

**DEBT RECOVERY PROCEDURES**

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# Maidstone Borough Council Debt Recovery Procedures

## Purpose

Money collected by Maidstone Borough Council (MBC) is used to budget and provide essential services to local people. We recognise that the majority of our residents, tenants of our commercial property and organisations which receive services from us pay their bills, including Council Tax and business rates, on time. However, where that is not the case, we have a duty to recover those outstanding debts for the benefit of all residents and tax payers.

The purpose of this document is to explain our processes and the actions we will take to collect debts so that:

- We maximise the level of income collected to fund essential services
- Residents or businesses who fall into arrears or do not pay charges for services or fixed penalties have a full understanding of the process and the documentation that may be issued
- We provide assurance to residents and businesses who pay promptly that we are committed to recover money owed to us
- For those residents that are in financial hardship we will do our best to help and balance against our duty to collect
- We will take a robust approach to those who can pay but do not/will not pay
- Our debt collection and recovery procedure is fair to everyone notwithstanding their age, race, gender, disability, sexuality or religious belief

As part of our customer commitment we will make every effort to:

- Issue accurate and timely bills or invoices
- Provide easy payment methods with a choice of payment dates, to prevent recovery action being necessary
- Promote the use of and access to online and self-service facilities so that residents can easily access and update their information
- Ensure debts are managed in accordance with legislative provisions and best practice
- At every stage of the recovery process, explain why action is being taken and what will happen if the debt is not paid
- Where possible, assist residents who are experiencing financial hardship and work with debt advice agencies to reach a mutually acceptable repayment agreement
- Ensure that we take account of vulnerabilities and that recovery measures are proportionate to a person's circumstances
- Review this procedure document at least annually. If there are changes in legislation that affect the recovery process operational procedures will be reviewed as the effects become apparent
- Take steps to secure and recover debt from residents who do not pay in line with payments set. This may involve court action and additional fees/costs being added to the outstanding debt
- Seek to trace those who owe debts to ensure every effort is made to recover unpaid debt

We recognise that some residents and businesses will have financial and other difficulties in addition to paying monies due to the Council. Wherever possible, we will try to achieve a long-term solution rather than just recovering money that is owed now, so that the resident or business is better able to manage their finances and meet their future liabilities.

Our intention is to secure payment in an efficient and cost-effective way, whilst still offering choice to debtors. (We will always act in accordance with the law.)

MBC will, as far as possible, ensure that the actions we take are reasonable and proportionate and will consider what alternatives are available in each case.

We can only decide the most appropriate action if we are aware of your circumstances and we ask you at each stage of the collection and recovery process to contact us about the outstanding debt, especially where residents are vulnerable or having difficulties in paying.

The need for people in debt to communicate their status is important. Where a person makes contact, their circumstances will be considered with a view to agreeing a reasonable payment arrangement. Consideration will be given to minimising recovery action within statutory requirements.

Where a person considers they are vulnerable\* and unable to meet their payments, they should contact us without delay so we can try to help.

If a person is unable to contact us, they can give authority for someone else to contact us on their behalf so we can try to help. This can be done by that person telephoning us with the other person present so we can speak to them. Or the resident can give the other person a letter of authority to pass onto us.

Where people fail to make contact or maintain any agreed arrangement recovery action will continue.

We will keep our procedures under review and ensure that they respond to changes in legislation and guidance as well as developments in service delivery arrangements including the use of technology.

\* Vulnerability: The Financial Conduct Authority defines a 'vulnerable consumer' as "someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care. Recognises that vulnerability is never solely about the characteristics or situation of the individual, but also involves the actions of firms, agencies or organisations. Emphasises the fact that everyone is potentially vulnerable to detriment, while also requiring organisations to think about individuals who are currently 'vulnerable' and 'particularly vulnerable'".

Vulnerability to detriment – means the customer's situation has exposed

them to the risk of experiencing harm, loss, or disadvantage. Importantly, this includes both financial harm or other forms of loss and disadvantage.

These might, for example, include an individual:

- not being able to seek debt or money advice
- causing physical harm to themselves or others
- making decisions that are uninformed or impaired by mental incapacity
- having their legal rights infringed
- being unfairly treated.

## **Section 1 – Council Tax**

Council Tax is what is known as a priority debt and must be paid. The Council Tax Recovery procedures are set out in the Council Tax (Administration and Enforcement) Regulations 1992 and subsequent amendments.

There are stages of activity involved in Council Tax collection. These are outlined below:

At all stages of the collection process we ask residents to keep in contact with us, so we are able to help them regarding problems with their payments.

Residents seeking help due to financial difficulties will, where appropriate:

- Be encouraged to provide details of their means by listing their income and outgoings on an income and expenditure form which can be found on MBC's website: <http://www.maidstone.gov.uk/home/primary-services/council-tax/additional-areas/have-problems-paying-council-tax> This will assist us to assess the resident's ability to pay and any unclaimed discounts, reliefs, exemption or benefits
- Be encouraged to use the money advice services available from the Citizens Advice Bureau, Debt Advice Agencies, the Financial Services Authority website or any other similar service
- Be given assistance with interpretation if required

### **Issuing of Council Tax Bills**

Bills are sent in advance each March for the financial year beginning 1 April to each person shown on the Council's records as liable for the Council Tax. The first payment will usually be due on or soon after the 10 April. Bills are usually due to be paid by 10 monthly instalments, or by request over 12 monthly instalments.

Council Tax bills are also issued throughout the year where there have been changes to amounts due, for example, changes of occupiers, granting or withdrawal of reductions.

Council Tax payers are required to make their payments by the due dates shown on their bill. It is essential that payments are received on or before the due date. Where payments are not received on time, recovery action will begin without delay in the form of a reminder or a final notice.

If the person named on the Council Tax bill does not believe they should be the liable person to pay the bill, they should contact the Council as soon as they receive the Council Tax bill so that we can consider who is the correct person to pay.

## **Council Tax Support**

Council Tax Support helps residents with low income to pay their bill.

There are two schemes:

- The first assists people of working age and offers up to a maximum of 80% reduction in the amount of Council Tax you are required to pay
- The second scheme is for people of pension age and offers up to 100% reduction in the amount of Council Tax you are required to pay

Where we identify that a Council Tax payer/resident is struggling to pay or unable to pay their bill, we will encourage them to apply for Council Tax Support if they are not already receiving support through one of the schemes.

Applications can be made online by going on the Council's website at:  
<http://www.maidstone.gov.uk/home/primary-services/benefits/additional-areas/council-tax-support>

It is important that a claim for Council Tax Support is made as soon as possible. When a new application for support is made, or a resident's circumstances change, we will continue to collect the instalments as they appeared on the last bill.

Once Council Tax Support is awarded, we will reduce the remaining instalments, or if your account is in credit for the year, issue a refund. A revised bill will be issued when we make a change to the amount of Council Tax you are required to pay.

## **Exceptional Hardship**

An Exceptional Hardship Policy has been created by Maidstone Borough Council to assist residents who have applied for Council Tax reduction and who are facing 'exceptional hardship'. This is to provide further assistance where the level of support being provided by the Council does not meet their full Council Tax Liability.

The aim of the Policy is to help in cases of extreme financial hardship as part of the process of applying for the additional support, all applicants must be willing to undertake all the following:

- Make a separate application in writing for assistance;
- Provide full details of their income and expenditure, together with last 3 months bank statements;
- Where a person is self employed or a director of a private limited company, provide details of their business including the supply of their business accounts;
- Accept assistance from either the Council or third parties (such as the Citizens Advice Bureau and Money Advice Service) to enable them to manage their finances more effectively – including the termination of non-essential expenditure and assessment of the potential for additional for more information

## **Joint and Several Liability**

Where there is more than one person liable to pay the Council Tax, for example joint tenants, joint owners, or partnerships such as a married couple or civil partnership, we will look to all parties to pay the charge.

The law says that each party is liable for the whole charge (called "jointly and severally liable") i.e. if one person does not pay, we are legally allowed to pursue the other liable person(s) for the full amount. Our bills and other communications will be addressed to all the liable persons.

If there is someone who should be included on the bill and is not named, please contact us.

## **Payment plans and methods of payment**

Council Tax bills usually require monthly payments by instalments. The number of months offered depends on when the first bill is issued.

If you are billed at the start of the financial year you will normally be offered 10 monthly instalments (April to January). When someone moves in part way through the billing year the payment period will be the number of months available through to March less one month. If an account is opened between 1 January and 31 March, only one instalment will be given to pay the amount due.

A resident has the statutory right to pay over 12 monthly instalments on request if they are liable for Council Tax for the full billing year.

The Council can also make agreements with residents to pay by less than the statutory 10 payments. We offer quarterly, half yearly, annual payment plans on request where applicable.

Details of the amounts and the dates that each instalment is due are set out on the Council Tax bill.

Instalments are due on the 10th day of each month for those not paying by Direct Debit.

## **Options for making payments**

We will accept payment by any of the following means:

- Direct Debit
- Internet (Debit or Credit Card)
- 24hr automated Telephone Payment Line (Debit or Credit card)
- BACS – via Banks
- Pay point (existing cash payers)

The Council does not issue payment books or payment cards.



We prefer payments to be made by Direct Debit which is widely accepted as being the most efficient form of payment. The costs to the Council of processing direct debit payments are much lower than other methods of payment. This method is highly secure, and residents are covered by the Direct Debit guarantee so money can be immediately refunded by the bank if anything goes wrong. Once the Direct Debit is set up by you, there is no risk of forgetting to make the payment. MBC offers two in-month payment dates to accommodate residents' different circumstances. These are the 7<sup>th</sup> and 27<sup>th</sup>. You can set up a Direct Debit online on the Council's website: <http://www.maidstone.gov.uk/home/primary-services/council-tax/primary-areas/pay-your-council-tax-bill>.

You can also arrange to pay over 10 or 12 monthly instalments.

Where you owe more than one year of Council Tax, unless an arrangement is made, payments will usually be offset against the oldest debt. It is important that you continue to pay the Council Tax due for the current year on time in addition to anything due for the arrears.

### **Missed payment(s), late payment or paying less than the amount due**

If a bill has been issued and you miss an instalment (or pay late), we will send you a first reminder notice asking for the missed instalment to be paid within seven days. If you cannot pay the missed instalment(s), you should contact us immediately.

If the missed instalment is received within seven days of the reminder date, we will not take any further action. You need to ensure that future payments are made by the due dates.

If you bring your account up to date after receiving a first reminder notice, but then miss (or pay late) another instalment within the same payment year, we will send you a second reminder. If the missed instalment is received within seven days of the reminder date, we will not take any further action.

We will issue a maximum of two reminder notices during a financial year. Each reminder will ask for the missing instalment(s) to be paid within seven days of the reminder date. Following that we will issue a final notice or summons. A final notice will be issued where a first and a second reminder have been complied with and a further instalment is missed (or paid late).

### **What happens when Reminders/Final Notices are not paid?**

Some residents do not pay when we send reminders or final notices, so it becomes necessary to request a summons from the Magistrates Court. By law we are required to make a 'complaint' to the court stating that the Council Tax remains unpaid before we can take any further action to recover the debt.

If the Magistrates accept that you owe the debt, and that we have followed the correct recovery process in accordance with the legislation, they will award a liability order. This work costs the Council extra money to administer and we also have to pay the court a fee for each summons issued. Costs are added to the

amount of Council Tax outstanding so will increase the amount owed. A summons costs £60 (this is applied at the point we issue the summons); a liability order costs £50 (this is added to your Council Tax bill on granting of the liability order).

As recovery of the debt progresses to different stages, additional costs may be incurred. The more action that is required the higher the costs will be.

When we send you a summons, we will tell you when the court hearing is and where. We will also provide information regarding the amount of costs and ask you to contact us with an offer of an arrangement plan so you don't have to pay the full balance in one go. Failure to agree to any arrangement offered means we will expect you to pay the full balance plus the costs before the date of the summons hearing.

### **Special arrangements for residents in receipt of Council Tax Support**

MBC may allow additional time for residents who are in receipt of Council Tax Support before issuing a summons due to the generally lower amounts owed. Residents should contact us where they are having difficulties paying as soon as possible so we can assist with a suitable arrangement for payment. You can also seek free advice from Citizens Advice (CAB) or other debt help organisations many of which provide free advice.

If no arrangement plan is agreed, we will proceed to issuing a summons for the outstanding debt which will incur additional costs as outlined above.

### **The liability order hearing**

If the amount shown on the summons has not been paid in full the case will progress to a liability order hearing. The 'bench' (a panel of lay Magistrates or a District Judge) will conduct the hearing. We provide information with the summons to answer many of the more common questions. We have specialist officers who attend court hearings on behalf of the Council.

You are not required to attend the hearing (even though the summons says to appear) but can do so to dispute the outstanding balance. Please contact us before the court hearing so we can help you.

Unless there is a valid defence the court must grant a liability order. There are very few valid defences available. Most often the resident is not disputing that the debt is owed, but merely wants to make an arrangement to pay. If you believe you have a valid defence, you should seek your own legal advice.

The court cannot make payment arrangements with you and you need to do this with the Council.

If you are disputing that you are the person liable to pay the Council Tax, you should contact the Council as soon as you have been sent a bill so we can consider who is liable to pay.

We will send staff to the court to deal with enquiries and discuss payment arrangements with anyone who attends the hearing. However, we would rather this is done much earlier so we can help you without having to go to court. Whilst we will try to answer as many enquiries as possible, the court does not have the facilities available for us to conduct in-depth discussions, so it is often necessary to arrange to speak to you at another time.

### **Recovery processes after obtaining Liability Orders**

A liability order allows us to take further recovery action to obtain payment of the debt. If an arrangement has been made and payments made as agreed, the liability order will still be applied for to secure the debt but will not be enforced to allow you the opportunity to make the agreed payments.

Once we have a liability order we will send you a letter – known as a 14 day warning letter before further action - stating that you have 14 days in which to pay or we will take further action (unless you have already contacted us and made a suitable arrangement).

We also have the authority under the regulations to ask you certain questions about your income and employment status. Any information that we receive is used to establish the appropriate steps to take next. It is a criminal offence not to provide this information and you could be fined between £500 and £1,000 for not doing so. We will also offer you another opportunity to make an arrangement and ask you to contact us.

The letter will not be sent if a suitable payment arrangement has already been agreed.

A liability order gives us powers to recover the debt using:

- **An attachment of earnings** - we may ask your employer to make deductions from your salary. The law allows us to request the outstanding balance on up to two liability orders at the same time and in some cases, we will do this. MBC will not take this action if we are able to enter into a satisfactory arrangement for payment and the agreed payments are made. The amount deducted from your salary by your employer will be a fixed percentage dependent on how much you earn. The percentages are set out by the Government in legislation and apply to your net earnings (after tax and National Insurance). We cannot ask your employer to vary these amounts. Once we have obtained a liability order your employer has no option other than to make the deductions from your earnings. Your employer can deduct an extra £1 each time they make a deduction, for their administration costs. Fines of up to £1,000 may be imposed for non-compliance on both the employer and the employee.
- **Attachment of Benefits (deductions from welfare benefits)** - if you are receiving certain benefits the Council may request the Department for Work and Pensions (DWP) to make weekly/monthly deductions at rates set by Government to reduce your debt. You must be receiving one of the following benefits for us to use this option: Income Support, Jobseeker's Allowance, Employment and Support Allowance, Guarantee Pension Credit, or Universal

Credit. It is not always possible to make an attachment, especially if deductions are already being made for other debts. The set deductions are low and if there is a large debt we may choose not to request this deduction and pursue alternative means of recovery. Where we have applied for deductions from benefits this does not stop us from asking for additional payments after considering your full circumstances. If additional debts accrue and a further liability order is obtained while an attachment of benefit is in place, we will usually ask for another attachment of benefit to commence when the first one finishes. However, depending on circumstances, we may consider other means of recovery.

- **Attachment of Members Allowances (for councillors)** - if a Councillor has not paid his/her Council Tax, up to 40% of the allowances received can be claimed to clear the debt. Any decision will be made in consultation with the Head of Revenues and Benefits Partnership and the authority's Monitoring Officer. These provisions operate separately from the rules excluding Council Members in arrears with Council Tax from voting on certain matters.

### **Enforcement Agents (previously known as bailiffs)**

Cases will normally be referred to the Enforcement Agent (EA) if there has been no response to the notice of liability order sent following the court hearing. Where we have been unable to recover through an attachment of earnings or attachment of benefits or enter into a satisfactory arrangement with residents, cases will be passed to the enforcement agent. Enforcement Agents are certified through the County Court and follow a national code of conduct.

When the EA visits you, they will ask for payment in full, including their costs. If you cannot pay the amount due in full immediately, they may agree a suitable payment arrangement. If there is evidence of hardship or vulnerability, then we may ask the Enforcement Agent to return the liability order(s) to the Council or hold their action whilst we explore your circumstances further.

The EA will charge fees which are set out in legislation for any action taken by them to recover the debt. Their charges are detailed in the 'Taking Control of Goods (Fees) Regulations 2014'. These charges are payable by you in addition to the debt.

When an Enforcement Agent receives our instruction, you will be contacted by letter asking that you to either pay in full or contact them to discuss a suitable payment arrangement. This is called the compliance stage. (A **fee of £75.00** is charged to the resident for each separate liability order they hold.) You may also be contacted by other means including telephone, text, or email. The enforcement agent is empowered to make arrangements on the Council's behalf if they think it is appropriate.

If you receive a letter, please contact the Enforcement Agents so they can help you come to an arrangement to make your payment without incurring further fees. If you are suffering from hardship or are vulnerable, let the EA know as soon as possible in order that they can help you.

If you ignore the contacts from the Enforcement Agent, they will visit you at your home or business address. This visit will incur **a further fee of £235.00** and if the debt owed exceeds £1,500.00, **a further fee of 7.5%** will also be payable. They will not add further costs for additional visits.

When the Enforcement Agent visits you, he/she will ask for payment in full, including all costs. If you cannot pay the amount due in full immediately, he/she may agree a payment arrangement. To secure the arrangement they will make an inventory of goods that can be sold to repay the debt if you do not keep to your arrangement. This is called a 'controlled goods agreement'.

If your goods are subject to a controlled goods agreement, you cannot move them from the property or sell them without the enforcement agent's permission.

If you make an arrangement with the EA and then fail to pay as arranged and you have signed a controlled goods agreement, they may re-enter your property, to take the goods listed on the inventory. If this happens, you will be charged a sale fee if goods are removed and sold, plus other costs such as auctioneer's fees. This can add a significant amount to the costs that you will be liable for.

If the Enforcement Agent is unable to agree a payment arrangement or collect the amount outstanding, they must take control of your goods if there are appropriate goods owned by you to take. If this is necessary and they are taken to a place of sale or are sold, **a further fee of £110.00** will be payable. If the debt owed exceeds £1,500.00 **a further fee of 7.5%** will be payable in addition to the £110.00.

If a debt has been passed to an Enforcement Agent and you pay the Council instead of the EA without including their fees, the Agent will continue to recover their costs from you.

If the Enforcement Agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to your property, they will send a certificate to us to confirm that they have been unable to recover the debt. We will then consider one of the remedies detailed below:

**Final recovery options** - a liability order gives the Council certain additional powers of enforcement. We will decide on the most effective course of action based on the size of the debt, the history of the case and the personal circumstances of the debtor. It is extremely important residents contact us, so we are aware of your circumstances if you are vulnerable or having difficulty in paying.

- **Charging order - Placing a charge on your property** - if the total debt owed to us is over £1,000 and you own or part-own a property on either freehold or leasehold basis, we can apply to the County Court for a charge to be placed on your property. You will also incur additional costs and court fees. We will consider applying for a charging order if there is sufficient equity in your property to pay your debts when it is sold. A charge will be placed on the property which cannot be sold until the charge has been removed. This means of recovery is less punitive than committal to prison or bankruptcy and may be considered more suitable for vulnerable debtors who have insufficient income to make an acceptable arrangement but own their home. Although the charge will safeguard the Council's financial interests, a

payment arrangement may still be sought to reduce the debt. Once a charge is obtained, we have the right to force a sale of the charged property after having regard to any vulnerability and adherence to any payment arrangement. Alternatively, we can recover the debt and interest from the proceeds of sale if the property is sold at a later date.

- **Bankruptcy (Making you Bankrupt)** - prior to instigating proceedings we will send a letter warning of the action we are going to take and give you a last chance to pay, check all available council records to see if there is any reason bankruptcy would not be appropriate such as indications of vulnerability, check with HM Land Registry to confirm property assets, check financial information with a credit reference agency and check for known or potential employment details. If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, you will be served with a Statutory Demand. This is the first formal stage in a process that may lead to bankruptcy. Before taking this action, authorisation will be obtained from the Head of Revenues and Benefits Partnership. If you are a home owner and the debt is over the bankruptcy threshold of £5,000, we will consider issuing a bankruptcy petition against an individual or applying for a winding up order in the case of a company where there are means to pay. If you already have a charge on your property for unpaid Council Tax, we may apply to the court to rescind the charge and proceed to bankruptcy if the total of the Council Tax owed amounts to over £5,000. If the court declares you bankrupt, you could lose your home and possessions and access to your bank account. You will have to pay significant additional costs on top of the debt owed. If you do not pay the full amount outstanding including costs or agree an acceptable short-term arrangement after the service of a Statutory Demand or if the court does not set your case aside, you will then be served with a bankruptcy petition for your case to be held at County Court. Once your case is heard, the county judge may issue a bankruptcy order. A Trustee in bankruptcy will be appointed and you will no longer have control over your assets. You may find it extremely difficult to obtain credit in the future. Given the potentially grave consequences of such an order, it is important you contact us to make us aware if you are vulnerable or experiencing difficulties in paying so we can avoid this action. Insolvency proceedings may be withdrawn where it becomes apparent someone cannot deal with their affairs because of age, mental illness or learning disabilities or where it becomes apparent someone is a client with the Council's adult services or the community mental health team. When a bankruptcy order is granted notice is published in the London Gazette and in a local newspaper. The Official Receiver or an Insolvency Practitioner will notify other organisations that the individual or company might owe money to. This is to give them the opportunity to submit claims of their own and to prevent illegal disposal of assets.
- **Committal to Prison** - we will consider committal proceedings if the Enforcement Agent has been unable to find sufficient goods to clear the debt. If committal action is taken, this means we ask the Magistrates Court to decide whether to send you to prison for not paying your Council Tax. Before taking this action we will advise you of our intention to place the matter before a Magistrates Court and for you to attend a committal hearing and again we will give you another opportunity to pay in full or

contact us. We will again also ask for information of your employer and income. At the court hearing, you will be asked questions about your income and expenditure and the reason(s) why you have not paid your Council Tax bill(s). There will be a full enquiry into your means and ability to pay the outstanding bill. The Magistrates Court will consider if you are guilty of either refusing to pay, when you could have done, known as 'wilful refusal' or not taking appropriate action when you were billed, and when recovery action was being taken, known as 'culpable neglect'. (An example of this is where someone 'buries their head in the sand' hoping things will go away.) If you do not appear at court we will initially ask the Magistrates to issue a warrant for your arrest with bail. This means another date is set for you to attend court. If you subsequently fail to appear at court we will ask the Magistrate to issue a further warrant without bail. In this case, you will be arrested and taken into police custody and held in cells or taken straight to the Magistrates Court. At the court hearing, the Magistrates may sentence you to a term of imprisonment of up to 90 days. The sentence can be suspended on whatever terms the Magistrates consider appropriate. Usually this would be an agreement to pay a weekly or monthly amount. If after being given a suspended sentence you do not comply with the terms the Magistrates considered appropriate, you can be arrested and immediately held in police cells until the Magistrates are able to deal with your case.

### **Appeals against Council Tax Liability**

In line with Council Tax regulations and the guidance provided by the Valuation Tribunal Service, as a general rule we will not suspend recovery during the appeal process. You should continue to pay Council Tax as billed whilst waiting for the outcome of your appeal. If the tribunal make a decision in your favour and you have overpaid your Council Tax we will refund the overpaid sum or use it to offset any other monies you may owe.

### **Complaints and disputes**

As a general rule we will not suspend recovery on receipt of complaints. We will however, consider on a case by case basis whether it is appropriate to do so. If you are not happy with the way we have dealt with your case, please contact the Council Tax team in the first instance so we can try and resolve the situation.

If you remain dissatisfied with the way we have dealt with your case, you can then ask for your case to be considered under the formal complaints procedure.

You can find a copy of our complaints policies here:

<http://www.maidstone.gov.uk/home/other-services/find-and-contact-us/additional-areas/our-complaints-policy>

The council will consider hold any action until the complaint has been considered and brought to a conclusion. Where a decision is made to suspend recovery, this will be communicated to you.

## **Outstanding Council Tax Support decisions**

We will usually ask you to continue paying whilst you are waiting for a Council Tax Support decision. Once your support has been awarded, we will adjust your monthly instalments and advise you.

### **How to contact us**

By email – [counciltax@midkent.gov.uk](mailto:counciltax@midkent.gov.uk)

By telephone – 01622 602003

Via the intranet/website – [www.maidstone.gov.uk](http://www.maidstone.gov.uk)



## **Section 2 – Business Rates**

Business Rates (National Non-Domestic Rates) recovery procedures are laid down by statute in the Non-domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments.

### **Issuing of Business Rates Bills**

Please see Section 1 Council Tax

### **Payment plans and methods of payment**

Please see Section 1 Council Tax

### **Options for making payments**

Please see Section 1 Council Tax

Paying by Direct Debit is our preferred method of payment. Direct Debit payments for Business Rates are due on the 1st of each month. You can set up a Direct Debit online on the Council's website: <http://www.maidstone.gov.uk/home/primary-services/business-and-investment/primary-areas/business-rates/tier-3-primary-areas/pay-your-business-rates>

You can also arrange to pay over 10 or 12 monthly instalments.

### **Missed payment(s), late payment or paying less than the amount due**

Please see Section 1 Council Tax

Costs are added to the amount of Business Rates outstanding which will increase the amount owed. A summons Costs £145 (applied at the point the summons is issued by the court); a liability Order Costs £55 (added on granting of the liability order).

**The liability order hearing** please see Section 1 Council Tax

### **Recovery processes after obtaining Liability Orders**

A liability order allows us to take further recovery action to obtain payment of the debt. If an arrangement has been made and payments made as agreed the liability order will still be applied for to secure the debt but not be enforced to allow you time to make the payments. Once we have a liability order we will send you a letter stating that you have **seven days** in which to pay or we will take further action. The letter will not be sent if a suitable payment arrangement has already been agreed previously.

## **Enforcement Agents (previously known as bailiffs)**

Please see Council Tax

If the Business Rates debt is not paid and the Enforcement Agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to your property, they will send a certificate to us to confirm that they have been unable to recover the debt. We will then consider one of the remedies detailed below.

- **Bankruptcy** –as Section 1 Council Tax
- **Insolvency - Compulsory Winding Up action** - if you are liable to pay Business Rates as a company, we may decide to take Winding Up action if you have not contacted us to make an arrangement or have defaulted on any arrangements made. Prior to instigating proceedings we will send a letter warning of the action we are going to take and give you a last chance to pay, check all available council records to see if there is any reason winding up your company would not be appropriate, check with HM Land Registry to confirm property assets, check financial information with a credit reference agency. As a director of a Company, you have responsibilities to ensure that the company does not continue to trade if it is insolvent. If you are unable to pay your debts as and when they fall due, that is evidence of insolvency. We will send you a letter warning you of our intention to present a Petition and give you a last chance to pay. If, without reasonable cause, you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, we will present a Winding Up Petition against you without further notice. If the court winds up your company, the Official Receiver or an Insolvency Practitioner will become liquidator of the company and the powers of the company directors cease. The company will cease to trade, and all employment contracts of employees will be terminated. The conduct of the directors of the company may also be investigated. When a winding up order is granted it is published in the London Gazette and in a local newspaper. The Official Receiver or an Insolvency Practitioner will also notify other organisations the company might owe money to. This is to give them the opportunity to submit claims of their own and to prevent illegal disposal of assets.

## **Appeals against Business Rates Liability**

In line with Business Rates regulations, any appeals against liability should be through the Magistrates Court. We will not usually suspend recovery during the appeal process. You should continue to pay Business Rates as billed whilst waiting for the outcome of your appeal. If the appeal is found in your favour, we will refund any Business Rates paid.

**Complaints and disputes** - see Section 1 Council Tax

## **How to contact us**

By email – [businessrates@midkent.gov.uk](mailto:businessrates@midkent.gov.uk)

By telephone – 01622 602230

## **Section 3 – Housing Benefit Overpayments Recovery**

The Council has a duty to ensure Housing Benefit and Council Tax Support overpayments are recovered promptly, effectively and efficiently for the benefit of all our taxpayers and residents. Council Tax Support overpayments are recovered through an adjustment to the Council Tax bill and instalments.

This section deals with Housing Benefit overpayments which are recovered in a different way. Housing Benefit Overpayments are reclaimed in accordance with the Housing Benefit Regulations 2006 (as amended).

An overpayment occurs when more housing benefit has been paid for a period of time than the person is entitled to under benefit law. We encourage benefit claimants and others receiving benefit payments to prevent overpayments occurring.

If an overpayment has occurred, a decision notice will be issued to you to advise you of the overpayment and will explain:

- the reason the overpayment occurred
- whether the overpayment is recoverable,
- who it is being recovered from,
- the amount of the overpayment
- how it has been calculated
- the period of the overpayment,
- how it will be recovered; and
- advise you of your right to dispute or appeal the decision.

You will be sent an invoice showing the amount due and how it can be paid. If you think the overpayment is not owed by you, you should contact us without delay. You have one month to appeal the overpayment. If you are unable to pay the full amount of the overpayment, you should contact us to come to an arrangement for payment by instalments.

If you do not pay the overpayment or contact us, you will be sent a reminder of the amount outstanding with seven days to pay. If you are suffering hardship, you must contact us as soon as you are able to enable us to consider your case. It will be necessary for you to complete an income and expenditure form so we can consider affordability. Every case will be considered on its own merits when discretion needs to be used. Decisions on the action to be taken will be made by the Housing Benefit Overpayment recovery team.

The Council may recover overpayments by:

- a) Putting in place an agreement to repay by instalments; we will seek sufficient information about your means, health and household circumstances to reach a fair agreement on the amount you can afford to repay. We will also take into account our duty to the public to recover public funds as quickly as possible. You can seek to repay the overpayment by instalments. Instalment agreements will be subject to a review at least once

a year and more often if a debtor's circumstances change. If you fail to keep to any instalment plan agreed with you, then we may take action to seek repayment by another method of debt enforcement.

- b) Deduction from ongoing Housing Benefit - recovery may be made direct from your Housing Benefit by a series of deductions over a number of weeks (depending on the amount of the overpayment and the recovery rate being used). If we are recovering an overpayment by deduction from ongoing weekly Housing Benefit we are limited to the weekly amounts specified in law. There are maximum recovery rates which we must adhere to when recovering from ongoing Housing Benefit entitlement. You may voluntarily offer to repay more than the specified amounts so the debt can be cleared sooner.
- c) Deduction from certain Department of Works and Pensions (DWP) benefits.
- d) Deduction from certain DWP benefits payable to the partner, as long as the claimant and partner were a couple at both the time of the overpayment and when deductions are being made.
- e) Applying to another local authority to ask them to deduct the overpayment from the claimant's ongoing housing benefit entitlement in their area.
- f) Recovery from housing benefit paid to a landlord/agent for another tenant, i.e. when the landlord has been classed as responsible for repayment of a debt (sometimes known as 'Blameless Tenant' recovery).
- g) Civil proceedings (County Court) - we will use the powers to register the overpayment at the County Court. Where a court order has been obtained we can also use a third-party freezing order (recovery from bank accounts), attachment of earnings and benefits or authorise action by the court bailiff to seize goods. A flat rate County Court fee will be added to the debt which could result in a County Court Judgment against the debtor. Where another organisation is responsible for collecting the debt on our behalf such as the Department for Work and Pensions, County Court, or another local authority the debtor will need to communicate with that organisation to agree repayment arrangements in accordance with their policies and procedures.
- h) Obtaining a Direct Earnings Attachment (DEA) - we are able to apply for recovery of the amount you owe by deduction from earnings. If we send your employer a direct earnings attachment order, your employer must comply and deduct amounts in accordance with a national schedule of percentages of earnings.

We will always expect you to contact us if you have any repayment problems but if you fail to co-operate or do not let us know of any problems making payment, we may take whatever measures are reasonable to enforce recovery of the debt.

### **Advice and Support**

People with debt may have other debt problems and may already have advisors or may be in need of debt advice. We will work with debtors and their advisors to put in place reasonable repayment plans.

We may also direct people to seek independent advice to exercise their statutory rights, maximise their income and manage their debts.

### **How to contact us**

By email – [overpayments@midkent.gov.uk](mailto:overpayments@midkent.gov.uk)

By telephone – 01622 602311

Via the intranet/website – [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

## **Section 4 – Parking (Civil Parking Enforcement)**

Where a Penalty Charge Notice (sometimes known as a parking ticket) is issued by the Council or a third-party acting on their behalf and remains outstanding with no payment made, the charge will progress according to the national system set out in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

When a Penalty Charge Notice (PCN) is issued, the vehicle owner may pay and if this occurs within 14 days then the payment is made at a discounted rate and the matter is closed. If the PCN is not paid after 14 days then the charge will revert to the full value.

After 28 days from issue of the PCN, Maidstone Borough Council (the issuing authority) will issue Notice to Owner documentation to the Registered Keeper of the vehicle (as registered with the Driver and Vehicle Licensing Agency [DVLA]).

After 56 days from issue of the PCN, a statutory notice Charge Certificate may be issued and the payment amount increases by 50%.

14 Days after the Charge Certificate is issued the Council may then apply to the Traffic Enforcement Centre (TEC) to register the case and recover the increased penalty charge as if it were payable under a County Court order. A fee of £8 is payable for the registration of each case.

Once TEC confirm registration of each case, we will send an order to the motorist advising that s/he must either pay the amount outstanding or send to the Traffic Enforcement Centre a Witness Statement to refute the need to pay the penalty charge within 21 days.

Subsequent to a valid witness statement being submitted responsibility for the enforcement process moves from the Council to the Traffic Enforcement Centre

Where the motorist has been served with an order for recovery of the unpaid PCN and fails to pay the penalty charge or to complete the Witness Statement, the Council can ask the Traffic Enforcement Centre for authority to prepare a warrant of execution. The warrant must be produced within seven days and has a lifespan of 12 months although applications can be made for another warrant if the debt has not been recovered within 12 months. The warrant authorises a certificated enforcement agent to seize and sell goods belonging to the motorist to the value of the outstanding amount plus the cost of executing the warrant.

A warrant of execution is the normal means of collecting unpaid debts. These will be handled by the Council's enforcement agent (previously known as bailiffs) – details are set out in sections 1 and 2 above.

However, there are circumstances in which the council can use other means to collect the amount owing.

The other means of enforcement are:

- an attachment of earnings order – an order deducting money from the motorist's earnings to discharge the amount outstanding;
- a third-party debt order – preventing the motorist withdrawing any money from his or her bank or building society account until the outstanding debt is paid and requiring the bank or building society to discharge the debt using money in the motorist's account; and
- a charging order – preventing the motorist selling his or her house or land unless the outstanding debt is paid.

The Council can also ask the defendant's local County Court to issue an oral examination. This is a way of finding out about the motorist's income and expenses in order to decide on the most appropriate means of enforcement.

If it wishes to issue an Order to Obtain Information from a Judgement Debtor or to enforce judgement using one of the methods above the Council must ask the Traffic Enforcement Centre to transfer the case to the motorist's local County Court.

A motorist's credit rating will not be affected by enforcement proceedings, as the debts will not be entered in the Register of County Court Judgements, either while the case is at the Traffic Enforcement Centre or on transfer to another County Court for non- warrant enforcement.

**How to Contact Us:**

Parking Services Team Telephone: 01622 602313 or 01622 602385

<http://www.maidstone.gov.uk/home/other-services/find-and-contact-us>

## **Section 5 – Commercial Waste**

Payments for commercial waste collections are made through direct debit arrangements. This is a condition of entering into a contract for this service.

Where this arrangement is not honoured up to three reminders about payment will be made, the first via a phone call and, if needed, two further reminders by e-mail. Failure to pay within 28 days will result in suspension or cancelling of the contract and, where relevant, removal of bins.

Recovery of the outstanding debt will be through the sundry debt process described in section 9 below

### **How to contact us**

Commercial Services Support Officer

Telephone: 01622 602666

Email: [commercialwastesolutions@maidstone.gov.uk](mailto:commercialwastesolutions@maidstone.gov.uk)



## **Section 6 – Crematorium**

Funeral Directors are invoiced for the cost of services at the crematorium and cemetery monthly.

Invoices should be paid within 14 days.

Where payments are outstanding Funeral Directors are contacted for payment via reminder invoices.

The Bereavement Services Manager chases payments that are over 90 days old directly with the Funeral Directors. While the payment is outstanding for an extended amount of time, the service is withheld until the debt is settled.

### **How to contact us**

Bereavement Services Manager

Telephone: 01622 602967

Email: BereavementServices@[maidstone.gov.uk](mailto:BereavementServices@maidstone.gov.uk)

## **Section 7 – Commercial Rent/and Licence Fees**

Commercial Rent is for buildings that are rented out by the Council and managed by the Property Team.

Invoices are sent out monthly or quarterly.

### **Payment Terms**

Unless otherwise stated, all invoices are due for payment immediately. If payment is not received the following process is followed

- A first reminder will be issued after 28 days from the invoice date
- A second reminder will be issued 42 days from the invoice date if payment is not received.
- A final reminder will be issued 56 days from the invoice date if payment is not received.
- Options for payment will be explored with the tenant. These include arrangements for a payment plan or to terminate the lease of the property and take Legal action to reclaim the debt through the courts.

### **How to Contact us**

E-mail [property@maidstone.gov.uk](mailto:property@maidstone.gov.uk)

01622 602517

## **Section 8 - Economic Development**

Charges are made for marketing, advertising, lease and licence payments, venue and room hire.

Payment is obtained up front wherever possible to avoid bad debts occurring.

Where this has not occurred, the invoice will state the payment deadline. If payment is not made by the deadline a reminder will be sent. If the bill remains unpaid recovery through our sundry debt process (see section 9) will be followed.

### **Business Terrace**

Venue hire: Seminar Room, Meeting Room, virtual office and hot desks are paid for in advance online. Invoices may be raised for known established organisations such as the NHS where debt recovery is rarely an issue.

Licences for offices: two consecutive missed payments without good reason agreed with Economic Development Business Centre Coordinator will result in the termination of contract with a payment plan agreed – if a payment plan is not in place, escalation to legal proceedings. Liability is limited as the most expensive office is £600 per month + VAT, personal liability possibility where start-up companies are not registered on Companies House.

Leases for offices: after three consecutive missed payments, without good reason agreed with Economic Development Business Centre Coordinator, if no payment plan is in place escalated to legal proceedings if agreed on Operational Project Board – resulting in termination of contract and escalated debt recovery. Liability ranges from £250 per month + VAT to £3,177. Only companies registered via Companies House with limited liability are able to take a lease.

### **How to Contact us**

Economic Development Business Centre Co-ordinator

Telephone: 01622 602609

Email: [GetStarted@Maidstone.gov.uk](mailto:GetStarted@Maidstone.gov.uk)

## **Section 9 – Sundry Debt**

Sundry debts arise when charges are made for services e.g. green waste collection and building regulations work are not paid.

Invoices will be raised to the customer promptly and include sufficient detail, including relevant dates and amounts, VAT and a clear description of the goods or service supplied.

Unless otherwise stated, all invoices are due for payment immediately.

- A first reminder will be issued after 21 days from the invoice date if payment is not received.
- A second reminder will be issued 31 days from the invoice date if payment is not received.
- A final reminder will be issued 41 days from the invoice date if payment is not received.
- Non-payment may result in withdrawal of the service or removal of the goods supplied, and legal proceedings to recover the debt through the courts.

Certain customers may be unable to pay the debt in full. In these instances, their case will be assessed according to the type of debt and their ability to pay.

The Council will consider a payment plan to allow mutually agreeable payments to be paid by regular instalments

The payment plan should generally last for a maximum of 12 months, with minimum instalments of £10.

If an instalment of an agreed payment plan is not received within 21 days of the due date, then the reminder process as outlined above will commence.

### **Payment Methods**

The Council offers the following methods to pay an invoice:

- On our Website at [www.maidstone.gov.uk/pay](http://www.maidstone.gov.uk/pay)
- By Phone – 24-hour automated payment line. Call 01622 602544 and choose option 6
- BACS / Internet Banking – Sort code: 30-00-02, Bank Account: 00574428

For regular payments the council also accepts payment by direct debit.

### **Write Offs**

The Council recognises that where a debt is irrecoverable, prompt and regular write-off of such debts is good practice. The Council will seek to minimise the cost of write-offs by taking all necessary action to recover what is due. All debts will be

subject to the full recovery procedure as set out in the Recovery of Sundry Debt procedure summarised above.

## **Section 10 – Housing**

The Housing Service lets residential, supported and hostel accommodation in discharging its duties under the housing legislation.

The procedures for the recovery of possession and debts in relation to this accommodation are specific to the housing duty owed to the person who owes the Council money.

Here is a link to guidance on this topic:

[https://www.maidstone.gov.uk/\\_data/assets/pdf\\_file/0005/325508/Temporary-accommodation-rent-arrears-policy-Feb-2020.pdf](https://www.maidstone.gov.uk/_data/assets/pdf_file/0005/325508/Temporary-accommodation-rent-arrears-policy-Feb-2020.pdf)

Other debts accrued in relation to loans made to individuals, e.g. homelessness prevention loans, will be treated as sundry debts – see section 9 above.

### **How to Contact Us**

Housing Accommodation Team

Telephone: 01622 602525

Email: [AccommodationTeam@maidstone.gov.uk](mailto:AccommodationTeam@maidstone.gov.uk)

## **Section 11      Further advice**

For debt advice you can contact:

Citizens Advice Bureau: 2 Bower Terrace, Tonbridge Road, Maidstone ME16 8RY  
Tel: 03448487978

Crosslight Debt Advice: Derwent Rd, Tonbridge TN10 3HZ  
Tel: 01732 300425

Other free debt advice agencies are available.