



Corporate Debt Policy

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History of most recent Policy Changes – Must be completed			
Date	Section	Change	Origin of change (eg change in legislation)
02/04/2014		Policy updated	
04/06/2018	Policy template	Changes to the template to assist in the publishing of policies on the new intranet	New intranet
09/09/2021	Whole Document	Version 3 Updated to reflect changes in legislation. New section added for data protection	Legislation, Poverty Strategy and organisational changes.

East Devon District Council

Corporate Debt Policy

1.0 Why has the council introduced this policy?

1.1 The purpose of this Policy is to establish guidelines for the recovery of all debts outstanding to the Council and to set out the way we will collect them.

2.0 What is the council's policy?

2.1 While we have a legal duty to recover sums due to the Council, our policy aims to ensure that collection is both fair and cost effective, and that our approach across the different recovery teams will be professional, uniform and timely.

2.2 In line with the Council's poverty strategy we recognise that preventing debt is essential and therefore we will always:

- Train staff at first point of contact to ensure that there is access to high quality advice.
- Where appropriate and with the resident's permission we will refer those who cannot afford to pay to the Council's Financial Resilience Team. The aim of the team is to identify and solve the root causes of poverty enabling resident's future financial resilience. The team will work with appropriate partners best placed to solve the issue, whilst making use of discretionary funds when appropriate to support residents avoid future indebtedness.
- Aim to distinguish effectively between debtors who **cannot** pay and those who **will not** pay.
- Develop a culture of payment by encouraging anyone in financial difficulty to contact us promptly to discuss their circumstances.
- Encourage customers to take advantage of all available help both internally and externally.

3.0 KEY PRINCIPLES

3.1 The following **key principles** are common to all types of debt:

- The difference between priority and non-priority debts (see appendix 1).
- To promote a professional, consistent and timely approach to recovery action.
- To maximise income by using the most appropriate and effective methods of debt recovery.
- To encourage debt prevention at the earliest stage.
- Aim to clear annual charges within the year they are raised. Where income levels do not allow repayment within the year raised, we will seek

to meet an agreement that balances repayment of the amount owed as soon as possible against the individual needs of the resident.

- Ensure that debts are recovered in accordance with legislation.
- To treat individuals fairly and consistently.
- To take account of findings from debt advice agencies and our internal teams who are providing support for those experiencing financial hardship.
- To comply with Breathing Space legislation that restricts the recovery action that we can take for any period of time.

4.0 HOW WILL WE GO ABOUT IT

Our approach will be proportional, consistent and transparent.

4.1 Proportional

That we will strike a balance between potential loss of income to the Council and the costs of recovery action.

4.2 Consistent

Taking a similar approach in similar circumstances in the use we make of our recovery powers and procedures. It does not simply mean uniformity, since we will also take into account the social circumstances of any resident, payment history, ability to pay or any other relevant information.

4.3 Transparent

Being clear and concise with communication to ensure understanding of what is expected and what they should expect from the Council.

4.4 With this approach in mind, we will apply the following as standard:

4.4.1 Billing: We will ensure that all bills/invoices clearly show:

- What the bill is for
- Issue date
- Who is liable for the debt
- The amount of the debt and a list of dates that the payment is expected to be received.
- Where a reduction is possible through discount, exemption, discretionary help or local reductions these will be included within the bill and on our website.
- Contact details for any enquiry.
- Details of the actions that can be taken for non-payment.

4.4.2 Correspondence: We will:

- Write in plain English avoiding the use of jargon.
- Set out clearly both the terms of any agreement to pay and the potential consequences of not paying.
- Produce documents in different formats to help support residents so that they are not at a disadvantage when using our services. For example; sending a large print document for someone who is visually impaired.

4.4.3 Payment and arrangements: We will:

- Encourage residents to pay promptly and regularly
- Provide a range of payment options (see appendix 5)
- Promote Direct Debit as this is a proven method for ensuring payments are made on time.
- Agree to alternative payment arrangements when appropriate discussing the length of this arrangement with the individual.
- When making an arrangement we will get as much detail as possible about the individual circumstances in order to make an accurate assessment of their ability to pay. This may require them to complete an income and expenditure form.
- Where an arrangement for the same debt fails on more than one occasion we will try and explore with the resident the reasons why and if appropriate we will refer for further support, this could include a referral to the financial resilience team or debt advice agency before agreeing to any new repayment plan.
- Monitor arrangements and deal promptly with any that fall behind as maintaining regular repayments is an important part of effective debt collection.
- When we have the authority to take alternative actions if the arrangement is not kept up to date we will highlight the action so that the debtor is aware of this.

4.4.4 Contact and Advice: We will provide and publicise all our contact methods and encourage early contact, these are:

- Telephone
- Email
- Letter
- In person either at Blackdown House or Exmouth Town Hall (by appointment). We can also do home visit where it is appropriate to do so. For instance there is a vulnerability need and the resident is unable to attend our offices in either Honiton or Exmouth.

4.4.5 Where appropriate we will:

- Check entitlement to any reduction or relief.
- Raise awareness to maximise Housing Benefit, Universal Credit and Council Tax Reduction (CTR).
- Train staff who deal with personal debt matters to signpost residents on to other income-related benefits such as: Universal Credit, Job Seekers' Allowance, Working Tax Credit, Pension Credits or a Disability Allowance.
- Support households through financial recovery by making realistic arrangements with consideration of individual personal circumstances and finances available through the use of financial forms that break down the customer's income and expenditure. These forms can also be used

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to assess entitlement to access discretionary help that is available and as a referral mechanism into the Financial Resilience team.

- Signpost residents to where they can get free independent financial advice, such as Citizens Advice, Money Advice Service, etc.
- With the agreement of the resident we will also refer rent and Council Tax arrears cases to our Financial Resilience team and/or, appointed welfare agencies who can give much wider support. This is to not only deal with rent and/or Council Tax arrears but is also to help deal with any social issues, paper work, managing budgets, etc.
- Signpost businesses to advice centres and keep our website up to date with the latest organisations where advice can be sought.
- Ensure debt recovery practices follow relevant legislation and result in affordable and sustainable repayments.
- Hold recovery action for specific and managed situations for a period of time appropriate for the individual situation or legislative requirements.
- We will use our income and expenditure forms to help our customers to try to avoid future debt by creating financial resilience removing the repeated financial crisis scenario.
- The Financial Resilience team will use the income and expenditure forms to aid them in achieving the aims of the Poverty strategy. Part of this work will involve identifying areas where income can be maximised and expenditure minimised.

4.4.6 Debt advice agencies:

- We will only refer to accredited specialist debt advice agencies.
- We will work with Citizens Advice East Devon to develop and maintain a Standard Financial Statement that can be used to establish our resident's ability to pay and to inform our decisions relating to the recovery actions that we take.

4.5 Breathing space/ Debt legislation

- We will conform to Breathing Space and any other relevant legislation/government guidance relating to handling debts.
- Where we receive notifications from the Insolvency Service of a Breathing Space we will ensure that the recovery of debts is placed on hold for the duration of Breathing Space.
- We will work with the debt advice agency involved to try to lift the customer out of debt and consider any reasonable offers made.
- Where we have appointed an agent to assist in the recovery of the debt and we become aware of breathing space we will as soon as practicable contact the agent and hold the case to prevent them taking any action on our behalf.

4.6 Multiple debts

When we become aware that a resident has multiple debts to EDDC and is having difficulty in paying them, consideration will be given to priority debts (see appendix 1).

4.7 Enforcement / Collection Agents

4.7.1 Enforcement /Collection agencies we use will be appointed by formal contract with the Council. This will specify the terms in which they will operate, including:

- Agents to always act in a professional, responsible and courteous manner and operate in accordance with current legislation.
- Maintaining accurate records of all action taken and contacting the Council immediately where they identify a resident to be vulnerable. On these occasions they must contact the appropriate senior officer for further guidance. This must be recorded by both the agent and the Council, on the resident's file.
- They must seek authority prior to the removal of goods from any of the following; Service Lead for Revenues & Benefits, Strategic Lead for Finance or Chief Executive.
- Adopt relevant policies & standards –Equality duties, Data Protection Policy, CIVEA Code of Conduct & National Standards of Enforcement Agent.

4.8 Charging Order, Bankruptcy or Committal to Prison

4.8.1 We will only take this action after seeking approval from the Chief Executive or an Officer with delegated powers in accordance with the Council's Constitution.

4.8.2 We will consider using Charging Orders before bankruptcy or committal to prison provided there is sufficient equity in the property to secure the debt.

4.8.3 Where we have obtained a Charging Order we may apply to the County Court to force sale in order to recover a debt or for bringing an empty property back into use. Obtaining a charging order does not prevent us from considering other enforcement action to collect a debt.

4.8.4 Before deciding whether any of this action is appropriate the following should be taken into account and documented as part of the submission for approval.

- Reasonable efforts have been made to contact the debtor in person, including visiting them in their home, if appropriate.
- Review an accurate history of the debt and attempts made to recover it.
- Gather sufficient evidence about the resident's circumstances.
- Assess that there is no realistic prospect of recovering the debt by other means within a reasonable timescale.
- Ensure proper enquiries have taken place into the individual's personal circumstances, for example; whether there are any known mental health issues or vulnerable dependants.
- Consider information about the past, present, disputed or outstanding benefit/ Council Tax reduction or discount/exemption claims.

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- Consider whether the resident's personal circumstances warrant them being protected from the consequence of this recovery action.
- Consider the consequences in terms of the possible loss of their home, loss of job and the additional financial costs they will incur in addition to what is owed to the Council (forcing sale on a charging order or Bankruptcy).
- Consider the consequences in terms of the possible loss of a person's liberty if they are committed to prison and impact this will have (Committal to Prison).

4.8.5 We will always send a letter warning the resident of our proposed action at least 28 days before applying to the Court. The letter must include information:

- Warning of the serious consequences of either a charging order, forcing sale on a charging order, bankruptcy, or committal to prison and their continued failure to pay the debt, and
- Urging the debtor to seek independent advice and include details of where they can get local free advice.

(This information must be retained in accordance with the Council's Document Retention Policy).

5.0 Vulnerability

5.1 It is important that we (and those acting on our behalf) can recognise when someone is vulnerable and what additional measures we (and those acting on our behalf) may need to put in place to ensure that any person who is vulnerable is treated appropriately. This will also necessitate considering the appropriateness of any recovery action we take.

5.2 What does vulnerable mean?

5.2.1 We have not specified any particular groups of people who may be considered vulnerable, as we are aware that anyone can be vulnerable or become vulnerable, on a temporary or permanent basis, due to their personal circumstances. Moreover, we appreciate that people can respond in different ways to the same situation and there are often different trigger points and tolerances to an individual's ability to cope in a situation. Additionally, their ability to cope can vary depending on the level of support the individual has.

5.2.2 Accordingly we will listen to anyone and establish how best we can support them. Each person will be assisted individually dependent upon their personal circumstances at the appropriate time. To achieve this our staff (including agents acting on our instruction) when dealing with potentially vulnerable people in debt will consider:

- Does the person understand the action being taken?
- What level of support is available or is required to enable the person to understand?

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- How can this support be provided to ensure that the person understands?
- Does the person need a referral to the Financial Resilience Team to help them access other support?

5.3 Ways we support people who are vulnerable

5.3.1 To ensure that vulnerable people understand that action is being taken it may be appropriate to consider alternative ways of dealing with the situation. Accordingly when dealing with a vulnerable person:

- We will consider the appropriateness of the recovery action. For example; for non-payment of Council Tax we may do a deduction from benefit rather than referring a case to an Enforcement Agent.
- We may put recovery action on hold, to allow the person extra time.
- We will direct people to other sources of debt advice, such as Citizens Advice, Money Advice Service or case working services.
- When appropriate we will discuss a referral to the Financial Resilience team for further support.
- Where a vulnerable person is identified, if necessary and safe to do so, we will either invite the debtor to the Council for an interview, or possibly visit the resident at their home to discuss their debt(s).
- We will work with advice agencies and our Financial Resilience team to agree repayment schedules that are affordable, and recognise a person's priority debts.
- We will publicise debt advice contact details within our literature on our website.
- Where a resident has multiple debts within the Council we will develop a joint approach for repayment of any debts.
- Where allowed in law or permission is given by the resident we will share data regarding vulnerable people with other interested parties.
- We will ensure that our staff are fully trained and have appropriate skills to identify vulnerability and signpost people to local support agencies and networks.
- We take a proactive approach to engaging with people to try and identify any issues and whether they have any support framework in place. We also encourage anyone to contact us.

5.3.2 It should be noted that the above list is not exhaustive and other ways to support people may be taken where appropriate.

6 Write offs

6.1 Write off is good practice when a debt is irrecoverable or inappropriate to recover. Where they are authorised this is done in accordance with the council's constitution.

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- 6.2 Irrecoverable – These are debts where the Council has no discretion over writing off as they are enforced by legislation:
- Insolvency (bankrupt, liquidation, debt relief orders, etc.)
 - Remitted by the Courts
 - Time barred
- 6.3 Inappropriate – These are debts where designated officers will have approval to write off under the Council's constitution:
- There is a case for vulnerability and it is inappropriate to pursue enforcement action.
 - The debtor cannot be traced.
 - It would not be cost effective to pursue because the debt is too small.
 - When the likelihood of payment is balanced against the cost of proceeding.
 - Where a person has died and there are no, or insufficient, funds in the estate.

7 Credits

- 7.1 We will make reasonable efforts to refund balances where there is a credit unless there is another debt with the Council. In these instances, we will transfer the credit to reduce the debt, subject to agreement if the transfer is to a different section of the Council.

8 Specific Policy Areas

- Council Tax (see appendix 2 for recovery procedures)
- Non-Domestic Rates (Business Rates) (see appendix 3 for recovery procedures)
- Housing Rents (see appendix 4 for recovery procedures)
- Housing Benefit Overpayments
- Parking Fines
- Sundry Debts/Invoices

8.1 Council Tax

- 8.1.1 Recovery procedures are laid down in statute in The Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.
- 8.1.2 Our aim is to collect the Council Tax promptly and efficiently in order to prevent debt and recovery action escalating.
- 8.1.3 The administration, collection and recovery is the responsibility of the Service Lead for Revenues, Benefits & Customer Services.
- 8.1.4 The Council believes that preventing arrears from building up is essential and the additional measures we take are as follows:
- We offer 3 dates for Direct Debit as we recognise that this is a proven method for ensuring payments are made on time.

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- We offer a wide choice of payment options with a selection of payment dates that we advertise on all our bills and recovery documents.
- We will make arrangements to encourage and support residents in getting back on track with their payments.
- We can agree payment breaks if the resident finds themselves without funds for a period.
- We issue reminders promptly to avoid debts escalating.
- We provide up to date advice on our website.
- We will work closely with Benefits and the Financial Resilience team to identify entitlement, make sure any awards in payment are up to date and consideration of discretionary funds and other support available is identified.
- We will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.
- We will signpost residents to debt advice agencies and promote these on our literature.

8.1.5 We will apply to the Magistrates' Court for Liability Orders, when necessary in order to recover the debt. This gives additional recovery powers, including:

- Attachments of earnings
- Attachment of benefits
- Taking control of goods through the use of enforcement agents
- Charging Orders where liability order exceeds £1000.00 (page 6)
- Bankruptcy action where liability order debt exceeds £5,000.00 (page 6)
- Committal to prison (page 6) is taken when other appropriate remedies have been attempted. Magistrates will hold a means enquiry in which they will establish whether the failure to pay has been the result of 'wilful refusal' or 'culpable neglect'. The Magistrates also have the power to remit all, or part, of the debt. The maximum sentence is three months.

See appendix 2 for the full recovery details.

8.2 Non Domestic Rates

8.2.1 Recovery procedures are laid down by statute in The Local Government Finance Act 1988 and subsequent regulations and amendments.

8.2.2 The administration, collection and recovery is the responsibility of the Service Lead for Revenues, Benefits & Customer Services.

8.2.3 Non Domestic Rates, commonly known as business rates, are levied on a national basis but the local authority is responsible for billing and collection including appropriate recovery measures.

8.2.4 The Council believes that preventing arrears from building up is essential and the additional measures we take are as follows:

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- We offer 2 dates for Direct Debit as we recognise that this is a proven method for ensuring payments are made on time.
- We offer a wide choice of payment options that we advertise on all our bills and recovery documents.
- We issue reminders promptly to avoid debts escalating.
- We provide up to date advice on our website and in our notifications.
- We will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.
- We will make arrangements taking into consideration the fluctuations in income, common to seasonal businesses, and place the emphasis for repayment on times of likely maximum business activity.

8.2.5 We will apply to the Magistrates' Court for Liability Orders, when necessary, to recover the debt. We will use all appropriate methods of enforcement available through Liability Orders including:

- Taking control of goods, through the use of Enforcement Agents.
- Insolvency proceedings (page 6)
- Committal to prison (page 6/7) is taken when other appropriate remedies have been attempted. Magistrates will hold a means enquiry in which they will establish whether the failure to pay has been the result of 'wilful refusal' or 'culpable neglect'. The Magistrates also have the power to remit all, or part, of the debt. The maximum sentence is three months.

See appendix 3 for full details of the recovery process.

8.3 Council House and Garage Rents

8.3.1 The Council's primary concern is to recover the rent debt rather than to regain possession. We will consider eviction only as a last resort if all other action has failed.

8.3.2 The administration, collection and recovery is the responsibility of the Service Lead for Housing.

8.3.3 The Council believes that preventing rent arrears from building up is the preferred option. The measures that we will take to support this are:

- Adopting tenancy start-up procedures which include providing the new tenant with advice on Housing Benefit/Universal Credit, welfare benefits checks, payment method, a Welcome Pack and rental advice at accompanied lettings stage.
- Advising tenants at sign up to have their Universal Credit paid directly to the Council if they are claiming it, or to advise them how to claim if not currently claiming.
- Advising tenants to submit their Housing Benefit or Universal Credit claim form straight away to maximise entitlement and help prevent unnecessary delays.

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- Providing readily accessible information to tenants, particularly those with specific needs such as lack of numeracy and literacy skills.
- Providing advice on the various payment options.
- Making sure that tenants know who their Rental Team Officer is so that they can discuss tenancy issues at an early stage.

8.3.4 The Council will act promptly in contacting tenants if rent arrears begin to accrue and will adopt the following procedure:

- We will send reminder letters, telephone and may also carry out a home visit.
- If the reminders are ignored we may serve a Notice of Seeking Possession to secure tenants, or a Notice of Seeking Possession or a Notice to Quit, depending on the type of tenancy the tenant has. This is the first step of the legal process to obtain possession of the dwelling. The Notice gives a period of at least 28 days to clear the debt in full or to make an arrangement to pay in instalments. If the debt continues to increase, we will apply to the County Court for a hearing to seek a Possession Order on the property.
- At the hearing, the District Judge will normally grant a Suspended Possession Order requiring the debtor to pay the rent as it falls due plus a fixed sum each week towards the arrears of rent. At the Hearing, we will also seek an order for costs, which will be added to any rent arrears on the rent account. Please see appendix 4 for details of costs.
- If the debtor fails to keep to the terms ordered in the County Court we will inform the Court of the default and request the issue of a Possession Warrant, which the County Court enforcement agent will serve and execute to take possession of the property.
 - The Council will do everything possible to prevent evictions but, as a last resort, we will evict tenants if they do not pay their rent.

8.3.5 If a Council tenancy has been terminated leaving rent arrears, the Council will:

- Apply to the County Court to set repayment terms.
- If employment details are known, apply to the County Court for an Attachment of Earnings Order. The Court will order an employer to make deductions from the debtor's earnings to pay the outstanding rent debt.
- Apply to the County Court for a County Court Judgement (CCJ). A CCJ will affect the debtor's credit rating and they will find it difficult to obtain credit, loans, credit cards etc.
- Subsequent applications for housing with any Local Authority or other Registered Social Landlord (Housing Association) may be affected by any rent outstanding from a previous tenancy.

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8.3.6 Garage rents are recognised as non-essential expenditure therefore, failure to pay will result in proceedings to terminate the licence.

- Once garage rent of 1 week or more is owed we will serve a Notice to Quit and, at the end of that period of notice (minimum of 7 days), we will change the locks and repossess the garage.

8.3.7 In regards to our forms of communication with customers we will do the following:

- Telephone – trying to engage more tenants by phone due to the Covid 19 restrictions. Reasonable efforts include a minimum of three attempts at phone calls where telephone numbers are available.
- Email – making sure that we are adhering to Data Protection guidelines.
- In person at the Council's main reception at Honiton, Exmouth or in the residents home (by appointment).
- Face to Face - When we are able to visit tenants we will ensure we visit at least 3 times to engage with tenants, in addition to all the usual pre-court preparation, prior to court application.
- Letter – advising tenants of the new possession claim proceedings and the new directive from the 23rd August 2020. New 'pre- AR1 letter' being sent to all tenants when they first appear to have arrears offering help and support.
- Text
- We will work across teams to ensure we have the help of the MSO's where sheltered properties, Estates where we may have engagement issues and Options where we know the tenant has been provided with a home through the homeless route , any background information must be thoroughly investigated prior to applications to court.

See appendix 4 for full details of the recovery process

8.4 Housing Benefit and Council Tax Reduction Overpayments

8.4.1 Recovered in accordance with Housing Benefit Regulations 2006, The Housing Benefit (**State Pension Credit**) Regulations 2006, Council Tax Reduction Policy and Council Tax Benefit Regulations 2006 (Pre April 2013 overpayments) and The Council Tax (Administration and Enforcement) Regulations 1992, as amended.

8.4.2 The administration, collection and recovery rests with the Service Lead for Revenues, Benefits and Customer Services.

8.4.3 Council Tax Reduction and pre April 2013 benefit overpayments are always added back to the Council Tax account and are therefore recovered in accordance with Council Tax Reduction Policy/Council Tax

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regulations. Housing Benefit overpayments are recovered as detailed from 8.4.4.

8.4.4 Overpayments occur because a resident has been paid too much benefit/reduction and so the Council's aim is to try and prevent this from happening. We have the following measures in place:

- Residents being supported through the application process to ensure they are paid the right amount of benefit/reduction.
- The use of website and letters to reinforce resident responsibility to notify us immediately of any changes in circumstances which are then dealt with promptly.
- Making use of DWP/HMRC data available to ensure that benefit entitlement is based on up to date information.
- Reviewing claims for known future changes whenever possible such as annual increase in the minimum wage.

8.4.5 Once a Housing Benefit overpayment has been created the Council will normally collect from on-going housing benefit where it is in payment. Recovery rates are set by DWP and, initially, we will always apply the maximum recovery rate permissible. Staff have the discretion to reduce the recovery rate or suspend deductions if the resident can show that this would cause unreasonable hardship, for instance, where a resident is unable to pay their rent or is on a Suspended Possession order.

8.4.6 Where there is no on-going Housing Benefit we will issue an invoice for payment. A resident has one month to pay before further recovery action. To prevent recovery action we:

- Offer a wide choice of payment options.
- Encourage and support residents to make an arrangement.
- Provide up to date advice on our website and in our notifications.
- Do not refuse any payments which reduces the debt. However, if it less than the requested amount recovery action may continue.

8.4.7 If after one month the invoice remains unpaid and no arrangement has been agreed then a first reminder will be sent giving 7 days to pay. If no payment or contact is made within 14 days then a second reminder is sent giving a further 7 days to pay. If the debt still remains unpaid we will consider taking the following actions:

- Deduction from certain DWP benefits.
- By applying to another Local Authority for them to deduct from the resident's on-going Housing Benefit.
- Recovery from a debtor's landlord where the landlord is now being paid for a current tenant.
- Direct earnings attachment from debtor's employer.
- Applying to the County Court.
- Use of debt collection agencies to recover on our behalf.

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- Use of the DWP's Matching Service with HMRC that will establish earnings and pension information in addition to last known address.
- 8.4.8 Overpayments that have occurred because of fraud are excluded from insolvency and recovery will continue once they have been discharged.
- 8.4.9 Some benefit/ Council Tax Reduction overpayments are not recoverable. These arise if we or the DWP, make an error where the resident to whom the benefit/ Council Tax Reduction was paid, cannot reasonably have been expected to know they were receiving benefit/Council Tax reduction to which they were not entitled.
- 8.4.10 The overpayment team will refer any cases where a resident cannot repay an overpayment due to experiencing financial hardship to the Financial Resilience team for further work. Findings and arrangements considered affordable by the Financial Resilience team will be considered when deciding on any further possible recovery action.

8.5 Parking fines

- 8.5.1 Are recovered in accordance with the requirements of the Traffic Management Act 2004.
- 8.5.2 The administration, collection and recovery is the responsibility of the Service Lead for Environmental Health and Carparks.
- 8.5.3 The fine is discounted by 50% for the first 14 days after the Penalty Charge Notice is served (14 days is counted as not later than the last day of a 14 day period starting from the date the Penalty Charge Notice is served). If the debtor fails to pay the discounted rate and does not successfully challenge the Notice, the full charge will be due
- 8.5.4 After 28 days from the serving of the Notice, if the full amount of the fine remains unpaid (or has not been successfully challenged) the Council will send a 'Notice to Owner' to the registered keeper of the vehicle. This gives the following options:
- 28 days to pay in full.
 - Make representations against the serving of the Notice to Owner and if these are rejected make an appeal to the Traffic Penalty Tribunal. If the appeal is successful, we will withdraw the Penalty Charge Notice and return in full any payment that has been made to us.
- 8.5.5 If the debtor does neither of the above, we will send a 'Charge Certificate' and the fine will increase by 50%. There is no right of appeal at this stage and the increased charge (the original fine plus 50%) must now be paid by 14 days from the service of the Charge Certificate.
- 8.5.6 If the full charge remains unpaid after 14 days, we will send a Notice of Pre-debt Registration letter to the registered keeper of the vehicle informing them that we will register the debt in the County Court of the

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Traffic Enforcement Centre, Northampton. The letter also gives the debtor another chance to pay the full charge due within 14 days.

8.5.7 If the charge remains unpaid after the 14 day period, we will register the debt in the County Court. A court fee will be added and the debtor will be sent an 'Order of Recovery'.

8.5.8 On receipt of the Order of Recovery, the debtor is required:

- To pay the full charge within 21 days from the service of the Order, or
- Fill out a 'Witness Statement' (enclosed with the Order of Recovery). This gives the debtor the opportunity to sign a 'Statement of Truth' as regards four specific claims:
 - The debtor did not receive the Notice to Owner (parking contravention) document.
 - The debtor appealed to the Parking/Traffic adjudicator against the Council's decision to reject their representation, within 28 days of service of the rejection notice, but had no response to their appeal.
 - The debtor made representations about the penalty charge to the enforcing authority concerned within 28 days of the service of the Notice to Owner, but did not receive a rejection notice.
 - The penalty charge had been paid in full.

8.5.9 If the debtor does nothing, the Court will issue a Warrant of Execution' authorising an enforcement agent to recover the debt. The debtor will then become liable for enforcement fees in addition to the original fines and costs.

8.6 Sundry debts

8.6.1 Sundry debts occur as a result of chargeable services and works provided by the Council. Where possible and appropriate we will request a pre-payment arrangement and in the case of non-payment the service will either not be provided or could be revoked.

8.6.2 Only where a pre-payment arrangement is not possible will we invoice the debtor. These are civil debts which are recoverable through the County Court. Some examples of sundry debts include rent deposits, Home Safeguard fees, rents from commercial lets and many other fees for services.

8.6.3 The collection and recovery of sundry debts is the responsibility of the Service Lead for Revenues, Benefits and Customer Services.

8.6.4 When the Council has failed to recover the debt through the usual invoicing process, we will initially send reminder letters which specify the period within which payment must be made.

8.6.6 Debts not paid or with no repayment agreement in place will be pursued via application for a County Court Judgement (CCJ) using the Money

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Claim on Line. Prior to claim to court being issued a 'letter before action' in line with the pre action debt protocol will be sent. This will give 28 days to pay, respond with an instalment offer or complete a Standard Financial Statement form, before the court application is made.

- 8.6.7 Once the Claim has been made with the court and on receipt of a Notice of Issue (NI), the debtor has 14 days in which to reply/acknowledge to the Court. The Council may agree to a suitable payment arrangement with the debtor at this stage.
- 8.6.8 If there is no response to the NI, we will make an application to the Court for a judgement in default.
- 8.6.9 If the debtor contests the claim by submitting a defence, it will become a defended matter and the Legal Department will prepare a case to present to the Court.
- 8.6.10 A County Court Judgement gives the date for the first payment from the debtor if an instalment plan is agreed or when the debt should be settled in full.
- 8.6.11 If no payment/s are received, and the debtor's employment details are known, an Attachment of Earnings Order may be made unless the Council already has one in place in any other section.
- 8.6.12 If an Attachment of Earnings or a Court Order is not successful the debt may be passed to the Council's collection agent or other enforcement methods used. Where there is going to be a recurring invoice the service area will also be informed in order to prevent further debts from building. This may result in the service being removed until the invoice is paid, for example: rental of beach hut, car park space, etc.

See appendix 6 for full details of the recovery process flow chart.

9 Who is responsible for delivery?

- 9.1 Ownership of the policy rests with each Service or Strategic Lead the debt type relates to.

10 Outcomes and Performance Monitoring

- 10.1 We will monitor the effectiveness of the policy through the complaints procedures and by taking into account the following indicators;

- rate of collection
- the number of cases with arrears outstanding at year end
- the amount of the arrears outstanding at year end
- the number of complaints received
- the level of write-offs
- number of cases being referred to a collection agent
- Audit reviews

11 Policy Administration

Links related Policies/Strategies, Procedures and Legislation

Policies/ Strategies:

- Council Plan
- Equality Policy and objectives 2021-2025
- Communications Plan 2020 - 2024
- Document Retention Schedule
- Data Protection Policy
- CIVEA Code of Conduct
- Anti-Fraud, Theft and Corruption Policy
- National Standards of Enforcement Agents
- National Standards for Taking Control of Goods issued by Ministry of Justice April 2014
- Council Tax Reduction Policy
- Poverty Strategy

The legislation can be found here:

- [The Council Tax \(Administration and Enforcement\) Regulations 1992](#)
- [The Local Government Finance Act 1992,](#)
- [The Local Government Finance Act 1988](#)
- [Housing Benefit Regulations 2006,](#)
- [The Housing Benefit \(State Pension Credit\) Regulations 2006](#)
- [Council Tax Benefit Regulations 2006 \(Pre April 2013 overpayments\)/](#)
- [Traffic Management Act 2004](#)

12 Data Protection

12.1 We use personal data for the administration, collection and recovery of debt which is set out within this policy and in line with legislation and the [Council's Data Protection Policy](#).

12.2 The privacy notices on how personal data is used for all the different debt types are available here [Privacy notices - East Devon](#). The main debt types are included below:

Council Tax

[council-tax-administration-of-council-tax.pdf \(eastdevon.gov.uk\)](#)

Business Rates

[business-rates-administering-business-rates.pdf \(eastdevon.gov.uk\)](#)

Benefits

[benefits-administration-of-benefit-claims.pdf \(eastdevon.gov.uk\)](#)

Housing

[rental-collection-of-housing-rent.pdf \(eastdevon.gov.uk\)](#)

Parking

[car-parks-processing-penalty-charge-notice-and-appeals.pdf \(eastdevon.gov.uk\)](#)

13 Policy Consultation

13.1 Debt advice agency – Citizens Advice East Devon have been consulted on this latest version.

14 Policy Review

14.1 This Policy will be managed by the Service Lead for Revenues and Benefits. The policy will be reviewed no later than April 2026.

Appendices and other relevant information

Appendix 1

Priority debts

Priority debts are those that can result in the loss of a home, loss of essential services or imprisonment. Residents need to be encouraged to recognise the importance of paying these first or agreeing acceptable terms:

- Mortgage/secured loan*
- Rent payments*
- Council Tax
- Business rates
- Gas, electricity
- Phone /internet bills**
- TV licence
- Tax credit overpayments
- Tax debts
- Court fines
- Maintenance/CSA payments
- Income tax, National Insurance and VAT
- Hire purchase agreements **

*Non-payment of these debts could result in loss of the home. If other debts have been given priority instead, the Council may not have a duty to help re-house the debtor.

** these bills may be priority if there is a disability or it is necessary as the resident is looking for work/ needed for their employment

Non-priority debts

Non-priority debts can lead to County Court action and being ordered to pay what they owe. These debts still have to be paid but residents need to be aware that they should not be given higher importance than paying priority debts.

Examples of non-priority debts include:

- Civil debts
- Overdrafts, loans (unsecured), hire purchase agreements

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- Credit card/ store card debts
- Parking penalties
- Catalogue debts
- Money borrowed from family and friends

Where residents engage the assistance of debt advisors they will ensure they are prioritising these debts accordingly

Appendix 2

Council Tax

Recovery process and procedures

In accordance with Council Tax (Administration & Enforcement) Regulations 1992 and subsequent Regulations & Amendments

When a person liable for Council Tax has not made the due payments, the Council will take the following action:

Reminders – if a statutory instalment is not paid, we send a reminder notice giving 7 days to bring the instalments up to date.

If the correct amount on the reminder is paid, within the time limit, but instalments fall behind a second time, we send a second reminder. We may issue a maximum of two reminders on an account in any financial year. Therefore, if a person misses an instalment for a third time in the financial year, or if they do not pay the full amount shown on the first or second reminders within the time limit given, we send a Final Notice.

Final notices - if a Council Tax account is in arrears and the right to pay by instalments has been lost, we send a final notice giving 7 days to pay in full.

Summons - if the Final Notice remains unpaid, a minimum of 14 days after it has been issued, a Summons will be sent which will include additional costs (an amount agreed by North & East Devon Magistrates' Court, which is equal to the costs reasonably incurred, currently £42.00). Any increase in costs has to be authorised through North & East Devon Magistrates Court.

At the hearing, the Council makes an application for a Liability Order to be granted.

Liability Order - Magistrates grant a Liability Order if they are satisfied that Council Tax is overdue for payment. The Order gives the Council the power to take further action if the account remains unpaid. A further £10.00 costs will be incurred at this point.

Up to summons stage, all staff can exercise their discretion by allowing a short period for payments to be brought up to date without progressing to the next stage of recovery. Alternatively, they may re-schedule a payment plan to start or finish later. We may place a short-term hold on the account whilst

Appendix 1

queries regarding discounts, exemptions or benefits are resolved. Staff will, in most cases, agree ongoing interim payments with the resident during the suspension of recovery.

Unless the Council has made a mistake in issuing the Summons, proceedings will only be stopped if the debt and costs are paid in full prior to the court date. At this stage, we will still consider arrangements to pay, but this does not stop the application to the court for a Liability Order. Wherever possible, we will encourage people in arrears to make part payments in order to reduce the debt. We also try to obtain employment or benefit details so that when we have a Liability Order, we are able to consider an attachment of earnings or benefit.

The Magistrates can issue a Liability Order whether or not the debtor attends the hearing. We encourage people to contact us as soon as possible before the hearing if they do not agree that they are liable for the debt or dispute the amount shown on the Summons.

A Liability Order gives the Council additional powers to recover the unpaid Council Tax and to demand certain information from debtors that they are legally required to give. The extra powers that we may use include:

1. Attachment of Earnings Order (AOFE) - this lets us apply to a debtor's employer to collect the money owed directly from a person's wages.
2. Deductions from benefit (AOFB) - this lets us collect the money owed directly from certain benefits that a person may be in receipt of.
3. Taking Control of Goods - we instruct Enforcement Agents to collect the debt.
4. Charging Orders – if the debtor owns the property where the debt occurred, and if there is sufficient equity in it, we will consider applying for a Charging Order, providing the Liability Order debts are at least £1000.00 and we have fully undertaken the steps as detailed on pages 5/6.
5. Forcing sale on a Charging Order – where we have obtained a Charging Order we are able to apply to the County Court to recover a debt or to bring an empty property back into use.
6. Bankruptcy - providing the Liability Order debts are at least £5000.00 this action will only be pursued in accordance with pages 5/6.
7. Committal to prison – where Enforcement Agent action has been unsuccessful the Council will consider issuing a Committal Summons for the debtor to be committed to prison for non-payment. This action would only be taken in accordance with pages 5 /6.

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We do not need the debtor's agreement before taking any of the above courses of action.

Once a Liability Order has been obtained in court, the Council will use the methods of recovery appropriate to the individual case having considered the debtor's circumstances and offer to pay.

We will send a **Notice of Liability Order** requesting information about the debtor's employment and income, unless this information is already held. If there is no response to the request for information within 14 days, the matter may be passed to an Enforcement Agent. We will provide the resident with details of the different stages and fees that will apply before we refer a case to an Enforcement Agent.

Prior to cases being referred to the Enforcement Agent, we will try where possible to make contact by telephone, text, or email with the resident to arrange payment of the arrears. We recognise this as a valuable process in getting the resident to engage with us in order for them to avoid Enforcement Agent fees.

Charging Orders, forcing sale, bankruptcy and committal to prison are all dealt with on an individual basis and potential cases are considered by the Service Lead for Revenues & Benefits before being referred to an authorised officer for approval.

Appendix 3

Non-Domestic Business Rates (Business Rates)

Recovery process and procedures

In accordance with the Local Government Finance Act 1988 and subsequent regulations & amendments

When the person, partnership or organisation liable for Non-Domestic Rates has not made the due payments, the Council will take the following action:

Reminder

When a statutory instalment has not been paid, we send a reminder notice which shows the amount required and the date it must be paid by (i.e. within 7 days). The notice also warns that failure to comply, or if any future instalments are missed, the right to pay by instalments will be lost.

Final Notice

If the debtor fails to pay in response to the reminder notice the full unpaid balance for the year becomes due. We then send a Final Notice showing the full amount due and the date by which it must be paid (i.e. within 7 days from the date of the final notice).

Summons

When there has been no satisfactory response to the Final Notice, and if the full amount shown on the Final Notice remains unpaid after the due date, the Council may apply for a Summons. The cost of the Summons (an amount agreed by North & East Devon Magistrates' Court, which is equal to the costs reasonably incurred, 01/04/20 = £42.00) is added to the debt.)

Unless the Council has made a mistake in issuing the Summons, proceedings will only be stopped if the debt and costs are paid in full prior to

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the court date. At this stage, we still make arrangements to pay but this does not stop the application to the Court for a Liability Order. We will not refuse part payments in order to reduce the debt. The cost of the Liability Order (an amount agreed by North & East Devon Magistrates' Court, which is equal to the costs reasonably incurred, currently is £10.00) is added to the debt.

Liability Order

Costs of £10.00 will be added to the debt in respect of obtaining a Liability Order. Once the Council has obtained a Liability Order to back the debt, we may initiate a range of remedies to recover unpaid rates including:

- **Enforcement agent action** – if the debtor has failed to make and maintain an agreed payment plan, we can instruct Enforcement Agents to recover the debt. In a process known as Taking Control of Goods, Enforcement Agents may seize and sell goods to the value of the outstanding debt, plus their fees. The additional fees are determined by central government regulations and the debtor is held liable for them.
- **Insolvency action** – we may petition for bankruptcy or for the winding up of a company, depending on whether the debtor is an individual or a company. Although the Insolvency Act 1986 does not stipulate that a Liability Order must be obtained before taking insolvency action, the Council will endeavour to do so. This action will only be pursued in accordance with pages 5/6.
- **Committal to prison (individuals only)** - where Enforcement Agent action has been unsuccessful the Council will consider issuing a Committal Summons for the debtor to be committed to prison for non-payment. This action would only be taken in accordance with pages 5/6.

Staff can exercise their discretion by allowing time for payments to be brought up to date without enforcement progressing. Alternatively, they may reschedule a payment plan to start or finish at a slightly later date, provided the Council's position is not adversely affected and past payment performance indicates that the outcome is likely to be successful.

We always make it clear to debtors that recovery action will not be suspended pending any appeal they may have made to the Valuation Office Agency.

Insolvency and committal to prison are all dealt with on an individual basis and potential cases are considered by the Revenues & Benefits Service Lead before being referred to an authorised officer for approval.

Recovery of rent arrears

All tenancy agreements state that rent payments are due in advance. Rent is charged weekly to rent accounts and tenants can pay, in advance, at any frequency from weekly to monthly. Where rent is not paid when due the Council will take the following action:

Reminders – if rent has not been paid a reminder letter will be sent requesting that payments are brought up to date.

If the full amount is not paid an arrangement can be made to pay the debt by instalments. If the debt is not settled or an instalment is missed a final reminder will be sent.

Final Reminders – if the debt remains unpaid or is not reducing a final reminder is sent warning of further action. Accompanying this letter are details of housing benefit surgeries, Citizens Advice contact details and a debt advice leaflet giving contact details of a number of debt advice agencies that give free and independent advice.

Notice of Seeking Possession & Notice to quit – if the debt reaches 8 Weeks rent or more (4 weeks on a garage), a Notice will be served on tenants. A notice of Seeking Possession, Notice to Quit, introductory Notice or a Notice seeking Termination will be served, depending on the type of tenancy the tenant has. These Notices give a minimum period of twenty eight days for the debt to be paid or for a repayment programme to be agreed and maintained. After the period of notice and for a further period of 52 weeks the Council can commence steps to recover possession of the dwelling by making an application to the County Court.

County Court Hearing – at the hearing the Council will seek possession of the property, but this will normally be suspended or adjourned on terms depending on the size of the debt and the history of payment. The terms granted will be a reasonable amount in addition to the rent as it falls due. The Council will also be entitled to an order for costs, currently £394.50 and these costs will be awarded on the same terms as the repayment of rent arrears.

If the rent arrears are paid in full or at a low level the matter in Court can be adjourned generally or to the next available date or the proceedings withdrawn, but an order for costs will still be sought.

If rent arrears are substantial and the payment record is poor an outright order for possession can be sought.

If a tenant breaches the terms of an adjourned order an application will be made to the Court for the matter to be restored for hearing.

Warrant for Possession of Property – if a tenant breaches the terms of a suspended possession order a letter is sent advising of the amount of that breach, giving 7 days for the sum to be paid and requesting that future

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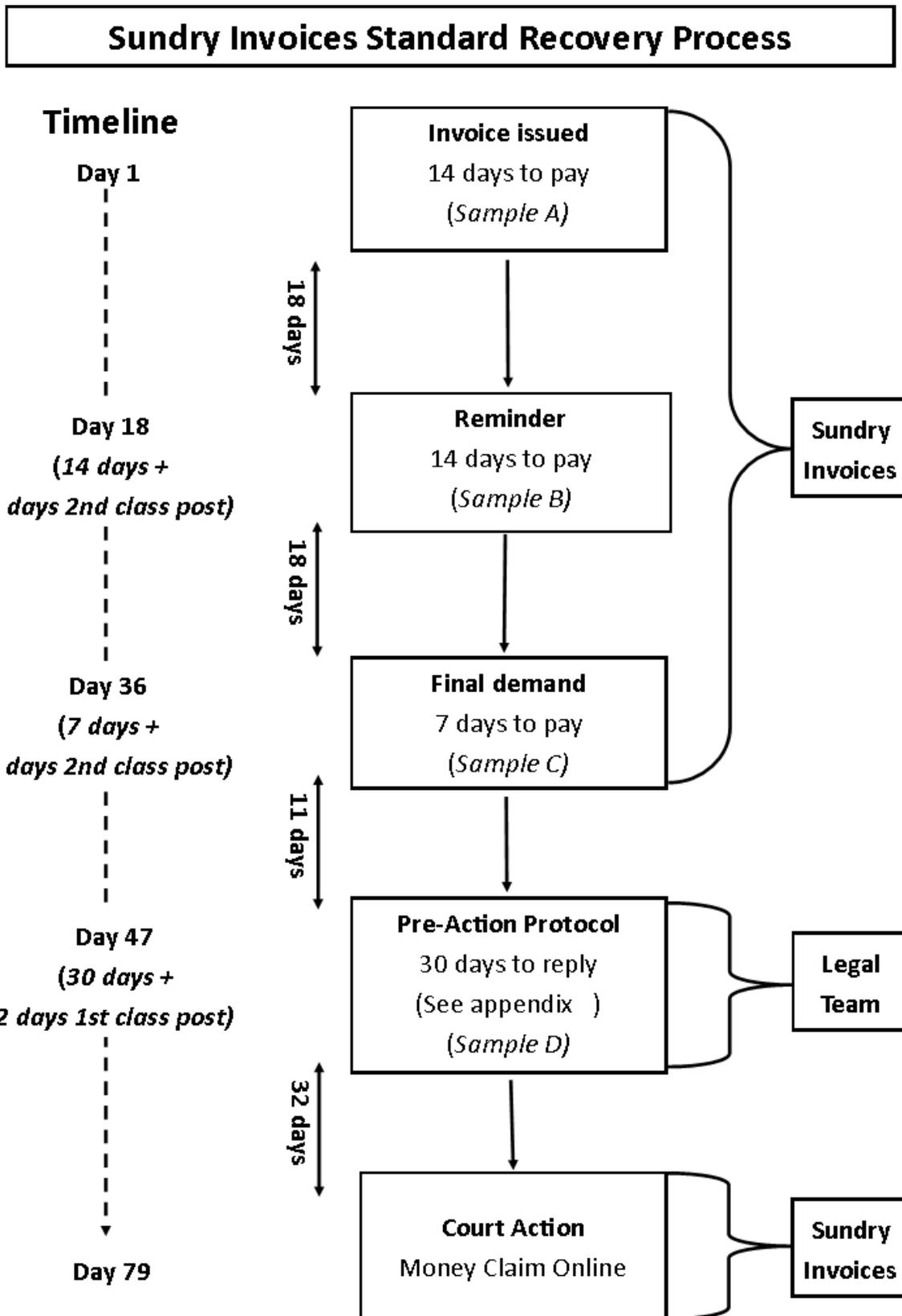
payments are paid when due. If the letter is ignored a further warning is given before a possession warrant is applied for. An application for a possession warrant will be made and this will incur a cost of £110 which, will be added to the tenant's rent account. The County Court enforcement agent will then issue a date to the tenants when the warrant will be executed and their home repossessed. The tenant has the right to apply to have the warrant set aside and on receipt of such an application the Court will set a hearing date to hear the application. The District Judge will hear both parties and can decide to make a further suspended order on terms and give another opportunity for the tenant/s to remain in their home and pay the debt or the application can be dismissed, the warrant enforced and the tenant/s evicted.

Principles of court action

- Possession Action should not be taken if tenants have made and successfully maintained repayment arrangements, including direct deductions from the appropriate state benefit.
- If housing benefit or universal credit issues are outstanding, court action should be delayed.
- Court action should be the last resort when all other action has failed to result in repayment of arrears.
- Rental Team Officers should encourage tenants to seek advice, before they go to court, from advice agencies like the Citizens' Advice and floating support agencies. They should also encourage tenants to attend the court hearing in person so they can discuss their financial situation.
- Personal contact should always be maintained through the legal process. Providing effective advice and support will help to ensure tenants are able to remain in their homes.
- The Court will provide tenants with information on how to apply to the Court to vary the terms of a suspended order or how to apply to set aside a repossession warrant.
- In cases of eviction, close liaison with the Housing Options Team is necessary where children or vulnerable people are involved.

Payment Options

Direct Debit	The Council offers paperless Direct Debits for the collection of Council Tax, business rates, sundry debts and rent. Direct Debit is our preferred option because it is easy to collect, cost effective and environmentally friendly. We offer a choice of three collection dates for Council Tax, two for business rates and one for rent.
On-line	Payments can be made using East Devon District Council's website or via the resident own bank.
Telephone	Payments can be made using a debit or credit card via the automated telephone line which is available 24 hours a day, 7 days a week.
Post Office	Payments can be made at any Post Office free of charge when using a recognised barcode (printed on bills, recovery documents and rent payment cards).
Payzone and Paypoint	Payments can be made at any Payzone outlet free of charge, when using a recognised barcode (printed on bills, recovery documents and rent payment cards). Paypoint will also accept the rent payment card.
By post	residents can send cheques or postal orders to the Council offices by post, but we strongly advise them not to send cash this way.
Bank	residents can pay at their own bank, or the Council's bank.
In person	In certain circumstances, we can arrange for payment to be made at our offices or for an officer to visit a home or place of business to collect housing rent, Council Tax, business rates and benefit overpayments.



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