



Torridge District Council

## A Fair Collection and Recovery of Debt Policy

Help us to help you – Contact us  
and work in partnership with your local  
Council

This policy covers the collection of Council Tax, Business Rates, Debtors and Housing Benefit Overpayments.

## **Introduction**

### ***Our Duty to Collect and Recover...Torrige District Council***

- Has a legal duty to ensure cost effective billing, collection and recovery of all sums due to the Council;
- Considers that people have a responsibility to pay.

The Council believes in pursuing recovery of all debt as it considers the need to be fair to those people who do pay and the consequences for overall payment levels if non-payers are allowed to evade their debts. The Council will act fairly, proportionately and within the law, make decisions properly and comply with general statutory duties in relation to disabled people, including those with a mental impairment. The manner in which the Council will act will be fair and consistent to all.

The Council is also keen to ensure all activities in relation to recovery of debt are transparent and as part of this commitment has shared this policy with the Citizens Advice Bureau, (CAB) Bideford.

### ***Our Mission...***

- To bill the right person/business at the right property at the right time;
- Take correct action to maximise recovery of Debt;
- To maximise Housing Benefit and Council Tax Support take up.

### ***The Strategic Plan – Torrige – A great place to live, work and visit!***

This policy meets the requirements of the Council's strategic goals

- An Effective and Confident Council
- Support Stronger, Safer, Healthier Communities

### ***Torrige District Council recognises that people do not pay their debts for a variety of reasons:***

- Some people genuinely struggle to meet their payments, juggling bills and debts in order to "make ends meet", with very low income
- Lack of life skills and inability to cope
- Financial problems created by a one off personal crisis
- Some people deliberately choose to set out to delay, or not pay their debts as a form of protest or from hostility to "officialdom"

***Torridge District Council's commitment to the customer includes the following:***

- An opportunity for customers to have one to one contact with staff, either by phone or personal visit.
- Inform people of their entitlement to exemptions, discounts and relief's
- A willingness to work with customers when genuine difficulties are being experienced.
- A robust recovery programme for debtors who appear to deliberately delay, or refuse to pay debt owing.
- Arrangements made to spread repayment in genuine circumstances.
- A willingness to exhaust the benefit system to establish entitlement to housing benefit and council tax support.
- A commitment to sign post customers to other agencies where considered appropriate, e.g. CAB, Department for Works and Pensions.

**When people get into arrears, we will...**

- Encourage customers to contact the Council immediately it becomes evident that there could be problems in paying their bills.
- Consider payment arrangements that reflect the ability to pay as well as the level of debt owed.
- Consider whether the customer needs to complete an income and expenditure form, setting out their reasonable residual income. The Council may request documentary evidence to support the customer's statement.
- On occasions, depending on the point of contact from customer, secure the debt prior to engaging with any arrangement to repay the debt.
- Acknowledge and respect a person's obligations to their children and the need to maintain a reasonable standard of living.
- Work with recognised advice agencies whenever possible.
- Maximise benefit take-up when appropriate and advise customers accordingly, working with the Council's benefits team.

## **Billing Processes**

### ***The customer can expect...***

- An initial bill that sets out clearly information stipulating:
  - What the bill is for
  - The amount due
  - How to contact the council
  - How to make payment

### ***Information and advice to Council tax Payers...***

- The annual Council Tax Bill will include details on;
  - Valuation Bands
  - Discounts
  - Reductions for people with disabilities
  - Exempt Dwellings
  - Council Tax Support
  - Appeals
  - How the Council Tax is spent
  - Contact details

### ***Information and advice to Business Rate Payers...***

- The annual Business Rate Bill will include details on;
  - Rateable Values
  - Relief's and exemptions
  - Appeals
  - How the Council Tax is spent
  - Contact details

### ***Information and advice with Sundry Debtor Accounts Business Rate Payers...***

- The following information will be included with Sundry Debtor Invoices;
  - Reason for invoice
  - Method of payment
  - Contact details

### ***Information and advice with Housing Benefit and Council Tax Support Overpayments...***

- An overpayment occurs when a payment of Housing Benefit or Council Tax Support has been made and there was no entitlement to it. Customers will be advised of;
  - Reason for invoice
  - Method of payment
  - Contact details

### **Payment of a Debt**

We have tried to make paying your bills as easy as possible. The Council offers a variety of convenient methods, which include:

- Payment by Direct Debit
- Payment by cash at the Post Office or Paypoint
- Payment by cheque through the post
- Payment by Debit/Credit Card
  - Over the phone to an officer during office hours
  - By using the special automated telephone line – **0300 7900 215**
  - Over the Internet ([www.torridge.gov.uk](http://www.torridge.gov.uk))
- Payment from ongoing Housing Benefit (recovery of Housing Benefit overpayments will be taken out at source where appropriate)

Whichever method the customer chooses, payment must reach the Council by the due date.

The Council actively encourages people to make immediate contact if anyone is having difficulty paying their bills.

## **When Customers do not pay**

The Council believes in pursuing recovery of all debt, but will also seek to ensure that the manner in which this is undertaken is fair and consistent to everyone. If there is a genuine problem facing a customer the Council will engage and establish an appropriate way forward. However, customers who deliberately delay, fail to make payments, or do not keep to agreed arrangements, will be subject to robust recovery procedures as set out in appendix 1 – 4.

## **Late Payments - Businesses** (This does NOT relate to Business Rates)

Under the Late Payment of Commercial Debts (Interest) Act 1998, the Council is able to charge interest on late payments when both parties are acting as businesses. Interest is charged 30 days after the date of the invoice at the rate of 8%. Torridge District Council reserves the right to charge interest in accordance with the above.

The Business Tenants Arrears Policy (Approved) confirms a charge of 4% plus the bank base rate.

## **Making an arrangement to pay**

When a customer is genuinely struggling to meet their commitment, the Council will consider making an arrangement so as to enable the debt to be re-paid in full, within agreed time limits. As part of this process the Council may request the customer to complete an income and expenditure form to establish their financial position.

The Council will consider this information and in addition, will consider:

- The Department for Works and Pensions recommended amounts.
- Statutory deduction sums in relation to attachment of earnings.
- What would be a reasonable sum, taking account of residual income.

## **Customer Welfare**

There are occasions when a customer may have particular difficulty in responding to debt matters. If such cases are identified, the Council will endeavour to do all it can to assist the customer in establishing a way forward. This may be to invite the customer for a personal interview, or visit them in their home.

## **Visits**

If the Council considers a visit to the customer in their home may be beneficial, the Council will...

- Make contact with the customer to establish if a visit is agreeable.
- Give the customer adequate notice of the date and time of visit and explain to the customer the purpose of the visit.
- Advise the customer they can have someone with them during the visit.
- The Councils visiting officer will carry identification evidence and will display identification at first contact.

## Signposting

Torrige has a “sign posting” contact list available which includes various organisations that could help customers with financial issues.

### Appendix 1

#### Council Tax Recovery Processes

1. **Bill issued** – Payable over 10 or 12 months, April – January or March

*Customer fails to make payment*

2. **1<sup>st</sup> Reminder** – If customer pays within 7 days of 1<sup>st</sup> reminder normal payments can continue and no change to arrangements.

*Customer pays after 1<sup>st</sup> reminder but misses or pays another instalment late*

3. **2<sup>nd</sup> Reminder** – This is the same as the 1<sup>st</sup> reminder but notifies the customer that if another payment is missed the right to pay by instalments is lost.

*If customer misses one more payment after the second reminder*

4. **A Final Notice** - is issued requesting the remaining balance be paid within 7 days.

*Non-payment after 2<sup>nd</sup> reminder or final notice*

5. **Summons issued** – The Council will summons the customer to Court and £55.00 costs are charged to the customer. If payment is made in full by the court date, no further costs are added.

6. **Liability Order** – The Council will go to the court and request a Liability Order. The customer incurs further costs of £10.00. Once a Liability Order has been obtained the Council will write to the debtor again. There are various options now open to the Council if the debt remains unpaid. These are as follows:

- Make an attachment of earnings order, or
- Apply for deductions from the debtors benefit, or
- Refer case to the Enforcement Agent with a view to them taking control of goods to sell and clear the debt with the proceeds, or
- Apply to the county court for a charge to be put on a property on which the council tax debt of more than £1,000 is owed, if it is owned by the debtor, or
- Apply to the county court for the debtor to be made bankrupt if it has a liability order for a debt of more than £750.00.
- An application to the magistrates' court to have the debtor committed to prison.

## **Business Rates Recovery Processes**

- 1. Bill issued** – Payable over 10 months, April – January

*Customer fails to make payment*

- 2. 1<sup>st</sup> Reminder** – If customer pays within 7 days of 1<sup>st</sup> reminder normal payments can continue and no change to arrangements.

*Customer pays after 1<sup>st</sup> reminder but misses or pays another instalment late*

- 3. A Final Notice** - is issued requesting the remaining balance be paid within 7 days.

*Non-payment after final notice*

- 4. Summons issued** – The Council will summons the customer to Court and £55.00 costs are charged to the customer. If payment is made in full by the court date, no further costs are added.

- 5. Liability Order** – The Council will go to Court and request a Liability Order. The customer incurs further costs of £10.00. Once a Liability Order has been obtained the Council will write to the debtor again. There are various options now open to the Council if the debt remains unpaid. These are as follows:

- Refer case to the Enforcement Agent with a view to them taking control of goods to sell and clear the debt with the proceeds, or
- Apply to the county court for the debtor to be made bankrupt if it has a liability order for a debt of more than £750.00.
- An application to the magistrates' court to have the debtor committed to prison.
- The Council and the Debtor may enter into an agreement to put a charge on the debtor's premises in order to secure payment

## Sundry Debtor Recovery Processes

1. **Invoice issued by various service departments** – Payable by the due date

*Customer fails to make payment by due date*

2. **Reminder letter issued** – payment requested within 7 days

*Payment still not received*

3. **Final Notice issued** – payment requested within 7 days, notice stipulates that failure to pay will result in either the debt being passed to a collector or the Court.

*UNPAID OVER 28 DAYS FROM DUE DATE*

### 4. Further Courses of Action

- **If debt relates to the council's commercial premises** – Corporate Property Team is informed and the necessary action is taken – personal visits, letters and as a final resort Enforcement Agents are used under a Commercial Rent Arrears Recovery process to take control of goods. (Once the control of goods has taken place the Enforcement Agent must give at least 7 days before the same goods are sold. The notice of sale must be given to the debtor).
- **For other debts over £500.00** - A pre-litigation letter is issued and then the debt is passed to the Council's legal section for action – this will be actioned through the County Court.
- **For other debts less than £500.00** – the debt is passed to the Council's collector

## Housing Benefit Overpayment Recovery Processes

1. **Invoices** are issued the day after an overpayment is created.

*Customer fails to make payment by due date*

2. **1<sup>st</sup> reminder** Issued 28 days after the invoice date

*Customer fails to make payment by due date*

3. **Final letter** Issued 14 days after the 1<sup>st</sup> reminder

*Customer fails to make payment by due date*

4. **Referral Action** One or more of the following:

- Department for Works and Pensions for deductions from other state benefits;
- Refer to other Local Authorities for deductions from Housing Benefit;
- Refer to Collector Agency for debt collection;
- Refer to employer for attachment of earnings.

*The debt remains unpaid*

5. **Court Action** County Court Judgement obtained against Debt

- **Various recovery options are available once a County Court Judgement has been obtained**, including to apply to the court for a warrant of execution.

## **Explanation and Considerations given before instigating Post Liability Order Recovery Action**

### **Attachment of Earnings (AOE) – Council Tax**

AOE can only be used if the debtor is in work and has earned income above £75 per week or £300 per month. Prior to this action consideration will be given to;

- The size of the debt
- Earnings received
- Whether the debtor is known to move in and out of work

### **Attachment of Benefits (AOB) – Council Tax and Housing Benefit Overpayment**

#### **Council Tax**

AOB can be applied to the following DWP benefits in recovering council tax due:

Job Seekers Allowance (IB)  
Income Support  
Employment Support Allowance

*Prior to this action consideration will be given to;*

- The size of the debt
- Whether deductions are already in place for another debt
- If this is the most appropriate action to take.

#### **Housing Benefit Overpayment**

AOB can be applied to the following DWP benefits in recovering housing benefit debts:

- Income Support
- Attendance Allowance
- Job Seekers Allowance (income based)
- Jobseekers Allowance (contribution based)
- Disability Living Allowance / Personal independence payment
- Employment Support Allowance (income-related)
- Employment Support Allowance (contributory)
- Incapacity Benefit
- Industrial Death Benefit
- Industrial Injuries Disablement benefit
- Carers Allowance
- Maternity Allowance
- State Pension
- State Pension Credit
- Severe Disablement Allowance
- Widows Benefit
- War Pension
- War Disablement Pension
- Bereavement Benefit
- Universal Credit

Prior to this action consideration will be given to;

- The size of the debt
- Whether deductions are already in place for another debt
- If this is the most appropriate action to take

### **Taking Control of Goods – Council Tax and Business Rates - (Enforcement Agents)**

Taking control of goods will result in an Enforcement Agent gaining peaceful entry to the debtors premises and making a list of the debtors goods and belongings that could then be seized and sold in payment of the outstanding debt, or if an arrangement has been made, if the debtor defaults on the agreement. Enforcement Agents have a right to enter the debtor's house to list goods, even if the debtor is not home, however this cannot involve entry by force. The Enforcement Agents adhere to a strict code of conduct.

A debt will be passed to the Enforcement Agent if an AOE or AOB is not considered appropriate and/or the debtor does not respond to the Council 14/7 day letter. Prior to this action, consideration will be given to;

- Previous history of account
- Any known vulnerability issues

### **Recovery from ongoing benefit – Housing Benefit Overpayments**

Recovery from a customers housing benefit can be used when the debtor is continuing to be in receipt of housing benefit. The level of deduction will normally be made in accordance with the guidance from the Department for Works and Pensions, however a reduced amount would be considered if it is thought that the deduction amount could lead to hardship.

### **Recovery from ongoing Housing Benefit paid by another council – Housing Benefit Overpayments**

Deductions taken from housing benefit, paid by another Local Authority, can be requested when a customer has moved out of the Torridge District and is in receipt of housing benefit in another area.

### **Use of Collector – Housing Benefit Overpayments and Sundry Debtors**

The Council may refer your account to a collector service, who will write to/phone you, or visit your address in order to recover the debt.

### **Attachment of Earnings (AOE) – Housing Benefit overpayments**

AOE can only be used if the debtor is in work. Prior to this action consideration will be given to;

- whether the debtor is known to be in remunerative work

## Charging Order – Council Tax

An application to put a charge on a property can be made if a council tax debt of over £1,000 has been incurred on that property. This secures the debt but it is not paid until the property is sold. Councils can apply to the court for a forced sale. This incurs additional costs to be paid from the proceeds of the sale and councils have to administer the sale. Prior to this action, consideration will be given to;

- Whether the debtor owns their property
- Cost and effectiveness of this route of recovery
- The individual circumstances of the debtor
- General equality duties
- Impact of non-payment on revenue and the ability to deliver services to the community, and
- Equality between those who do pay and those who don't

The Council officer will apply a step by step approach to the decision making process as set out below:

- |        |   |
|--------|---|
| Step 1 | A review of an accurate history of the origin of the debt and recovery attempts   |
| Step 2 | A review of past, present, disputed or outstanding benefit claims or any discounts or exemptions that might be relevant   |
| Step 3 | Assess that the asset will clear the debt   |
| Step 4 | Assess that there is no realistic prospect of recovering the debt by other means in a reasonable timetable  |
| Step 5 | Sufficient evidence of the debtor's circumstances has been gathered and considered  |
| Step 6 | Consideration will be given as to whether a debtor's failure to pay and respond to other recovery measures could arise from a disability, which will include a mental impairment, which would have a substantial effect on day-to-day activities. |
| Step 7 | Consideration to be given as to whether the debtor's personal circumstances warrant them being protected from the consequence of recovery action  |

The above steps will be recorded for each individual case and may result in the need for a home visit to obtain all relevant information.

## **Bankruptcy – Council Tax and Business Rates**

A council can start bankruptcy proceedings if it has a liability order for a council tax debt of more than £750.

Prior to this action, consideration will be given to;

- Cost and effectiveness of this route of recovery
- The individual circumstances of the debtor
- General equality duties
- Impact of non-payment on revenue and the ability to deliver services to the community, and
- Equality between those who do pay and those who don't

The Council officer will apply a step by step approach to the decision making process as set out below:

- |        |   |
|--------|---|
| Step 1 | A review of an accurate history of the origin on the debt and recovery attempts   |
| Step 2 | A review of past, present, disputed or outstanding benefit claims or any discounts or exemptions that might be relevant   |
| Step 3 | Assess that assets will clear the debt  |
| Step 4 | Assess that there is no realistic prospect of recovering the debt by other means in a reasonable timetable  |
| Step 5 | Sufficient evidence of the debtor's circumstances has been gathered and considered  |
| Step 6 | Consideration will be given as to whether a debtor's failure to pay and respond to other recovery measures could arise from a disability, which will include a mental impairment, which would have a substantial effect on day-to-day activities. |
| Step 7 | Consideration to be given as to whether the debtor's personal circumstances warrant them being protected from the consequence of recovery action  |

The above steps will be recorded for each individual case and may result in the need for a home visit to obtain all relevant information.

## **Committal – Council Tax and Business Rates**

In certain circumstances Councils can apply to the magistrates' court to have the debtor committed to prison.

Prior to this action, consideration will be given to;

- Cost and effectiveness of this route of recovery
- The individual circumstances of the debtor
- General equality duties
- Impact of non-payment on revenue and the ability to deliver services to the community, and
- Equality between those who do pay and those who don't

The Council officer will apply a step by step approach to the decision making process as set out below:

- |        |   |
|--------|---|
| Step 1 | A review of an accurate history of the origin on the debt and recovery attempts   |
| Step 2 | A review of past, present, disputed or outstanding benefit claims or any discounts or exemptions that might be relevant   |
| Step 3 | Assess that there is no realistic prospect of recovering the debt by other means in a reasonable timetable  |
| Step 4 | Sufficient evidence of the debtor's circumstances has been gathered and considered  |
| Step 5 | Consideration will be given as to whether a debtor's failure to pay and respond to other recovery measures could arise from a disability, which will include a mental impairment, which would have a substantial effect on day-to-day activities. |
| Step 6 | Consideration to be given as to whether the debtor's personal circumstances warrant them being protected from the consequence of recovery action  |

The above steps will be recorded for each individual case

## Terminology

### What does it mean?

#### **Final Notice**

A document issued when an account is in arrears and the right to pay by instalments has been lost.

#### **Summons**

A document issued summoning the ratepayer to the Magistrates Court when there has been no satisfactory response to other reminder notices. At Court, the council will apply for a Liability Order.

#### **Liability Order**

The Magistrates will grant a liability Order if they are satisfied that debt is outstanding. The Order gives the council the power to take further action if the account remains unpaid. The main options are;

#### **Attachment of earnings**

The Council will contact your employer and ask for a deduction to be made against your earnings. The employer has a legal obligation to comply and can also make a charge of £1.00 for each deduction. The deduction will be made at source

#### **Attachment of benefits**

The Council can ask the DWP to deduct a sum from your benefit for payment of a housing benefit overpayment debt and/or a council tax debt. The deduction will be made at source.

#### **Referral to Enforcement Agent**

An account will be passed to the Enforcement Agent for council tax and/or Business Rates if the Council has been unsuccessful in securing payment. The Enforcement Agent will endeavour to obtain payment in full, or has the power to seize goods (once appropriate procedures have been followed) so that they can be sold in payment of the outstanding debt. Enforcement Agents have a right to enter the debtor's house to take control of goods, even if the debtor is not home, however this cannot involve entry by force. The Enforcement Agents adhere to a strict code of conduct.

#### **Bankruptcy proceedings**

A council can start bankruptcy proceedings if it has a liability order for a council tax debt of more than £750. The person/business will effectively be made bankrupt with the Council securing appropriate funds for outstanding debts.

**Charging Order** – This may be voluntary or via the court and is where a charge/debt is put on the debtors property. If the property is sold then the charge is repaid out of the money received. A charge can remain on a property for many years.

**Taking Control of Goods** – Enforcement Agents enter the debtor's property and remove goods for sale. The goods must be of sufficient value to cover the debt, the bailiff costs and the costs of sale.