

## **ENFORCEMENT POLICY, REVENUE SERVICES**

### **1 SUMMARY**

- 1.1 The aim of this report is for the Members of the Overview and Scrutiny Committee to consider the adoption of the Revenue Services Enforcement Policies (See Appendix A).

### **2 INTRODUCTION**

- 2.1 Following the adoption of the Council's Enforcement Concordat at the meeting of the Finance and General Purposes Committee on 12 July 2001 (Minute 255/01) the Head of Service submits for approval his department's Enforcement Policies in respect of:-

|   |   |                  |
|---|---|------------------|
| Car Parking Charges                     | ) | All contained in |
| Housing Benefit Overpayments            | ) | Appendix A       |
| Council Tax/National Non Domestic Rate) |   |                  |

- 2.2 Members are informed that the Rent Collection and Arrears Management Enforcement Policy is not included in this report as this was approved and adopted by the Housing Management Sub-Committee on 23 January 2002. (Minute 156).
- 2.3 However this policy will be included in the Department's overall policy document.
- 2.4 The above mentioned enforcement policies are essential as recovery action must be maintained particularly as all collection rates are now monitored via the Best Value Performance Indicators.
- 2.5 The aims included in these policies are there to hopefully ensure standards are set and to help ensure that the current high collection rates are maintained and remain in the top quartile of all Local Authorities.

### **3 CRIME AND DISORDER IMPLICATIONS**

These policy documents have broad crime and disorder implications as they try to address poverty and deprivation and improve the quality of life of the District's residents.

**4 RESOURCE IMPLICATIONS**

- 4.1 The cost of implementing these policies will be contained within the present budgets.

**5 LEGAL IMPLICATIONS**

- 5.1 Although adoption of the Concordat and its aims is currently voluntary, it is a best value performance Indicator for Local Authorities

**6 RECOMMENDATION**

It is proposed that the Committee **RESOLVES**

A change of policy in as much that the Enforcement Policies as specified in Appendix 'A' be adopted. (HRHM)

Steve Clarkson

Head of Revenue & Housing Management

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**Background Papers:**

Concordat on Good Enforcement

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APPENDIX 'A'

**Rochford District Council**

**ENFORCEMENT POLICY**  
**FINANCE AND EXTERNAL SERVICES**

|  |              |                       |
|--|--------------|-----------------------|
| <b>Car Parking</b>                                 | <b>Pages</b> | <b>13.4 to 13.6</b>   |
| <b>Housing Benefit</b>                             | <b>Pages</b> | <b>13.7 to 13.11</b>  |
| <b>Council Tax/National<br/>Non Domestic Rates</b> | <b>Pages</b> | <b>13.12 to 13.14</b> |

## **ENFORCEMENT POLICY – CAR PARKING CHARGES**

### **1 INTRODUCTION**

- 1.1 Sections 32, 35 and 35A of the Road Traffic Regulation Act 1984 empower Local Authorities to make an Order to control and enforce car parking places in their district to relieve or prevent traffic congestion. The Parking Services team, within the Transportation & Revenue Administration section, is committed to providing information to the public regarding use of the car parks and also details of enforcement action that may result from non-compliance with the Order.
- 1.2 The aim of the policy is threefold; a) to ensure that customers receive clear explanations of what they need to do and the time scales required, b) have opportunities to resolve differences before enforcement action is taken and c) receive an explanation of their rights of appeal.

### **2 DETAILED CONSIDERATION**

- 2.1 The following paragraphs set out the detailed policy and guidelines. It provides a clear set of aims and objectives in the control, enforcement and recovery of car parks revenue. The Council is committed to providing a service to the customer which both maximises revenue whilst adopting a firm but sensitive approach.
- 2.2 The policy ensures that representations made by customers are dealt with in an equitable, consistent manner with a uniformity in the response from the Authority. It also emphasises the implications and consequences of non-compliance with decisions.
- 2.3 Whilst all cases are dealt with on their own merits, the Council has a duty to adopt a consistent approach to representations from motorists. However, mitigating circumstances will always be considered by the Officers dealing with appeals.
- 2.4 Consultation is carried out on a regular basis with other East Anglian Authorities to compare levels of charges together with the methods of enforcement action.
- 2.5 The Council uses the Rochford and Southend-on-Sea Magistrates Court for arbitration purposes when agreement cannot be reached between customer and Council. At all stages of the process, prior to the Court's decision, the option to pay the Penalty Fine remains open to motorists.

### **3 POLICY STATEMENT**

- 3.1 The Council recognises that the efficient management of the car parks and the swift, effective recovery of debt are fundamental in maximising revenue. By providing good quality parking facilities, effective patrolling, clear instructions and competitive pricing, it is hoped that non-compliance will be minimal. However, should this occur, the Council is committed to ensuring that the customer receives a) clear explanations of what they need to do and the timescales required, b) the opportunity to resolve differences before enforcement action is taken and c) an explanation of their rights of appeal.

### **4 POLICY OBJECTIVES**

- 4.1 To provide appropriate signage at the entrances to car parks informing motorists that they are entering a 'Pay & Display' car park.
- 4.2 To provide clear, unambiguous instructions to motorists of the charges that apply and conditions of use of the car park.
- 4.3 To provide information on noticeboards advising motorists of what constitutes an offence under the Regulations and that a Penalty Notice will be issued.
- 4.4 To provide clear instructions on the Penalty Notice as to what action to take regarding payment or representation to the Council.
- 4.5 To offer the opportunity to discuss the matter with an Officer of the Council at any stage of the recovery process.
- 4.6 To ensure the Penalty Fine is held at the appropriate level should the motorist wish to appeal.
- 4.7 To ensure that a response to correspondence is sent within 5 working days.
- 4.8 To offer extended payment options to motorists who are in financial difficulty.
- 4.9 To ensure that any complaint received is logged on the Council's system and actioned in accordance with written procedures.
- 4.10 To provide information regarding the procedure of how to complain to the Local Government Ombudsman.
- 4.11 To continually improve upon key Performance Indicators and aim to be in the top Quartile of Local Authorities.
- 4.12 To comply with statutory requirements of the Human Rights Act.

**5 RECOVERY PROCEDURE FOR 'NO RESPONSE'**

After the issue of a Penalty Notice by a Car Park Patrol Officer, the following actions take place should the fine remain unpaid.

- 5.1 After 14 days, a 'Notice to Owner' letter is sent to the registered keeper based on information received from the Driver & Vehicle Licensing Agency, Swansea. This letter requests payment or information as to the driver at the time of the offence should this not be the keeper.
- 5.2 If no response has been received within 15 days, a final demand letter is sent informing the keeper that court action will ensue unless the information or payment is received.
- 5.3 If no response is received after 21 days, the matter is passed to the Assistant Manager for a summons to be prepared.
- 5.4 Once the matter has been proved at the Magistrates Court, the debt passes to the Court and the Council has no further involvement other than to monitor the payment of any costs awarded.

**6 RECOVERY PROCEDURE FOR 'CORRESPONDENCE RECEIVED'**

- 6.1 The contents of the letter are read and it is determined if the appeal is justified by checking Patrol Officer notes, machine malfunctions etc.
- 6.2 If the Penalty Notice must stand, a full explanation is given in the reply together with a pay-by date.
- 6.3 If no reply is received, a final demand letter is sent advising that payment must be made within 21 days or the matter will be referred to the Magistrates Court for arbitration.
- 6.4 If no response is received after 21 days, the matter is passed to the Assistant Manager for a summons to be prepared.
- 6.5 If the customer feels they have not been treated fairly, details of how to complain to the Ombudsman are provided.

## **HOUSING BENEFIT OVERPAYMENT RECOVERY POLICY**

### **1 INTRODUCTION**

- 1.1 The Council has not reviewed its policy and procedure on HBOR management for many years.
- 1.2 An internal review recommended that a complete overhaul of the management policy and procedure should be implemented as soon as was practicable.
- 1.3 Recent guidelines on the collection of such debts stresses the needs to provide an effective service to the customer which is both fair and equitable, maximising income in order to alleviate poverty and taking a firm but sensitive approach to those in debt.
- 1.4 As the Council's recovery of overpaid Housing Benefit is monitored via the Best Value Performance Indicators, it needs a policy that aims to improve collection rates and to be in the top quartile of Local Authorities, in terms of performance.

### **2 DETAILED CONSIDERATION**

- 2.1 The details below set out the detailed policy and guidelines. It provides a clear set of aims and objectives in the collection HBOR, in order to provide comprehensive arrears recovery strategy.
- 2.2 It ensures that claimants receive a consistent and unambiguous approach to recovery; and that they are aware of both the responsibilities and consequences of non-payment.
- 2.3 It provides an effective service to the customer, which aims to alleviate poverty by early intervention and referral to debt counselling agencies.
- 2.4 The document also provides written policies for claimants still entitled to Benefit and for claimants that are no longer entitled to Benefit
- 2.5 It provides aims for the Council to improve its collection rates and performance in relation to other Local Authorities. In the Financial year

### **3 POLICY STATEMENT**

- 3.1 The Council recognises that the prevention and effective management of overpaid Housing Benefit is crucial in terms of maximising resources available, provide efficient services to claimants and to respond to the performance management requirements of Best Value and the Weekly Incorrect Benefit Subsidy scheme.

### **4 AIMS AND OBJECTIVES**

- 4.1 To provide a claimants, and former claimants, with accurate information relating to the overpayment and other charges due.
- 4.2 To provide a variety of methods of payment that are convenient and easily accessible to claimants and former claimants.
- 4.3 To ensure that all literature and communication to claimants about overpayments is clear, concise and easy to understand.
- 4.4 To maximise claimants income by providing advice and assistance on other welfare benefits looking to see if underlying entitlement can be paid.
- 4.5 To make personal contact with claimants who have overpaid benefit, at an early stage, before debts become onerous and difficult to manage.
- 4.6 To take a firm but sensitive approach to claimants and former claimants.
- 4.7 To utilise a variety of recovery methods, in pursuit of repayment.
- 4.8 To improve service standards by setting targets for the recovery of overpaid benefit.
- 4.9 To improve service standards by setting targets for dealing with outstanding correspondence to prevent overpayments from becoming more onerous.
- 4.10 To improve literature and customer awareness in prevention of overpayments.
- 4.11 To continually improve upon key Performance Indicators and aim to be or remain in the top quartile of Local Authorities.
- 4.12 To comply with statutory requirements on Equal Opportunities and Human Rights.

**5 RECOVERY PROCEDURE**

5.1 There are two methods of recovering an overpayment depending on whether the claimant is still in receipt of benefit or the claimant is no longer entitled to benefit.

**A) Claimants still in receipt of benefit**

5.2 An invoice is produced and issued to the claimant (and landlord if applicable) together with a covering letter giving details of the overpayment.

5.3 The claimant (and landlord if applicable) is also notified of an amount that is to be recovered from their ongoing Housing Benefit entitlement.

5.4 The weekly, fortnightly, lunar or monthly amount to be recovered is determined by the benefit assessor dealing with the case. Regard is given to the limits set by Central Government as to how much can be recovered from a claimant's benefit.

5.5 The claimant is encouraged to negotiate on the level of recovery set, if it would put them in financial difficulty so that a lower rate of recovery can be agreed.

5.6 The agreed recovery will continue until either the overpayment(s) are cleared in full or the claimant is no longer entitled to benefit.

5.7 If benefit ceases a letter is generated to inform the claimant that the agreement to recover the overpayment has been cancelled, as they are no longer receiving benefit.

5.8 The claimant is asked to contact the Benefit Section to make an arrangement to clear the outstanding overpayment.

5.9 If the claimant fails to make contact then recovery actions continues from point 2.13 for overpayments where no benefit is in payment.

**B) Claimants no longer in receipt of Benefit**

5.10 An invoice is produced and issued to the claimant (and Landlord if applicable) together with a covering letter giving details of the overpayment, who is responsible to pay the debt and their rights of appeal.

5.11 The claimant (Landlord if applicable) is asked to contact the Benefit Section to make an arrangement to repay the overpayment.

- 5.12 If no contact is made within 35 days (appeal period) then a first reminder is issued automatically by the overpayments system.
- 5.13 A second reminder is then issued 14 days later.
- 5.14 After a further 14 days without response, the overpayment is transferred to the "refer to source" list which a dedicated recovery officer deals with.
- 5.15 A letter is sent by the recovery officer in an attempt to get the claimant or landlord to respond.
- 5.16 A further reminder letter is sent 21 days later stating that if no contact is made further action will be taken which may incur additional costs.
- 5.17 A final letter is sent 21 days later requesting payment within 7 days or the debt will be passed to the legal department for further recovery action.
- 5.18 If the current address of the claimant is known and the debt is over £50 then the debt is passed to the Legal Department. If the debt is under £50 it will then be nominated for write off.
- 5.19 The Legal Department will issue two letters on every amount owed.
- 5.20 If the debt is under £300 and no response is received then the debt will be passed back to the Benefits section to be nominated for write off.
- 5.21 If the debt is over £300 the a summons will be issued.

**C) Tracing claimants**

- 5.22 The Housing Benefit and Council Tax systems are checked to see if the claimant is registered elsewhere in the District
- 5.23 Electoral Register is checked to see if the claimant is registered at another property.
- 5.24 A Fax is sent to neighbouring Councils, to see if the claimant is registered in their area.
- 5.25 If the claimant is still not traced then overpayments that are over £500 are referred to a tracing agency, after checking with Council Tax that traces have not already been made.

- 5.26 If the trace is unsuccessful then the overpayment is nominated for write off, although this action is delayed for 1 year in case the claimant moves back into the area.

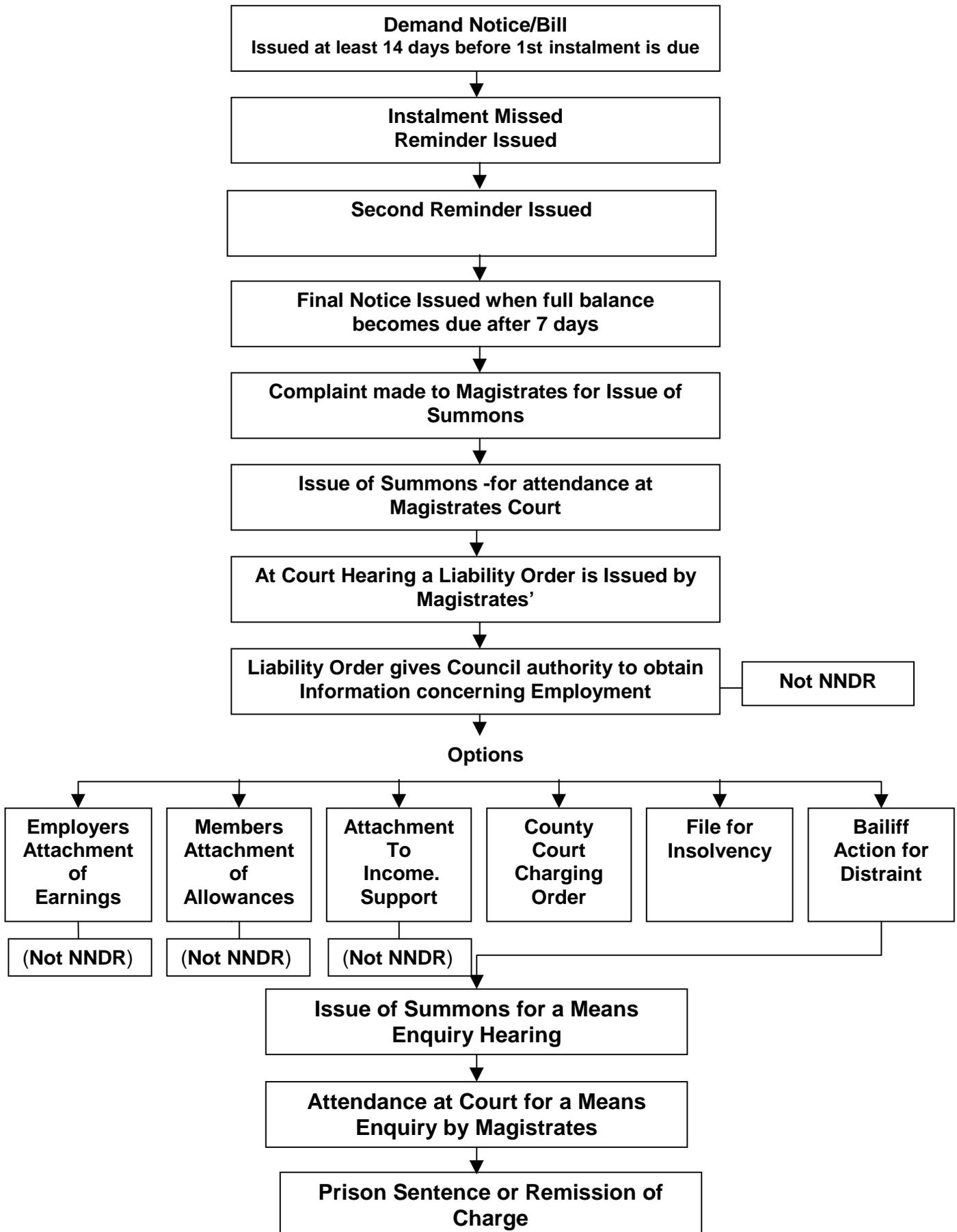
## **ENFORCEMENT POLICY – COUNCIL TAX/NATIONAL NON-DOMESTIC RATES (NNDR)**

### **1 INTRODUCTION**

- 1.1 This document contains the Enforcement Policies currently adopted for the collection of Council Tax and National Non-Domestic Rates
- 1.2 Recovery action is “statute led” and the empowering legislation is contained in The Council Tax (Administration and Enforcement) Regulations 1992 and The Non-Domestic Rating (Collection and Enforcement) Regulations 1992.

### **2 DETAILED CONSIDERATION**

- 2.1 To meet the requirements of the legislation a Statutory Timetable of enforcement has been drawn up and is detailed on the next page.
- 2.2 The Statutory Timetable sets out the procedures for enforcement, and the Council and its staff are committed to its implementation within the confines of the relevant legislation.



### **3 POLICY STATEMENT**

- 3.1 The Council recognises that whilst responding to the Management requirements of Best Value and Performance Indicators that the Statutory Requirements of Enforcement as shown in the Statutory Timetable will be strictly adhered to. Every effort will also be made to ensure that Tax/Ratepayers receive a consistent and unambiguous approach to Recovery and that they are made aware of both, the Council's or its Agents responsibilities and any consequences of non-payment.

### **4 AIMS AND OBJECTIVES TO:-**

- 4.1 Provide clear and prompt information about bills and liabilities.
- 4.2 Provide flexible and convenient methods of payment.
- 4.3 Use collection procedures which clearly state what actions we will take to recover the money.
- 4.4 Inform people of their entitlement to benefits, discounts, reliefs and exemptions.
- 4.5 Encourage people to contact us early if they are having difficulty paying debts and, where appropriate, advise them where to get independent advice.
- 4.6 Set realistic repayments to collect unpaid debts within a reasonable time without the need for more serious recovery action.
- 4.7 Treat people with courtesy, sympathy and in absolute confidence.
- 4.8 Use court action in certain circumstances, if collection procedures fail.
- 4.9 Operate a complaints system which covers debt collection matters.