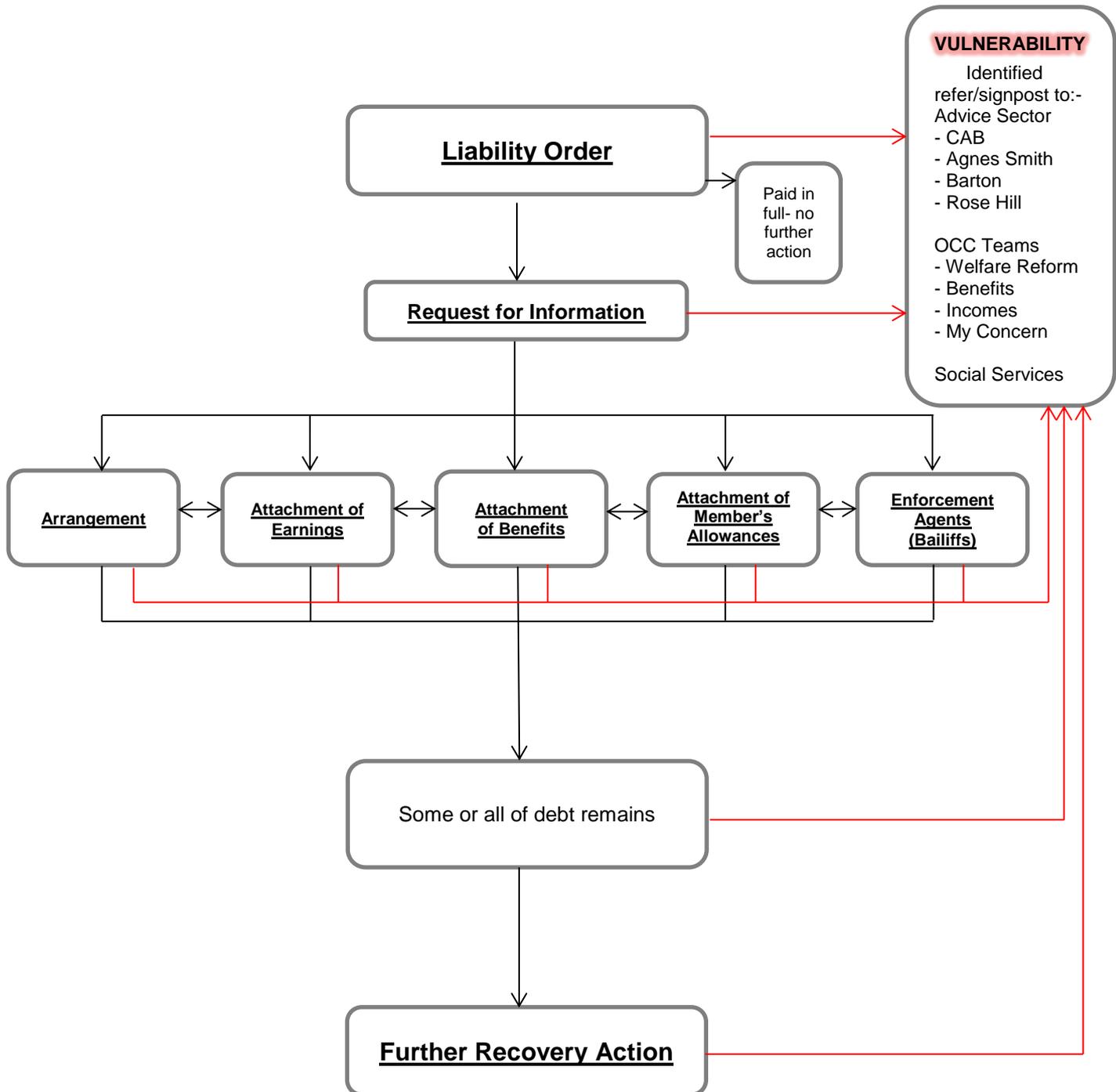
The costs of committal proceedings are high and can add hundreds or thousands of pounds to an existing council tax debt.

If you have any questions about this procedure you can contact the Council at 01865 249811 or [recovery@oxford.gov.uk](mailto:recovery@oxford.gov.uk).

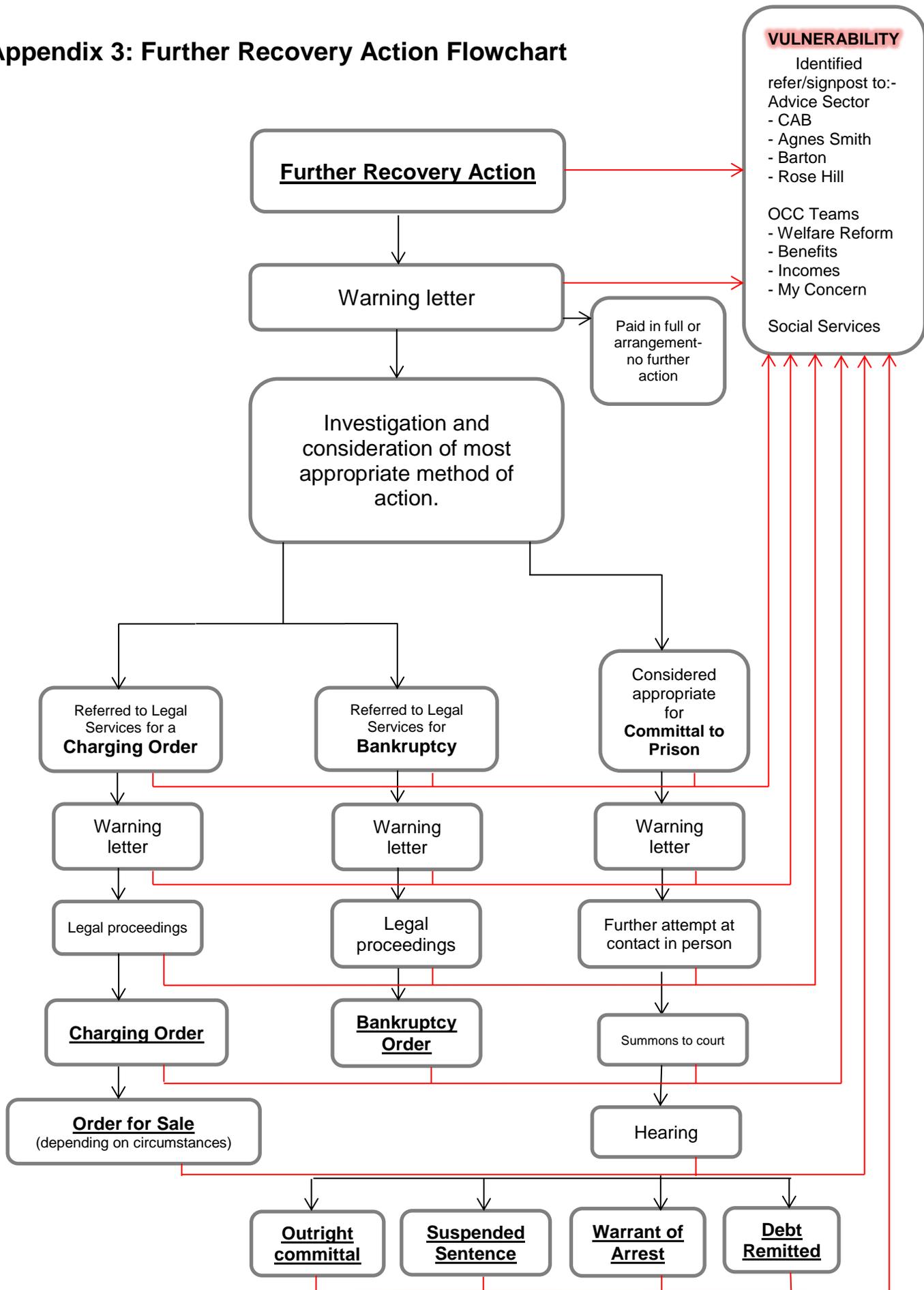
# Appendix 1: Recovery Procedure- from Demand Notice/Annual Bill or Adjustment Notice to Liability Order Flowchart



## Appendix 2: Liability Order to Further Recovery Action Flowchart



# Appendix 3: Further Recovery Action Flowchart



**VULNERABILITY**

- Identified refer/signpost to:-
- Advice Sector
- CAB
- Agnes Smith
- Barton
- Rose Hill
- OCC Teams
- Welfare Reform
- Benefits
- Incomes
- My Concern
- Social Services

**Other possible outcomes:**

1. **Bankruptcy, Charging Order or Committal:** Arrangement (depending on circumstances) or payment in full.
2. **All stages:** Referral to Revenues Manager for special consideration.

## **Appendix 4: Enforcement Agent Code of Conduct**

The Council employs externally contracted civil enforcement agents.

The contracted enforcement agents must act in accordance with this Code of Practice which must be adhered to at all times unless in an individual case the prior permission of the Council is obtained to take alternative action.

The Contractor must ensure and monitor that its employees and agents comply with this Code of Practice at all times.

The Contractor must ensure that taking control of goods is carried out in a humane and fair manner and in accordance with the Council's requirements. If there is any doubt regarding the action to be taken in a particular case it should be reported to an authorised officer of the Council.

### **Professional Standards**

- All enforcement agents employed by The Contractor must carry full and proper photographic identification issued and authorised by them, and when attending at a debtor's property must produce such at the outset without being asked. Such identification must also be shown to any other person who has reason to require it.
- The enforcement agent must also carry written authority from the Council and the Contractor to act on their behalf and if requested to do so, must show that to the debtor and to any other person who has reason to make that request.
- The enforcement agent must introduce themselves to debtors and state that they are acting on behalf of the relevant Council.
- The enforcement agent must not misrepresent his/her powers.
- The enforcement agent must take no action if it appears that the only persons present at the address of the debtor are children or vulnerable adults.
- The enforcement agent must make sure that when discussing details of debts they are dealing with the debtor or someone else who is assisting the debtor at the debtor's request for example an interpreter or their legal representative.
- The enforcement agent must be discreet and take care when making enquiries with neighbours.
- The name of the enforcement agent who visited the debtor's property must be shown on any documents left with the debtor or at the property.
- The enforcement agent must be dressed smartly, be courteous and polite in all circumstances and have a professional approach to their work. The nature of the work demands that a firm but correct attitude should be adopted with debtors and other people they contact in the course of their duties. They must carry out their duties in a calm, dignified and polite manner and shall do nothing to prejudice the reputation and integrity of the Council.

- The enforcement agent must be mindful and respectful to religions and cultures, including an understanding of certain days as cultural and religious festivals. On becoming aware of such days in respect of a particular debtor, Enforcement agents will be expected to consider the appropriateness of proceeding with further action on that day.
- The enforcement agent must follow procedures in confidence and leave letters or documents for the debtor in sealed envelopes marked “private and confidential”. Documents left with debtors or at the property must be on pre-printed stationery and comply with plain English standards.
- All forms and notices issued to the debtor must comply with the requirements of the “Taking Control of Goods Regulations 2013”.
- The enforcement agent must promptly report any physical assaults or serious verbal threats or other matters of concern to the appropriate officer for the Council and if necessary should report any serious risk of a breach of the peace to the police.
- The enforcement agent must be contactable by the Council by means of a mobile phone during working hours and have appropriate messages on voicemail for debtors.
- The enforcement agent must be equipped with technology which must allow them to update the records of the debtor immediately and allow them to provide proof of visits to the debtor’s premises.

## Appendix 5: Civil Enforcement Agent Fees

| Fee Stage          | Detail                   | Fee     | Percentage Fee<br>(size of debt) |          |
|--------------------|--------------------------|---------|----------------------------------|----------|
|                    |                          |         | £0-£1,500                        | > £1,500 |
| <b>Compliance</b>  | When account is referred | £75.00  | 0%                               | 0%       |
| <b>Enforcement</b> | Visit to property        | £235.00 | 0%                               | 7.5%     |
| <b>Sale</b>        | Upon sale of goods       | £110.00 | 0%                               | 7.5%     |

There may also be extra costs to pay for disbursements, for example auctioneers fees, storage fees etc.

The fees above apply to each liability order referred to the civil enforcement agents. Multiple liability orders will incur multiple sets of fees.