

Exeter City Council Corporate Debt Management Policy



CORPORATE DEBT MANAGEMENT POLICY

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1. Introduction

An effective Debt Management Policy is essential to ensuring the Council manages outstanding debts efficiently while meeting legal and ethical obligations.

Uncollected income reduces resources available to deliver vital public services, so it is crucial that all monies owed are recovered promptly and appropriately.

This policy establishes principles that guide debt management across the Council. It aims to ensure that debt collection is fair, consistent, cost-effective, and aligned across all recovery teams.

The Council has a legal duty and a responsibility to its residents to maximise income collection and minimise outstanding debt.

2. Policy Aims

The aim of this policy are to:

- Maximise income for Exeter City Council and protect its cash-flow
- Ensure that all council tax, rent payer and business rate payers' interests are protected by effective debt collection
- Develop a culture of positive customer payment behaviours
- Be 'preventative' for example offering payment options and to signpost customers with debt issues to services, programmes and activities that support building financial resilience
- Be fair but firm, and ensure consistency in dealing with customers
- Protect and support vulnerable customers and those experiencing financial difficulties

3. Scope of the Policy

This policy applies equally to the collection of income for the General Fund and Housing Revenue Account:

- Council Tax
- Non-Domestic Rates and BID
- Housing Revenue Account rents and service charges
- Temporary accommodation rents
- Overpaid Housing Benefit and Council Tax Support
- Commercial Property rents and service charges
- Sundry Debt

There are specific rules and regulations which govern the recovery and collection of these debts and are set out in the respective appendices.

4. Debt Recovery Principles

The Council will apply the following principles:

- **Proportionality** – Recovery action will reflect a balanced approach, considering both the potential loss of income to the Council and the costs of pursuing the debt.
- **Consistency** – The Council will take a consistent approach to:
 - The advice provided
 - The use of its powers
 - The recovery methods applied

Consistency does not mean simple uniformity. Officers will consider factors such as the debtor's circumstances, financial and economic climate we are operating in, payment history and ability to pay.

- **Transparency** – Debtors will be informed of what is expected of them, what they can expect from the Council, and the reasons for any recovery action. All communications will aim to clearly explain the action taken in plain English standards and relevant timescales.

5. Roles and Responsibilities

The Council's Financial Regulations set out that Strategic Directors issuing an invoice for monies due to the Council shall be responsible for the collection of the debt. Invoices must be raised promptly after delivery of goods or completion of the service. Where possible, payment should be taken in advance or at the time of providing the goods or service.

All officers involved in activities around the collection and recovery of any income type are responsible for delivering this policy.

6. Debt Management Practices

This policy aims to prevent debt by helping people maintain payments and supporting them to manage their finances effectively. The City Council will apply the following principles when managing debt:

- Invoices and reminder notices will be issued promptly to the person or business responsible for payment.
- Demand notices in relation to Council Tax and Business Rates will be issued in accordance with relevant regulations.
- Housing rent charges will be properly notified in accordance with secure and flexible tenancy agreements
- Invoices will be issued for commercial property rents in accordance with lease and licence agreements

- Temporary accommodation rent charges will be properly notified in accordance with the licence agreements
- Invoices will only be raised for amounts over £10, unless there is a valid reason to do otherwise.
- All charges will be clearly explained, including:
 - What the charge or liability is for
 - The amount due
 - How to make payment
 - When payment is due
- Alternative formats for any debt recovery communications, including large print, Braille or translations, will be provided on request.
- The Council is committed to Equality, Diversity and Inclusion and will ensure that no one receives less favourable treatment on the grounds of disability, ethnicity, age, gender recognition, sex, sexual orientation, religion and belief, pregnancy and maternity or marriage and civil partnership. The Public Sector Equality Duty (PSED) requires the local authority to have due regard to certain equality considerations when exercising their functions, more details are available at [Equality and Diversity Policy January 2025](#)
- Customers will be encouraged to contact the Council immediately if they anticipate difficulty paying.
- Where appropriate, reminders will include information on potential future actions or costs arising from non-payment.
- The Council will promote the most efficient and cost-effective payment methods.
- All payments must be recorded accurately and in a timely manner, to ensure balances are up to date.
- Resolve queries and disputes promptly to enable income to be received at the earliest opportunity, and pause further recovery action in the meantime, where appropriate.
- Income recovery will be maximised using appropriate and economic recovery methods.
- Where statutory benefits or discounts may apply or discretionary reliefs, the Council will inform and support customers to access them.

- With the debtors' consent, the Council will work with welfare agencies regarding outstanding debts.
- Customers facing financial hardship may be signposted to services, programmes and activities that support building financial resilience through the Crisis and Resilience Fund.
- Under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) Regulations 2020, the Council will suspend recovery of qualifying debts during the moratorium period and engage with the debtor's advice provider where required.

7. Methods of Payment

The following are payment methods currently accepted by the Council:

- Direct Debit (except for garden waste)
- On-line internet banking (using debit, credit card or PayPal)
- Touch tone telephone payments (using debit or credit card)
- Post Office (for sundry debt, council tax, housing benefit overpayments and rents)
- Paypoint (as above)
- Payzone (as above)
- Bank Transfer (including BACS, CHAPS, faster payments, standing orders etc)
- Secure Call Service telephone card payments

Cheques and cash are still accepted, by exception, but are not a preferred payment method.

8. Vulnerability

The Council recognises that some members of the community may be vulnerable and may require additional support, flexibility and understanding in dealing with their financial affairs. Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay. However, when a person is recognised to be vulnerable, consideration should be given to the additional measures that can be taken to support them and the appropriateness of any recovery action. Please refer to the Vulnerability Statement, Appendix 1.

9. Cost Recovery

If the Council incurs additional costs from taking recovery or enforcement action, e.g. court costs, charging orders or expenses in relation to bankruptcy or winding-up proceedings, we will always seek to recover these from the debtor, where legislation permits.

10. Credit Balances

We will make reasonable efforts to refund balances where there is a credit unless there is another debt within the Council pertaining to the same customer. In these instances, we will transfer the credit to reduce the debt.

Credit balances that cannot be transferred, due to no active account, or are unable to be refunded (e.g. unable to trace) shall be credited to the respective service area.

11. VAT

It is important that VAT is correctly applied to invoices and this may vary for different types of service. The incorrect application of VAT may result in financial penalties to the Council from HMRC.

For any queries, please contact the authority's VAT officer at vat.queries@exeter.gov.uk.

12. Enforcement Agents

The Council has a statutory duty to collect monies owed to it and effective recovery of unpaid debts helps ensure fairness to the majority of customers who pay on time. The Council will always aspire to avoid actions of last resort, such as the use of enforcement agents. However, where a debt remains unpaid, the Council may refer the matter to enforcement agents where it is legally entitled to do so. This will generally arise either following the obtaining of a court judgment, liability order, warrant or writ permitting enforcement of the debt, or through the use of Commercial Rent Arrears Recovery where applicable.

Any actions of this nature are considered on a case-by-case basis.

13. Register as a Creditor

Any service area that is registering as a creditor of a person or company that owes the Council money in a bankruptcy or liquidation case, must be satisfied that they have established the total debt owed to the Council across all service areas when providing details to the official receiver or insolvency practitioner.

14. Write-Offs

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

Please refer to Appendix 2 for a list of circumstances that indicate that a debt is uncollectable. In these circumstances, the decision to write-off will be taken in accordance with the Council's Financial Regulations, as follows:

Write-off Value	Type	Authorised
Unlimited	Irrecoverable debts due to bankruptcy, liquidation, insolvency, death, no trace, time bar, error	Head of Service, Finance
Up to £10,000	General	Relevant Head of Service & Section 151 Officer *
£10,001 - £50,000	General	Strategic Director & Section 151 Officer

£50,001 - £100,000	General	Section 151 Officer, Strategic Director & Portfolio Holder
Over £100,000	General	Full Council

Write-offs up to a value of £5 shall be treated as cancellations.

15. Bad Debt Provision

During the financial year, the ASH debtor system defaults to raising a bad debt provision (loss allowance) for all sundry debtor invoices outstanding over 6 months old.

Budget holders should be aware that their budgets will be adversely affected by this provision and to minimise this, should actively manage and monitor their outstanding debtors.

At financial year-end, a collective assessment is carried out for all types of debtor (council tax, NDR, housing rents, sundry) to determine expected credit losses and prudent bad debt provisions at the reporting date. Provision matrices, based on historical payment experience but updated for future conditions are used.

16. Legal Services

Legal Services will be formally instructed to action the recovery of outstanding debts which fall within the scope of this policy, strictly in accordance with the procedures, thresholds and safeguards set out in the relevant appendices of this policy, listed at paragraph 19 below.

The Housing and Litigation Team will be responsible for acting on instructions for debt recovery or enforcement. The Housing and Litigation Team comprises of the Housing and Litigation Team Lead, a Litigation Lawyer, a Legal Officer (Litigation and Debt Recovery), and a Legal Apprentice. The Legal Officer (Litigation and Debt Recovery) will receive the instruction in first instance and will be the primary point of contact for instructing officers, unless otherwise advised.

17. Performance Monitoring

Key performance metrics relating to income collection rates, outstanding invoices and arrears are being incorporated into the Council's Corporate Performance Framework. The reporting process is to be determined but will include a periodic performance report presented to the Strategic Management Board and a periodic report to Executive.

The General Fund budget monitoring reports to Council also provide performance data in relation to sundry debtors and income write-offs on a quarterly basis.

For the Housing Revenue Account, a range of key performance indicators (KPIs) are reported to the Council Housing and Development Advisory Board (CHADAB), including rent arrears.

18. Specific Policy Area Recovery Procedures

Please refer to the separate appendices for the debt collection procedures for the following areas:

Appendix 3 Council Tax

Appendix 4 Business Rates & BID

Appendix 5 Housing Revenue Account – Rent & Service Charges

Appendix 6 Temporary Accommodation – Rent & Service Charges

Appendix 7 Overpaid Housing Benefits & Council Tax Support

Appendix 8 Commercial Property – Rent & Service Charges

Appendix 9 Sundry Debt

Key Terms

“Bad Debt(s)”	A Debt that is likely irrecoverable because the Debtor is unable or unwilling to pay. This could be because of their insolvency, a dispute, or because the Council has insufficient evidence to pursue the Debt. These Debts are typically written off.
“Breathing Space”	<p>This is the Breathing Space scheme, under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020. It provides individuals in problem debt with temporary legal protections. There are two types:</p> <p>Standard Breathing Space Gives eligible debtors 60 days of protection from creditor enforcement, interest, and charges.</p> <p>Mental Health Crisis Breathing Space Lasts for the duration of the debtor’s mental health crisis treatment plus 30 days.</p> <p>In both instances, Debtors must seek approval from a debt adviser, and certain debts, such as secured debts, still require ongoing payments.</p>
“Billing Address”	The address where the Debtor receives their invoices, or it is their last known address.
“Customer”	An individual or entity, such as a company or charity, liable to pay monies to the Council

“Debt(s)”	A legitimate liability owed to the Council. This might be goods or services supplied by the Council, or it might be monies owed by statute (e.g., Council Tax).
“Debtor(s)”	An individual or entity, such as a company or charity, that owes a Debt.
“Demand”	An invoice, bill, or some other written request for payment from a Debtor.
“Final Notice”	If a Reminder is unpaid, this is a final letter warning the Debtor might face Recovery action.
“Recovery”	The use of the words “recover”, “recovering”, “recovery”, and “recovered” refers to when Collection has failed, and the Council takes further action to recover the Debt (e.g., instructing Legal Services or an Enforcement Agent).
“Reminder”	If a Demand is unpaid, this is a letter asking the Debtor to pay the original Demand.

Vulnerability Statement

The Council recognises that some members of the community may be vulnerable and may require additional support, flexibility and understanding in dealing with their financial affairs. Each person will be assisted individually dependent upon their personal circumstances. When dealing with potentially vulnerable people in debt consideration should be given to:

- putting recovery action on hold, to allow longer to pay
- assisting the person to claim benefits, reductions, discounts, or other entitlements
- referring the person to sources of professional debt advice agencies regulated by the FCA
- when appropriate officers will discuss a referral to the Crisis and Resilience Fund
- providing information in an accessible format
- agreeing a temporary payment arrangement with lower repayment than would normally be agreed
- where allowed in law or permission is given by the customer we will share data regarding vulnerable people with relevant agencies
- the council may request a debt that is with an Enforcement Agent be returned to the council for collection. This action will only take place following consultation between the council and the Enforcement Agent where both agree this to be the best course of action, owing to the customer's situation
- consideration may be given to write-off the debts in exceptional circumstances

Situations where a resident may be seen as vulnerable

The cause of vulnerability may be temporary or permanent in nature, and the degree of vulnerability will vary widely. The following list identifies some of the characteristics of people who could be considered vulnerable although each case must be taken on its own merits.

- **A person with disabilities**
A person may be considered vulnerable where a disability affects their ability to manage their financial affairs
- **A person experiencing serious or life-threatening health conditions**
A person may be considered vulnerable if they are experiencing a serious or life-threatening condition.

- **A person experiencing severe financial hardship**

A resident may be considered vulnerable if they are in receipt of benefits (or are awaiting the outcome of an application) and experiencing serious financial difficulties, such as following a loss of employment, which suddenly prevents them from meeting their existing financial commitments.

- **A person aged under 18**

It is unlikely that a person aged under 18 will owe money to the Council. However, they contact the Council on behalf of a parent, guardian or other adult they support or care for. Where this occurs, staff must ensure that the matter is progressed with the responsible adult and that appropriate safeguarding considerations are applied.

- **Enforcement visits where a child is present**

If, during an enforcement visit, a person aged under 18 is present at the premises (including where the child is the only person present), the child must be treated as automatically vulnerable.

- **Where the child is the only person present**

No enforcement action must be taken at that visit. The Enforcement Agent must withdraw and make arrangements to re-attend when a responsible adult is present, and/or refer the case back to the Council in accordance with escalation procedures.

- **Safeguarding and conduct requirements**

In all circumstances, the situation must be handled sensitively and in a manner consistent with safeguarding responsibilities.

- **Elderly people**

Elderly people may be regarded as vulnerable where they are frail, confused, or in poor health, especially when they are reliant on fixed or limited incomes.

- **A person recently bereaved**

A person who has recently experienced the bereavement of a close relative may be considered vulnerable.

- **Lone parents**

Lone parents may be regarded as potentially vulnerable, especially when caring for very young children. Their caring responsibilities can limit their ability to undertake employment, often resulting in reliance on welfare benefits and reducing their financial resilience.

- **A person who is pregnant**

A person who is pregnant may be considered vulnerable.

- **A person that has difficulty reading or writing**
A resident who has difficulty reading, writing and low knowledge of financial matters may be regarded as vulnerable, as they may struggle to understand written notices.
- **Care Leaver**
A resident who has left local authority care up until their 25th birthday
- **A person experiencing domestic violence/abuse or experiencing coercive control**
A person who is experiencing domestic abuse, coercive control, or any form of domestic violence may be considered vulnerable.
- **A person with a history of alcohol and substance misuse**
A person who with a history of alcohol or substance misuse may be considered vulnerable.

This list is not intended to be exhaustive and each case must be considered on its own merits, considering all relevant circumstances. Where a resident is known or believed to be vulnerable, particular care must be exercised before any enforcement action is authorised. Decisions should take full account of the individual's circumstances and the potential impact of enforcement on their wellbeing and financial stability.

Reason for write-off	Details
Absconded / No Trace	All reasonable attempts to find the debtor have failed.
Deceased	Insufficient or no funds, in the Deceased's estate.
Time bar	Debts over 6 years where a liability order has not been granted (for council tax and non-domestic rates) or no contact has been made, and no payments have been received in accordance with the Limitation Act 1980 (as amended) for Sundry Debt.
Uneconomical to pursue	When all recovery processes have been tried or considered, or the cost of proceeding would be prohibitive.
Section 13A Hardship – Council Tax (Appendix 1a)	Each case taken on its merits against a range of criteria
Section 49 Hardship – Business Rates (Appendix 1b)	Each case taken on its merits against a range of criteria
Debt remitted by the Court	Magistrate decision to reduce the debt
Bankruptcy	The debtor is declared bankrupt and sums due as at the date of bankruptcy cannot be recovered.
Debt Relief Order (DRO)	The debt is included in a debt relief order and cannot be recovered.
Company in Liquidation / Wound up / Dissolved / Struck off	The debtor is a limited company. The company no longer exists as a legal entity and there is no means of recovering the debt.
Company in Administration	The company is being administered on behalf of its creditors, and the administrators have no legal responsibility for the accrued debts of the company.
Company Voluntary Administration (CVA)	The company has entered an arrangement with its creditors through an insolvency practitioner.
Individual Voluntary Arrangement (IVA)	The debtor has entered an arrangement with its creditors through an insolvency practitioner.
Non-recoverable Housing Benefit	Housing benefit has been overpaid but is not recoverable under the Housing Benefit Regulations 2006, 100(2) or the Housing Benefit (Persons who have reached the qualifying age for state pension credit) Regulations 2006, 81(2).

Council Tax Section 13A Policy

Criteria for using powers under Section 13A of the Local Government Finance Act 1992 (LGFA S.13A (1)(c))

The Council will consider using its powers to reduce Council Tax liability for any Council Tax payer or class of payer and each case will be considered on its merits. The following criteria should be met for each case:

- There must be evidence of extreme hardship or personal circumstance that justifies a reduction in Council Tax liability (the Vulnerability Statement will inform decision making).
- The Council must be satisfied that the customer has taken reasonable steps to resolve their situation prior to application. The customer is expected to take up any offer of money advice and support via the Crisis and Resilience Pathways.
- In the case of an unoccupied property it must not be the sole or main residence of a customer.
- The customer does not have access to other assets that could be realised to pay their Council Tax.
- Eligibility for Council Tax Support has been explored and any entitlement awarded
- All eligible discounts or exemptions have been awarded.
- The customer must not be prohibited from access to public funds
- In the case of an unoccupied property, there must be evidence that every effort is being made to bring the property back into use.

Any reduction made under S.13A (1)(c) will be for the current financial year only. If the situation has not been resolved by the end of the financial year a further application will be required.

Business Rate Hardship Relief Policy

Background

The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 to provide either partial or full rate relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council taxpayers in general.

Application Criteria

For the Council to consider granting hardship relief, an application must be submitted, including copies of last 2 financial years audited accounts and evidence of any mitigating actions taken to support financial position. Prior to applying, the Council will seek to confirm that the following criteria are met:

- Where there has been a material change to the property or there is concern that the rateable value is too high, that businesses have first applied to the Valuation Office
- All other statutory rate reliefs have been awarded first including any government funded schemes
- Consideration has first been given to rate deferral, re-profiling of instalments and payment arrangements as an alternative method of support
- That the proposed relief is for a temporary period
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation
- The applicant will be required to submit an application form that sets out their reasoning as to why they should be considered for Hardship Relief

How the Council will assess your application

The council will consider applications for hardship relief from individuals and organisations based on their own merits, on a case-by-case basis.

In making decisions on whether to award the relief the Council takes into account the following criteria:

- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule
- That it is in the interests of council taxpayers as a whole to grant rate relief. The 'interests' of the council taxpayers in the area may go wider than direct financial interests:

Economic & Employment Impact

- The loss of the business would worsen the employment prospects in the area
- The business provides employment to local residents in an area where employment opportunities are limited
- The loss of the business would impact on other businesses (including local supply chain) and the local community
- The loss of the business would reduce amenities of an area if it is the sole provider of the service in the area

Financial Sustainability

- The business must continue to trade
 - Any reduction of the rates must be shown to be significant to the future viability of the business
 - Sufficient evidence of likelihood of recovery of the applicant's business
 - What proactive measures the business/trader is taking to reduce other significant overheads
 - Measures being taken to reduce their rate liability, for example occupying smaller premises, letting out parts of the building, where reasonable to do so
- The proposed cost of funding relief is affordable for the Council given the constraints on Council finances
 - That the granting of relief to a business/organisation must be balanced against whether this creates unfair market conditions to the detriment of others

The Council will reserve the right to request any other information it feels appropriate in order to consider an application.

There is no provision within the rating regulations to withhold payment whilst an application for relief is pending, therefore recovery action may continue if due instalments are not paid.

Decisions

In accordance with the Council's Constitution, delegated authority is given to the Head of Service, Finance in consultation with the Executive Member with relevant portfolio, for determining applications for Section 49 hardship rates relief.

An award will be granted only for the period for which there is clear evidence of hardship for the ratepayer concerned.

Council Tax Recovery Procedures

Introduction

1. Council tax is a tax levied on all eligible domestic dwellings. The amount of council tax levied is dependent on the council tax band that the property falls into and the amount of tax to be raised.
2. Council tax is payable in full unless a reduction or exemption applies, such as discounts for empty properties, single occupants, low-income residents.
3. Council tax is payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council to collect outstanding debts in accordance with the Council Tax (Administration and Enforcement) Regulations 1992.
4. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

5. The Council Tax Team deal with all aspects of the administration, collection and recovery of Council Tax, seeking advice from Legal Services in relation to recovery, as required.
6. Records are held and managed in the MRI system, the Council's Revenues and Benefits System.

Protocols

7. The Council believes that preventing arrears from building up is essential and the additional measures taken are as follows:
 - Offer four dates for Direct Debit as it is recognised that this is a proven method for ensuring payments are made on time; 1st, 8th, 15th and 25th of each month.
 - Council Tax may be paid by instalments, which by default are spread over 10 months. However, households retain the right to request billing over 12 months
 - The Council will enter into payment arrangements to encourage and support residents in getting back on track with their payments, based on an assessment of affordability.
 - The Council will support the customer in applying for available discounts and exemptions.

- Customers facing financial hardship may be signposted to services, programmes and activities that support building financial resilience through the Crisis and Resilience Fund.
 - The Council will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.
8. The Council will apply to the Magistrates' Court for Liability Orders, when necessary, to recover council tax debt.

Following the granting of a Liability Order the debtor will be given an opportunity to make a suitable payment arrangement. Should the debtor not make or keep to a payment arrangement the following recovery action(s) can be taken.

The Liability Order gives additional recovery powers, including:

- **Attachment of Earnings**

This action permits deductions to be taken directly from the debtor's earnings to recover council tax arrears. The action would require the debtor's employers to deduct the amount specified by the Court and remit it to the Council. This action will remain in force until the debt has been satisfied.

- **Attachment of Benefits**

This action permits deductions to be made directly from certain prescribed benefits of the debtor to recover council tax arrears. This may include Income Support, Job Seeker's Allowance, Employment Support Allowance, Pension Credit or Universal Credit. The Department for Work and Pensions facilitate these deductions, which are then paid to the local authority. This action will remain in force until the debt has been satisfied.

- **Taking Control of Goods – use of Enforcement Agents**

A Warrant of Control authorises Enforcement Agents to attend at the judgment debtor's home or business address. They will collect money (or monies) owed under the judgment debt or remove goods from the home or business to sell at auction.

There are limits to the types of goods that court Enforcement Agents may remove. They cannot remove goods that are necessary to allow a judgment debtor a basic standard of living or the tools of his trade.

A Warrant of Control cannot be issued for more than £5,000, except to enforce an agreement made under the Consumer Credit Act 1974.

Where a debt is in excess of £5,000 the judgment creditor cannot apply to the County Court for the execution, instead they must apply to the High Court for

execution, where the terminology changes slightly and it becomes a "Writ" of Execution or a Writ of Control to be executed by a High Court Enforcement Officer (HCEO) .

- **Charging Orders**

A Charging Order may be granted following obtaining a money judgment. The Charging Order secures a judgment debt against the property of a debtor, such as a house or land, or other qualifying asset such as shares. The effect of the Charging Order is that the debt may be repaid from the sale proceeds, should the property to which it has been secured, be sold.

A Charging Order alone does not compel the judgment debtor to sell their property. However, once the Charging Order is in place, the creditor may apply to the Court for an Order for Sale, requiring the property to be sold, so that the creditor may then recover the debt from the sale proceeds.

- **Bankruptcy**

Should the Council obtain a liability order, or judgment, against an individual for more than £5000 of unpaid council tax, bankruptcy proceedings may be considered. The Council must undertake an assessment of the debtor's circumstances, to ensure there are none which prevent bankruptcy. This may include disability, in accordance with the Council's Equalities Duty. Following the consideration of the assessment findings, the Council may commence proceedings by serving the statutory demand and subsequently presenting a bankruptcy petition. There is a strict procedural timeline to be followed.

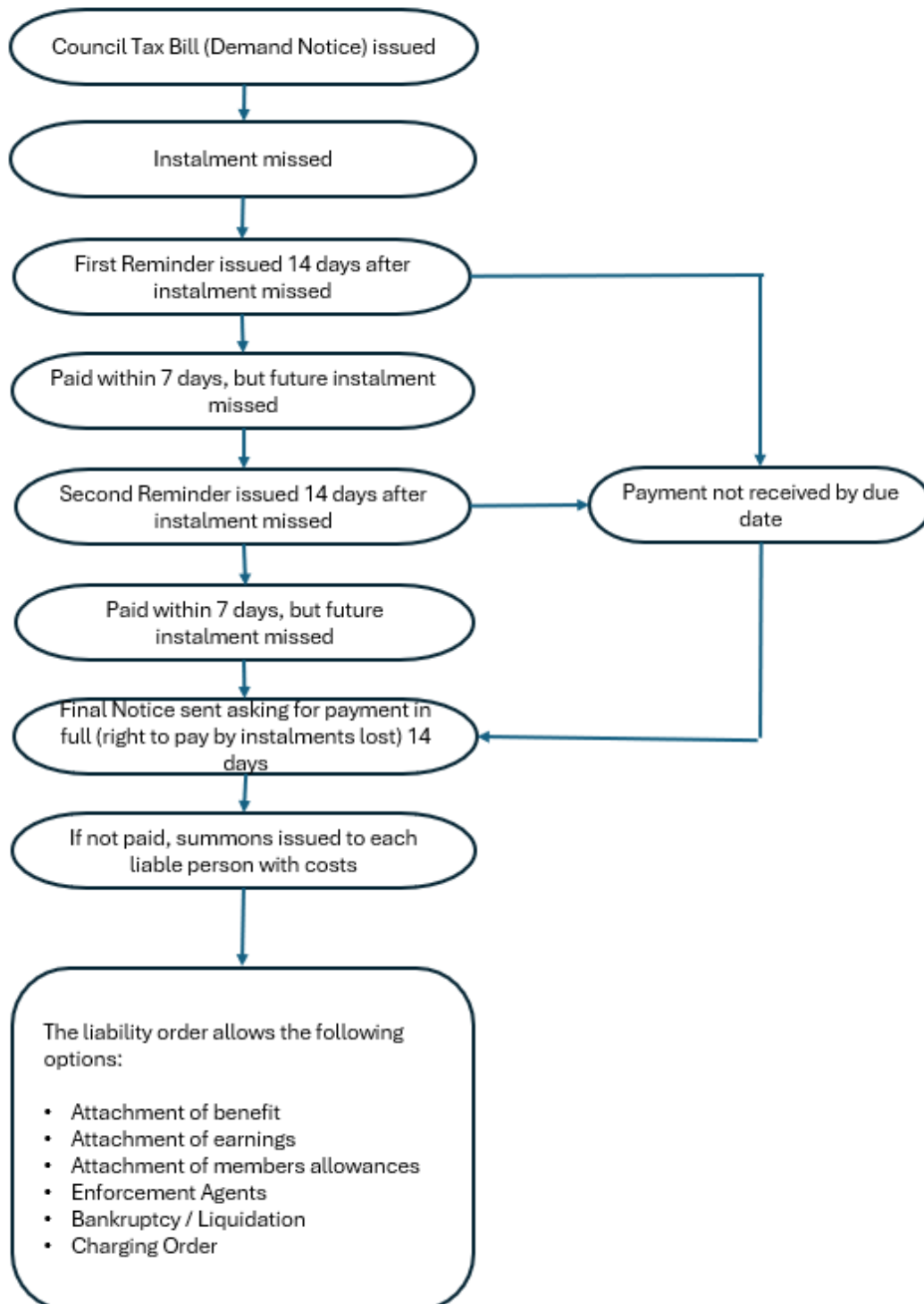
- **Committal**

The Council may make an application for committal to the Magistrates' Court. Should this application be successful, it will have the effect of a debtor being subject to imprisonment for non-payment, with a maximum sentence of three months. As creditor, the Council would need to establish that the debtor has had the means to pay the debt since the date of the relevant order or judgment and has wilfully refused or neglected to do so. This is a critical requirement, as the court must be satisfied that the debtor's non-payment is due to "wilful refusal" or "culpable neglect" rather than an inability to pay. Proof of the debtor's means can be presented in a manner deemed just by the court, and the standard of proof required is the criminal standard, beyond reasonable doubt. The Magistrates also have the power to remit all, or part, of the debt.

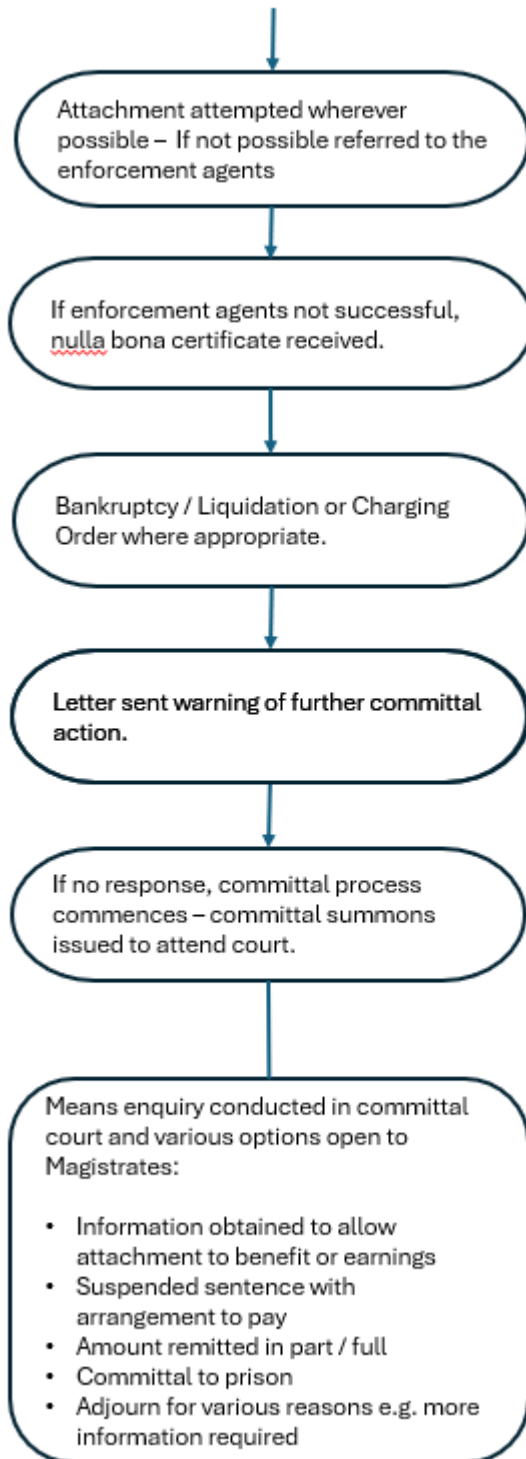
In accordance with the Council's Constitution, we will only proceed with seeking a charging order, bankruptcy or committal to prison, after seeking approval with the Chief Executive and Relevant Portfolio Holder and after prior advice from Legal Services.

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

Collection and Recovery Flowchart Council Tax



Cont.



Business Rates & BID Levy Recovery Procedures

Introduction

1. Non-domestic rates are a tax levied on eligible business properties. The amount of non-domestic rates is dependent on the rateable value of the property and the nationally set rating multiplier(s).
2. The full rate of tax is liable to be paid unless the property, owner or occupier is eligible for a relief or exemption.
3. Non-domestic rates are payable in line with a statutory instalment scheme or by agreement. There is a legal duty placed on the Council to collect outstanding debts in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended).
4. A Business Improvement District (BID) scheme applies for Exeter city centre. The Council acts on behalf of the BID Company to bill and collect the BID levy. The Council shall use all reasonable endeavours to take all reasonable steps for collecting the BID levy which are consistent with its usual procedures for the collection of non-domestic rates.
5. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

6. The Business Rates Team deal with all aspects of the administration, collection and recovery of Business Rates and BID levies, seeking advice from Legal Services in relation to recovery and the BID Chief Executive (for BID levies), as required.
7. Records are held and managed in the MRI system, the Council's Revenues and Benefits System. A BID module specifically holds records relating to the billing and recovery of BID levies.

Protocols

8. The Council believes that preventing arrears from building up is essential and the additional measures taken are as follows:
 - Offer two dates for Direct Debit as it is recognised that this is a proven method for ensuring payments are made on time; 1st and 25th of each month.
 - Business Rates may be paid by instalments, which by default are spread over 10 months. However, businesses retain the right to request billing over 12 months

- The Council will enter into payment arrangements to encourage and support businesses in getting back on track with their payments, taking into consideration the fluctuations in income, common to seasonal businesses, and place the emphasis for repayment on times of likely maximum business activity.
 - The Council will support businesses in applying for available discounts, reliefs and exemptions
 - The Council will provide advice in relation to appealing rateable values with the Valuation Office
 - The Council will not refuse any payment which reduces debt. However, if it is less than the requested amount recovery action may continue.
9. The Council will apply to the Magistrates Court for Liability Orders, when necessary, to recover business rate debt

The Council will use all appropriate methods of enforcement available through Liability Orders including:

- **Taking Control of Goods – use of Enforcement Agents**

A Warrant of Control authorises Enforcement Agents to attend at the judgment debtor's home or business address. They will collect money (or monies) owed under the judgment debt or remove goods from the home or business to sell at auction.

There are limits to the types of goods that court Enforcement Agents may remove. They cannot remove goods that are necessary to allow a judgment debtor a basic standard of living or the tools of his trade.

A Warrant of Control cannot be issued for more than £5,000, except to enforce an agreement made under the Consumer Credit Act 1974.

Where a debt is in excess of £5,000 the judgment creditor cannot apply to the County Court for the execution, instead they must apply to the High Court for execution, where the terminology changes slightly and it becomes a "Writ" of Execution or a Writ of Control to be executed by a High Court Enforcement Officer (HCEO) .

- **Bankruptcy**

If the business is in the name of individuals rather than a limited/incorporated company, the Council can start bankruptcy proceedings under the Insolvency Act, where the individual's debt is in excess of £5,000 and a liability order has been obtained.

If bankruptcy has already been declared, the Council will require evidence to confirm the date of the bankruptcy order. The Official Receiver will appoint a trustee who will send a proof of debt form for the Council to submit a claim for the amount owed.

- **Liquidation**

If the debtor business is a company, the Council can start liquidation proceedings against the company under the Insolvency Act, whereby the company's assets are collected and realised to discharge its debts. Debts incurred before the company was liquidated will be included in the Council's claim to the insolvency practitioner.

If the company has already gone into liquidation, the Council will require evidence of when it happened. The Council will make a claim as an unsecured creditor to the insolvency practitioner appointed to deal with the company.

- **Administration**

If the debtor business is a company, the Council can apply to the court with other creditors for the company to be placed in administration. The administrator may decide to allow the company to continue to trade or it may decide to sell the business as a going concern.

If your business has gone into administration already, the Council will require evidence of when it happened. The Council will make a claim to the administrator.

- **Charging Orders**

A Charging Order may be granted following obtaining a money judgment. The Charging Order secures a judgment debt against the property of a debtor, such as a house or land, or other qualifying asset such as shares. The effect of the Charging Order is that the debt may be repaid from the sale proceeds, should the property to which it has been secured, be sold.

A Charging Order alone does not compel the judgment debtor to sell their property. However, once the Charging Order is in place, the creditor may apply to the Court for an Order for Sale, requiring the property to be sold, so that the creditor may then recover the debt from the sale proceeds.

In accordance with the Council's Constitution, the Council will only proceed with seeking a charging order or bankruptcy, after seeking approval with the Chief Executive and Relevant Portfolio Holder.

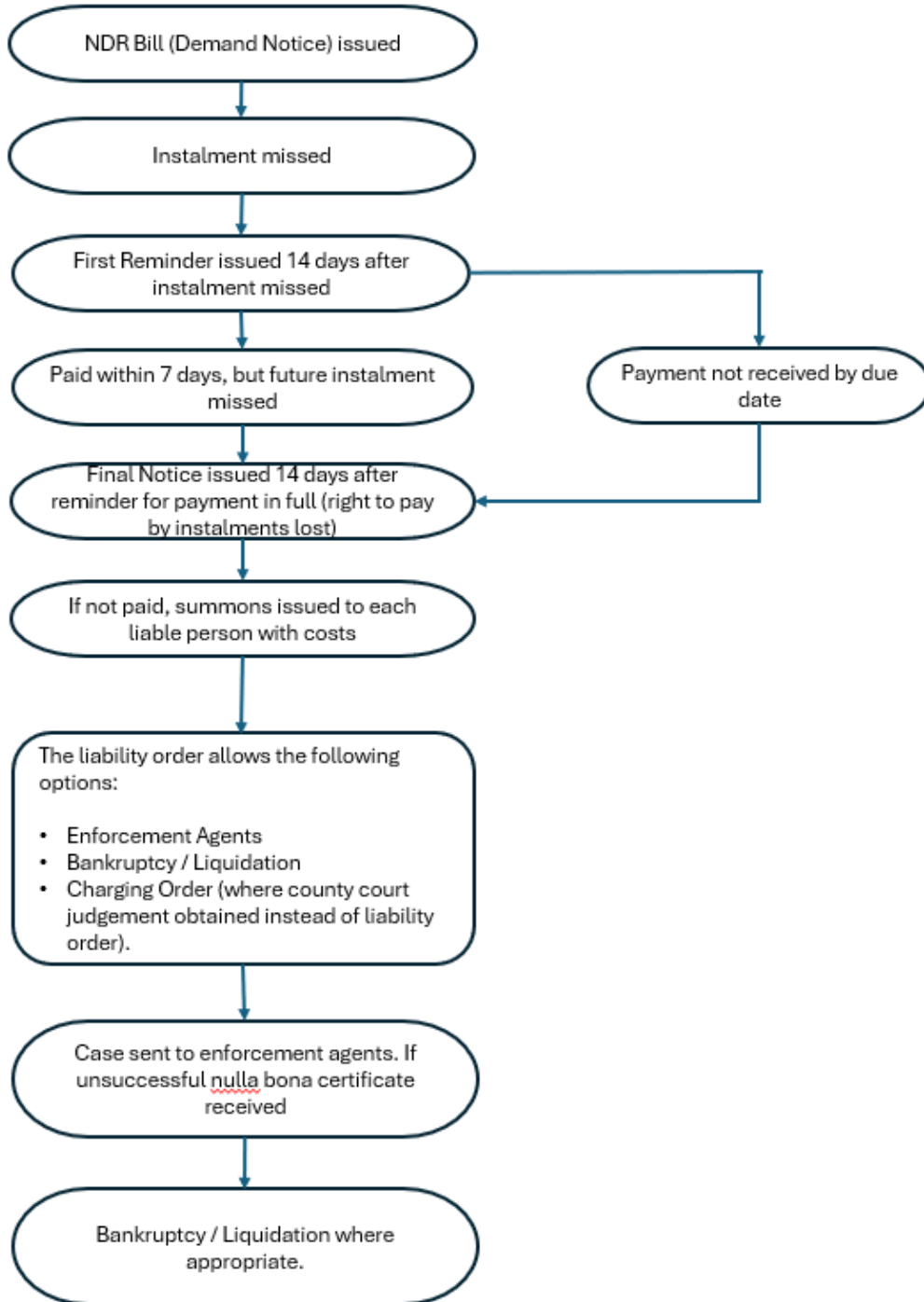
10. Write-offs

Decisions to write-off business rate debt are made in line with the Council's Financial Regulations, as set out in the overarching Corporate Debt Policy.

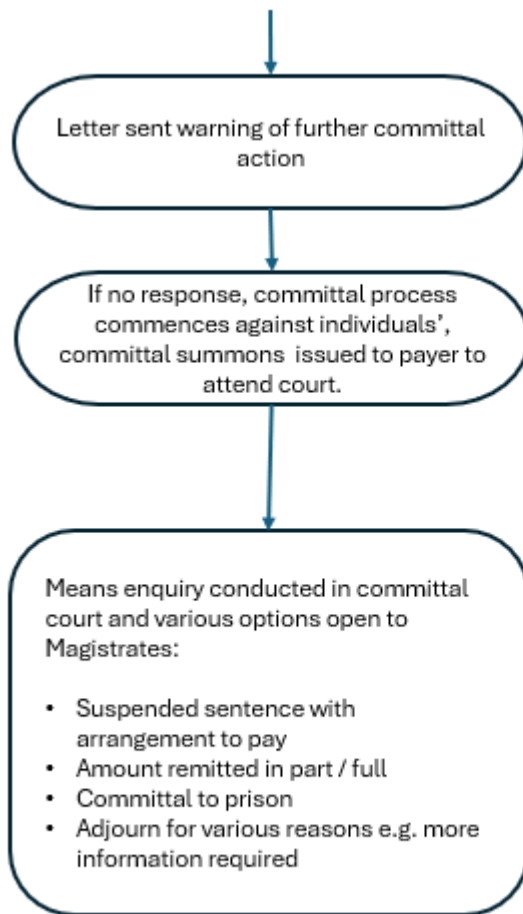
However, the BID Company (InExeter Ltd) Board of Directors are responsible for approving any BID levy write-offs.

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

Collection and Recovery Flowchart NDR



Cont.



HRA Rents and Service Charge Recovery Procedures

Introduction

1. Local authorities collect rents into the Housing Revenue Account where the housing is provided under Part II of the Housing Act 1985 and is required to be accounted for in the HRA under section 74 of the Local Government and Housing Act 1989.
2. Tenant rents and service charges are the primary sources of HRA income. Rentals of non-dwellings are also chargeable, for example garages.
3. Authorities must set reasonable rents, having regard to:
 - Government rent policy
 - The Rent Standard issued by the Regulator of Social Housing
 - The national rent formula (condition, location, earnings, size)
4. Rent and service charges are payable in accordance with secure and flexible tenancy agreements. Council expects its tenants or former tenants who owe money to the Council to comply with legal obligations in respect of that liability.
5. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

6. The Housing Lettings Team are responsible for charging rents and service charges to housing tenants with the Housing Income Collection Team responsible for collection and recovery. Advice is sought from Legal Services in relation to recovery, as required.
7. Records are held and managed in Open Housing, the Council's Housing Management System.

Protocols

8. The Council believes that preventing arrears from building up is essential and the additional measures taken are as follows:
 - Offer four dates for Direct Debit as it is recognised that this is a proven method for ensuring payments are made on time; 1st, 8th, 15th and 25th of each month.
 - Tenants are charged rent on a fortnightly basis – with two rent free fortnights
 - Making sure that tenants know who their Housing Officer is so that they can discuss tenancy issues at an early stage.

- The Council will enter into payment arrangements to encourage and support residents in getting back on track with their payments, based on an assessment of affordability.
- The Council will signpost customers to available benefits, discounts, reliefs and exemptions.
- If the tenant is a Council employee, a voluntary deduction may be made directly from their salary
- Customers facing financial hardship may be signposted to services, programmes and activities that support building financial resilience through the Crisis and Resilience Fund.
- The Council will consider a tenant's vulnerability to ensure our recovery actions are reasonable and proportionate.
- The Council will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.

9. Recovery Action

In the event of an account falling into arrears, the Council will commence recovery actions, including:

- **DWP**

Where the tenant is in receipt of Universal Credit, the Council will apply to the Department for Work and Pensions (DWP) for an 'Alternative Payment Arrangement', whereby a tenants Housing element of Universal Credit will be sent directly to the Council to recover arrears arising under their tenancy agreement.

The Council will apply to the DWP to collect rent arrears direct from the living costs element of Universal Credit, with deductions collected at a rate determined by statute.

- **Garage arrears**

The Council will terminate the tenancy in respect of a garage after six weeks rent arrears. Associated costs will be recharged to the tenant, e.g. changing the lock and securing the garage

- **Notice of Seeking Possession**

A notice will be served on a tenant who falls six weeks into arrears, the notice remains in place for fifty-two weeks. Failure to pay the account in full or enter into a payment agreement within 28 days of the issue of the notice, the Council will

commence steps to recover possession of the property by making an application to the County Court.

- **Possession Claims**

The Council will apply to the County Court for a possession claim, when necessary, to seek possession of the property.

In accordance with the Council's Constitution, the Council will only proceed with seeking a possession order, after seeking approval with the Head of Service Legal and Democratic Services and/or the Housing and Litigation Team Lead.

The outcomes of an application for possession could be:

- **Adjourned on Terms**

The Court agrees an acceptable payment plan to clear the rent arrears; the Order is made up of current rent plus agreed arrears with costs awarded. A tenant who breaches the terms of the Order will be restored to court where the Council will make an application for an Outright or Suspended Possession Order.

- **Suspended Possession Order (SPO)**

The Court awards the Council possession of the property, alongside an award of costs but the possession order is suspended. This means that, although the Court has granted possession, enforcement of the Order is suspended under repayment terms set by the Court and shall not be enforced, providing the tenant adheres to the terms of the Order. Should a tenant breach the terms of the SPO, through failure to comply with repayment, the Council will apply for a warrant of possession with the County Court Bailiff. A tenant can apply for a warrant suspension hearing to be held in the County Court.

- **Outright Possession Order (OPO)**

The Court awards the Council outright possession of the property with costs awarded. The Council will set a date for the tenants to vacate the property. The Council must then apply to the County court bailiff for a warrant of possession. The County Court bailiff and the Council notify the tenant of the eviction date and time. Once the warrant has been executed, the tenancy comes to an end. A tenant can apply for a warrant suspension hearing to be held in the County Court.

- **Eviction**

The Council's primary concern is to recover the rent debt rather than to regain possession. The Council will consider possession only as a last resort, if all other actions have failed.

A safety risk assessment is carried out prior to the eviction; systems are checked for any concerns relating to the property, tenant and any associated persons that may pose a risk at the eviction, this includes animals that are kept at the property. The Court Bailiff and Housing Officer who attend the eviction are sent a copy of the risk assessment. Gas capping and lock change are booked and a Rent Collection Officer will attend the eviction.

10. Former Tenant Arrears

All efforts are made to keep arrears low before a tenancy is ended, however there are occasions when a tenancy ends with a debt outstanding.

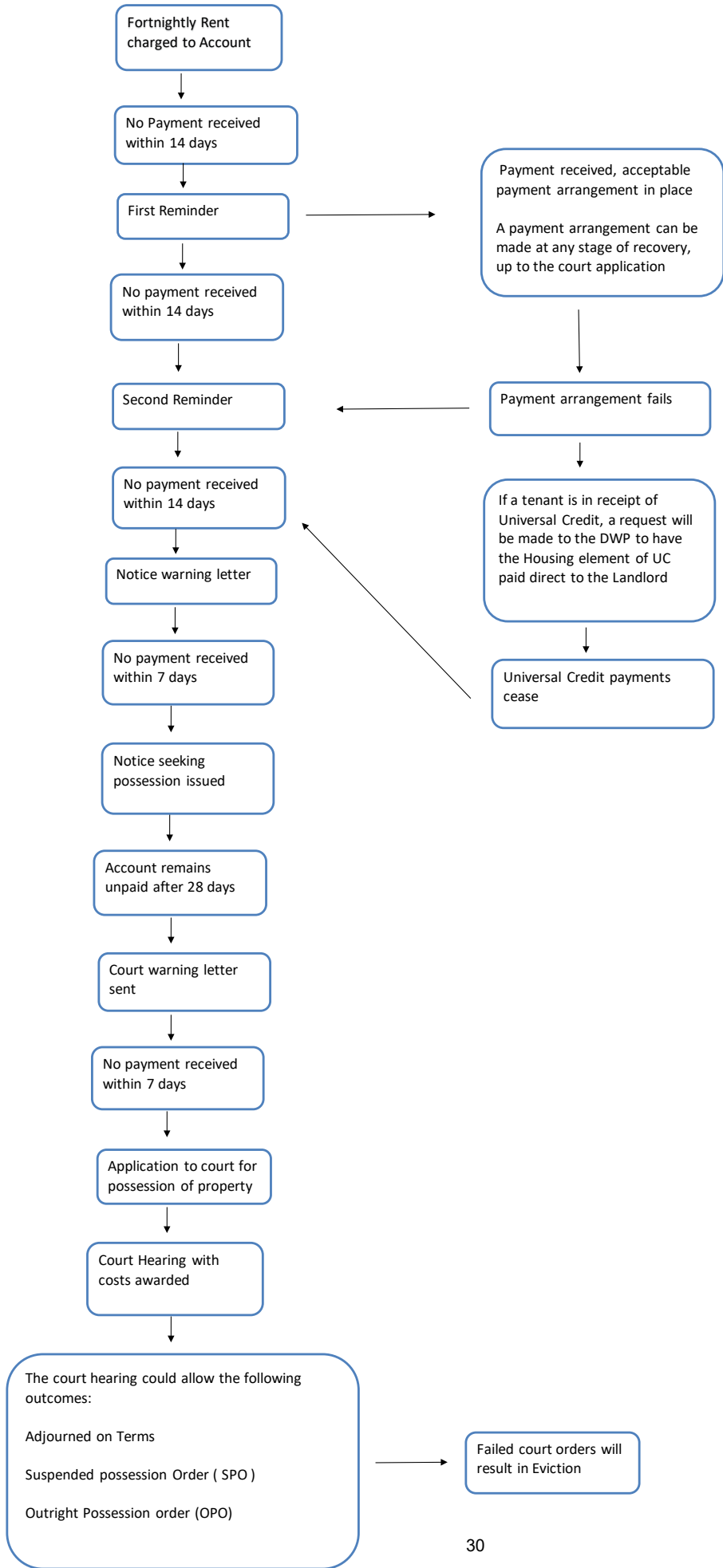
The former tenant's financial circumstances and ability to repay will be assessed to agree manageable repayment arrangements. Where the individual remains a current tenant with former tenancy arrears, priority will be given to rent payments under the current tenancy.

If former tenants fail to engage or make payments to settle their former arrears including former garage rent arrears, the Council will:

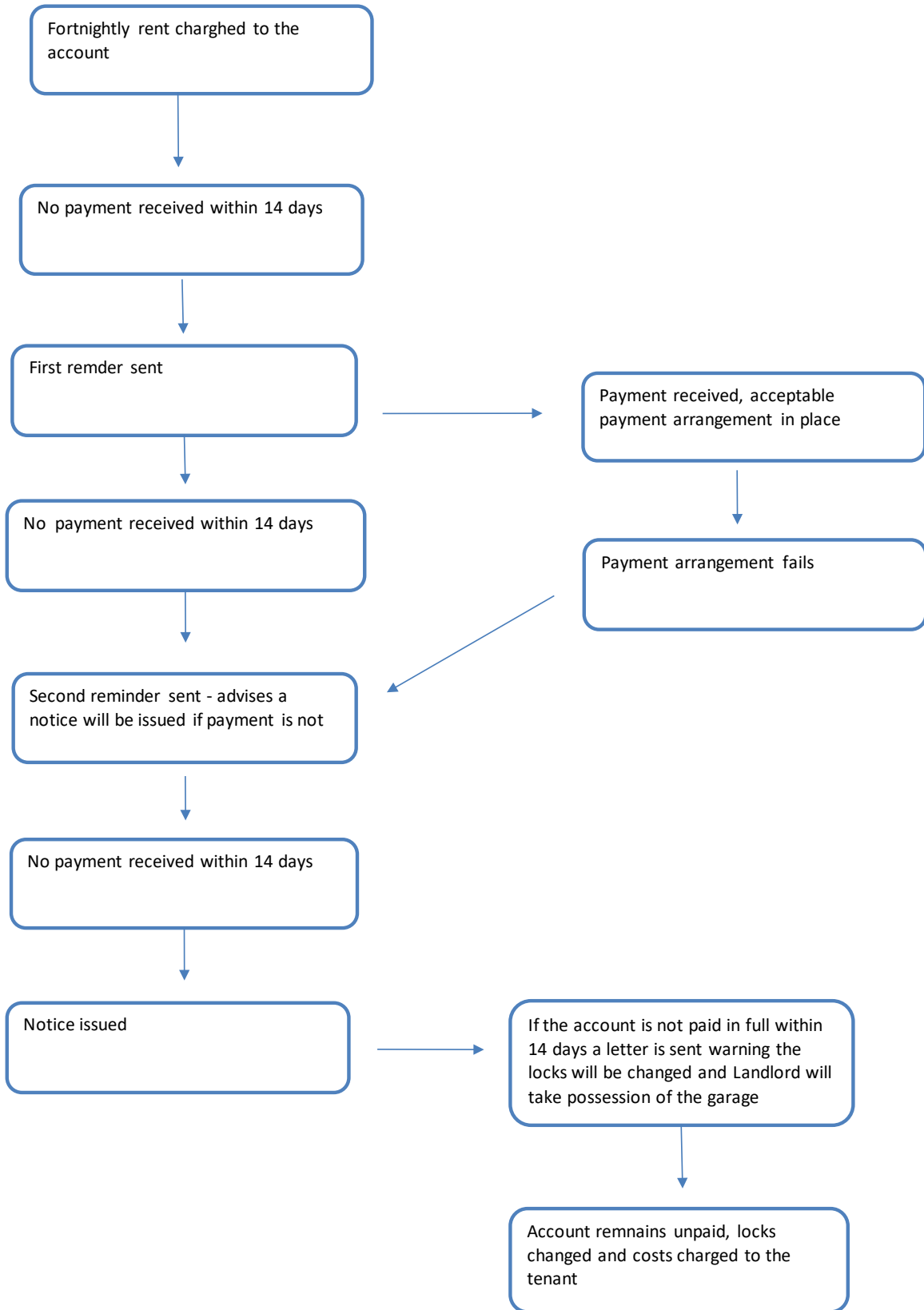
- Apply to the Court for a County Court Judgement (CCJ)
- Apply for an attachment of earnings through the County Court
- Refer the debt to an enforcement agent to collect
- Use a third-party reporting agency to trace and verify a current address (e.g. Experian)

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

HRA Collection Flow Chart



Garage Collection Flow Chart



Temporary Accommodation Rents and Service Charge Recovery Procedures

Introduction

1. The homelessness duties of local housing authorities are set out in Part 7 of the Housing Act 1996 (as amended). Local authorities are legally obliged to provide temporary accommodation in some situations.
2. Applicants in temporary accommodation are expected to contribute towards the costs of their accommodation, typically through rent or a licence fee, and in some cases through a service charge. Some applicants may be entitled to support with these costs through the benefit system.
3. Case law provides for a local authority to provide or secure accommodation at a nil or peppercorn rent for a person who is assessed to have no income or savings.
4. Temporary accommodation includes local authority owned accommodation, private registered provider owned accommodation, bed and breakfast and accommodation provided by a private landlord.
5. Rent and service charges are payable in accordance with a 7-day licence agreement and charges are made on a weekly basis.
6. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

7. The Housing Lettings Team are responsible for charging rents and service charges in relation to temporary accommodation with the Housing Income Collection Team responsible for collection and recovery. Advice is sought from Legal Services and the Housing case worker in relation to recovery, as required.
8. Records are held and managed in Open Housing, the Council's Housing Management System.

Protocols

9. The Council believes that preventing arrears from building up is essential and the additional measures taken are as follows:
 - Offer four dates for Direct Debit as it is recognised that this is a proven method for ensuring payments are made on time; 1st, 8th, 15th and 25th of each month.

- The Council will enter into payment arrangements to encourage and support residents in getting back on track with their payments, based on an assessment of affordability.
- The Council will signpost customers to available benefits, discounts, reliefs and exemptions.
- Housing Services will actively engage with the Benefits & Welfare Team to ensure that a claim has been submitted and progressing.
- Customers facing financial hardship may be signposted to services, programmes and activities that support building financial resilience, including through the Crisis and Resilience Fund.
- The Council will consider a tenant's vulnerability to ensure our recovery actions are reasonable and proportionate.
- The Council will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.

10. **Recovery Action**

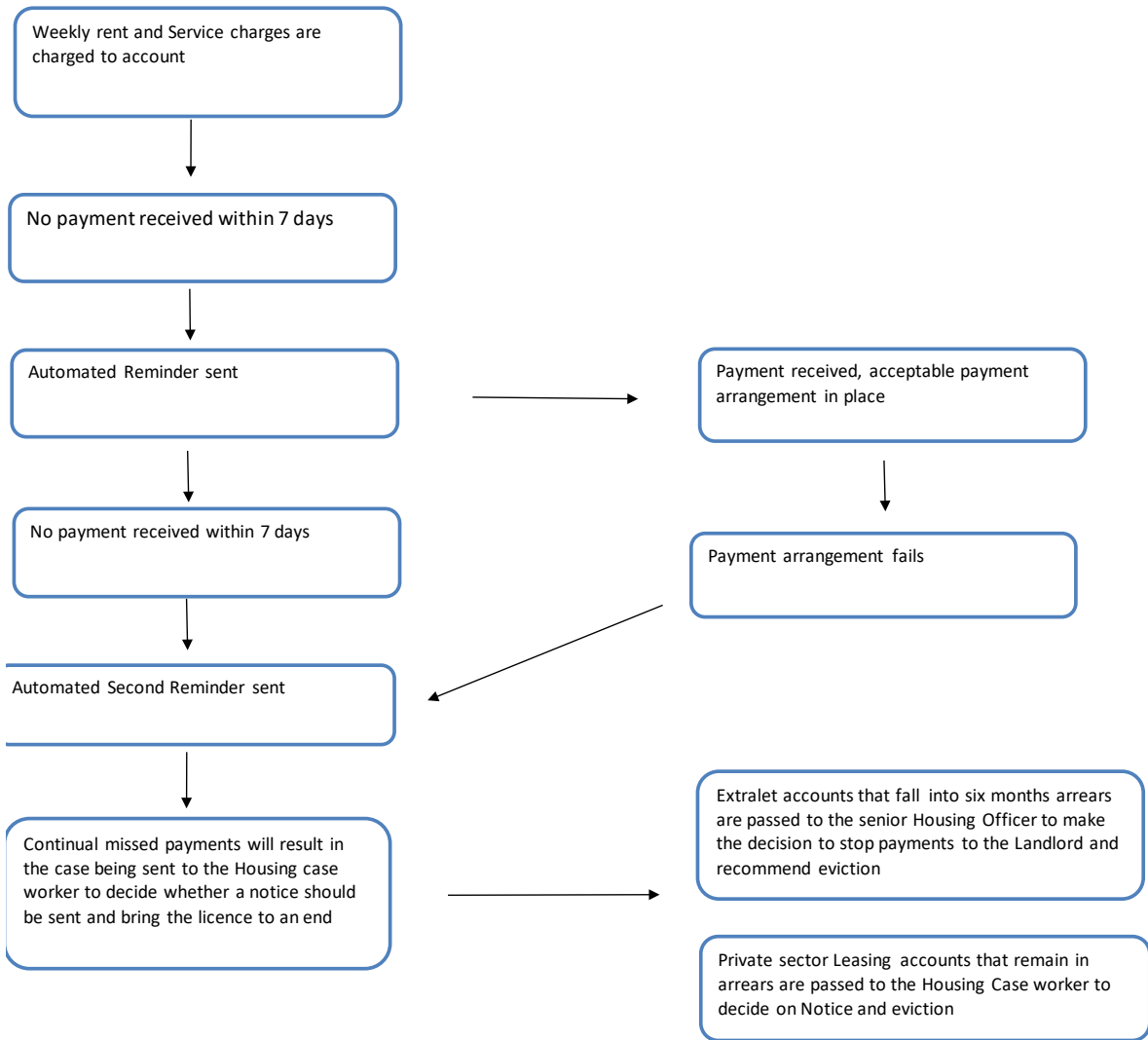
In the event of an account falling into arrears, we will commence recovery actions:

- Automated reminder letters will be issued as soon as the account falls into arrears (1st and 2nd reminders) and Housing Caseworker notified of this.
- Senior Rent Collection Officer will endeavour to make contact to agree a suitable repayment plan.
- Debt escalated to Housing Caseworker to determine whether to end accommodation provided to a household pursuant to Part 7 of the Housing Act 1996 (as amended) is fair and proportionate.
- Where the Housing Caseworker is ending accommodation provided pursuant to Part 7 of the Housing Act 1996 (as amended) they will be responsible for bringing the licence to an end and pursuing any court action, as necessary, to evict.

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

Appendix 6 Temporary Accommodation Rents and Service Charge Recovery Procedures

Temporary Accommodation collection Flow Chart BB PSL Extralet



Housing Benefit and Council Tax Support Overpayment Recovery Procedures

Introduction

1. Overpayments of Housing Benefit and Council Tax Support occur due to a change in benefit entitlement. They are described as an amount of benefit that has been awarded but to which there is no entitlement to under the regulations.
2. Accurate and prompt identification of overpayments ensure that the incorrect payment of benefit no longer continues and maximises the chance of recovery.
3. Recovered in accordance with Housing Benefit Regulations 2006, The Housing Benefit (State Pension Credit) Regulations 2006, Council Tax Benefit Regulations 2006 and the Council Tax (Administration and Enforcement) Regulations 1992.
4. The recovery of overpaid Housing Benefits is managed in the Council's IMAN system.
5. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

6. The Benefits and Welfare Team are responsible for identifying, calculating, classifying and notifying overpayments of Housing Benefits and Council Tax Support. The team deal with any disputes and appeals and deal with recovery when possible through the deduction of ongoing benefits.
7. The Income Collection Team are responsible for recovery where there is no ongoing entitlement or the customer wishes to make an alternative arrangement. Advice is sought from Legal Services in relation to recovery, as required.
8. Records are held and managed in the MRI system, the Council's Revenues and Benefits System. The IMAN module specifically holds records relating to the recovery of overpaid Housing Benefits.

Protocols

9. To reduce the likelihood of overpayments occurring, and the size of overpayments, the Council will:
 - Support residents through the application process with clear instructions and accurate advice, checking relevant information provided in support of the claim
 - Customers can use our Contact Us form on the website and select the Benefits and Welfare option to let the Council know about a change in income

- Provide advice and information to customers through the website and letters as well as the Customer Services Team by telephone
- Encourage claimants to promptly report changes to their circumstances through a range of contact routes
- Use DWP/HMRC data to ensure that benefit entitlement is based on up-to-date information
- Proactively review awards for known future changes and at regular intervals to verify household circumstances
- Act on any information received in relation to a claimant's change in circumstances as soon as reasonably practical after receiving sufficient information to identify an overpayment
- Promptly suspend further payments if it appears likely that an overpayment may be occurring and there is not enough information to calculate the new entitlement. Suspension is used proportionately and decided on an individual basis, to avoid causing financial hardship. It is generally used for cases where there is likely to be no ongoing entitlement or where a customer fails to respond to requests for information.

Overpayment Notification Letters

10. All notification letters will:

- Be dated and issued to all affected persons as soon as is reasonably practicable after the decision is made
- Include the reasons for the decision and a calculation showing how the overpayment amount was determined
- Explain the right to request a further statement and the time limit for doing so
- Give the claimants appeal rights and time limit for doing so
- Be accompanied by an invoice with amount due and payments terms

Decisions on Recoverability

11. Where the Council has identified an overpayment was caused by an official error, it should decide whether recovery of the overpayment is legally allowed. Regulation 100 of the Housing Benefit Regulations 2006 and relevant caselaw will be applied to the facts of the case.

12. If it is determined the claimant or the person receiving the payment has not contributed to the error and could not reasonably have been aware of the overpayment, the overpaid sums cannot be recovered. The same considerations will apply to Council Tax Support overpaid as a result of official error.

Methods of Recovery

13. Council Tax Support

Overpayments of Council Tax Support deemed recoverable will result in an adjustment being made to the claimant's council tax account for the appropriate year. An amended bill will be issued and will be subject to recovery action under the council tax recovery procedures.

14. Overpaid Housing Benefits – ongoing benefits

Where an invoice for overpaid Housing Benefits has been issued the Council will normally collect from ongoing housing benefits, with maximum recovery rates set by the Department for Work and Pensions. Officers have discretion to reduce the recovery rate or suspend deductions, e.g. to avoid causing unreasonable financial hardship or if debts are owed to another council department such as housing rents.

15. In all cases a minimum amount of fifty pence per week Housing Benefit must remain in payment.

16. Overpaid Housing Benefits – no ongoing benefits

To support claimants repay their overpayments, the Council promotes repaying by direct debit and offer two dates; 1st and 15th

17. The Council will enter into affordable payment arrangements

18. Claimants facing financial hardship may be signposted to services, programmes and activities that support building financial resilience, including through the Crisis and Resilience Fund.

19. Officers will signpost customers to available benefits, discounts, reliefs and exemptions, if applicable

20. The Council will consider a claimant's vulnerability to ensure our recovery actions are reasonable and proportionate

21. The Council will not refuse any payment which reduces the debt. However, if it is less than the requested amount recovery action may continue.

Recovery Options

22. Two reminders will be sent and if still no contact has been made then the most appropriate recovery action will be considered by the Income Collection Team, which may include:

- Apply to DWP (Debt Management) to recover Housing Benefit overpayments by deduction from certain DWP benefits, as prescribed by HB Reg 105/(SPC) 86 or CTB Reg 90/(SPC) 75. This may include possible deductions from Income Support, Job Seeker's Allowance, Employment Support Allowance, Pension Credit or Universal Credit. The Department for Work and Pensions facilitate these deductions, which are then paid to the local authority.

This action will remain in force until the debt has been satisfied.

- Apply to another local authority for them to deduct from the resident's ongoing Housing Benefits.
- Where a debtor has failed to make an arrangement to pay and is in PAYE employment, the Council can seek a Direct Earnings Attachments, using the DWP's Matching Service with HMRC to establish earnings and pension information in addition to last known address. The employers then make deductions from the debtors' earnings and pay to the Council.
- Where overpayment is recoverable from a landlord deduction from current benefit payments will be made. If a landlord fails to repay a HB overpayment, the Council can decide to recover the debt from the HB paid to the landlord for other tenants. Landlords cannot attribute the amount deducted to the tenant that the HB is being paid for – these are known as 'blameless tenants'.

If the above routes have been exhausted, the Income Collection Team will seek advice from Legal Services to determine the remaining recovery options.

- These debts may be pursued via an application for a Money Judgement using Money Claims online or the County Court. Prior to a claim to Court being issued a 'letter before action' must be sent, in accordance with the Pre-Action Protocol for Debt Claims. This will give the individual debtor 28 days to pay, respond with an instalment offer or complete a Standard Financial Statement form, before the Court application is made.

Once the Council obtains a Money Judgment, enforcement action may be considered, should the debt remain outstanding. The enforcement action available generally may include:

- A Warrant of Control authorises Enforcement Agents to attend at the judgment debtor's home or business address. They will collect money (or monies) owed under the judgment debt or remove goods from the home or business to sell at auction.

There are limits to the types of goods that Court Enforcement Agents may remove. They cannot remove goods that are necessary to allow a judgment debtor a basic standard of living or the tools of his trade.

- A Charging Order may be granted following obtaining a money judgment. The Charging Order secures a judgment debt against the property of a debtor, such as a house or land, or other qualifying asset such as shares. The effect of the Charging Order is that the debt may be repaid from the sale proceeds, should the property to which it has been secured, be sold.

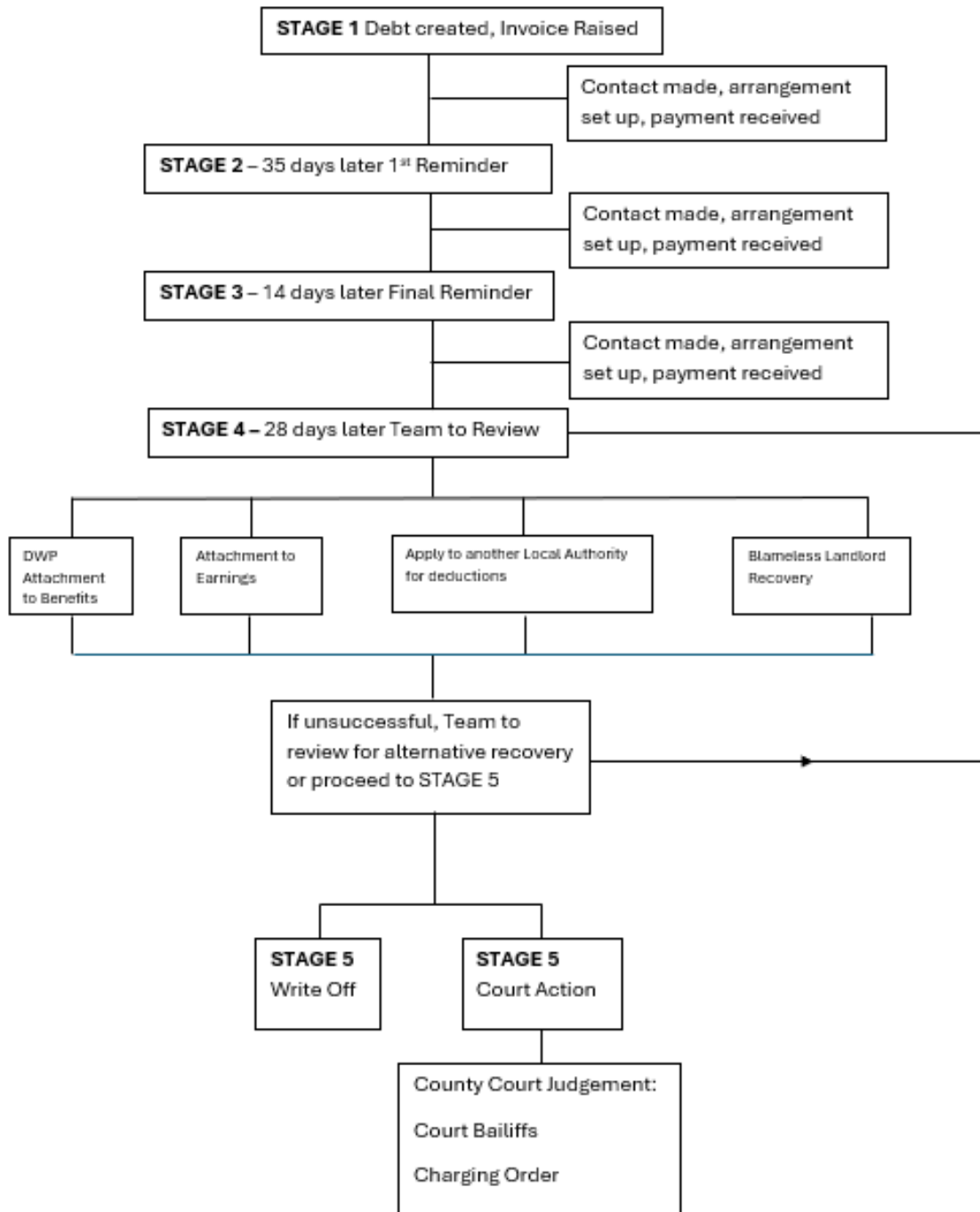
A Charging Order alone does not compel the judgment debtor to sell their property. However, once the Charging Order is in place, the creditor may apply to the Court for an Order for Sale, requiring the property to be sold, so that the creditor may then recover the debt from the sale proceeds.

In accordance with the Council's Constitution, we will only proceed with seeking a charging order, after seeking approval with the Chief Executive and Relevant Portfolio Holder.

23. Where the debtor is deceased, an invoice will be sent to their executors or representatives to seek recovery from their estate.

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

Overpaid Housing Benefit Collection flow-chart



Commercial Rent Recovery Procedures

Introduction

1. The Council has a large portfolio of properties, varying from traditional commercial properties such as retail, office and industrial but also includes other properties such as sports centres, community centres and those of cultural or historical importance.
2. The Council lets these premises to tenants to use for business purposes and charges rent for such use. All invoices are raised three weeks in advance and lease payment terms typically require payment in advance.
3. Leases of commercial premises place obligations on tenants, which include the obligation to pay rent on the terms laid out in the lease. The Council expects its tenants or former tenants who owe money to the Council to comply with legal obligations in respect of that liability.
4. Any service charge and insurance charge payable under the lease or licence also need to be paid in full.
5. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

6. The Commercial Assets team are responsible for ensuring the correct rent and service charges are charged to tenants in accordance with lease or licence terms.
7. The Income Collection Team are responsible for producing periodic invoices, for issuing reminders and Direct Debit payment runs.
8. Advice is sought from Legal Services in relation to recovery, as required, by the Commercial Assets team (in respect of current tenants) and Income Collection Team (in respect of former tenants).
9. Commercial rent and service charge debtors are held and managed in the ASH Debtor system.

Protocols

10. The Council believes that preventing arrears from building up is essential and the additional measures we take are as follows:
 - The Council offers for payments to be made by Direct Debit on the 1st of each month, as it is recognised that this is a proven method for ensuring payments are made on time.
 - Existing leases require payment by standing order. The Council is moving all new leases to payment by Direct Debit.

- The Council will ensure that tenants know who their Estates Officer is, to enable discussions of any issues with their tenancy, or rent arrears, at an early stage.
- Outstanding invoice reminders are sent to tenants before further action is taken to recover arrears.
- The Council may enter into payment arrangements to encourage and support tenants in getting back on track with their payments.
- Where rent is billed quarterly in accordance with the lease terms, the Council will consider requests to move to monthly billing to support tenants to keep on track with their payments.
- Where there is an applicable government mandated scheme in effect, the Council will consider requests for rent concessions where these meet the appropriate requirements of any such scheme.
- The Council will require all arrears to be paid in full as part of any request to assign a lease.
- No lease will be entered into or renewed, with the Council, if there are arrears on the tenant's rent account.
- No tenant shall be permitted to accrue more than one quarter's rent arrears without these being addressed via a payment arrangement with the Council or other collection method.

Recovery Action

11. Each lease permits the Council to take action to recover rent arrears.
12. In the event of an account falling into arrears, the Council will commence recovery action which can include:
 - **Commercial Rent Arrears Recovery (CRAR)**
CRAR is a statutory power under the Tribunals Courts and Enforcement Act 2007 which allows commercial landlords to recover rent arrears by seizing and selling tenant goods without a court order. The Council will service notice on the tenant before certified enforcement agents can enter the property. CRAR may only be used to recover rent arrears.

- **Guarantor**

If a third party has agreed to act as guarantor for a tenant, the Council can pursue the guarantor if the tenant fails to pay the rent.

- **Forfeiture**

Forfeiture enables the Council to terminate a tenant's lease early and regain possession of the commercial premises. The right to forfeit must be exercised carefully to avoid waiving the breach. For non-payment of rent, the Council may forfeit the lease by peaceable re-entry or by court proceedings, provided the tenant has not remedied the breach by paying the arrears and associated costs within the statutory period. For other breaches, the landlord must serve a notice under section 146 of the Law of Property Act 1925, specifying the breach and allowing the tenant a reasonable time to remedy it and to pay compensation.

Following termination of the lease, and the Council successfully regaining possession of the property, any arrears will then be reclassified as a debt and may be dealt with as below.

13. **Former Tenants**

Where a tenant is no longer in occupation of the premises, and the tenancy has come to an end, any rent, service charge or insurance arrears shall become a sundry debt and managed under the Sundry Debt Recovery Policy.

- **Rent Deposit**

A rent deposit is a sum of money paid by a tenant to a landlord at the start of a lease to act as security against breaches of the lease. It is typically equivalent to 3 - 6 months' rent, or one to two quarters rent, and is managed by way of a rent deposit deed, which shall remain in place for the duration of the lease and returned to the tenant upon expiry of the lease. Where there is a rent deposit, it will be applied to a debt before passing the remaining debt balance to the Council's legal advisors.

- **Legal Action**

Debts will be passed to the Council's legal advisors to consider recover through Court action seeking a Money Judgment and any possible enforcement action.

Enforcing an Order

Enforcing a Money Judgment can include:

- **An Attachment of Earnings**

This action permits deductions taken directly from the debtor's salary to recover rent arrears. The action would require the debtor's employer to deduct the amount specified by the Court from the debtor's earnings and remit it to the Council.

This action will remain in force until the debt has been satisfied.

Failure to comply with the terms of an Order may be further enforced by a fine, or in certain cases imprisonment up to 14 days. This action can be used against individuals, such as sole traders, however not against corporate tenants.

- **Taking Control of Goods - A Warrant of Control**

A Warrant of Control authorises Enforcement Agents (Bailiffs) to attend at the judgment debtor's home or business address. They will collect money (or monies) owed under the judgment debt or remove goods from the home or business to sell at auction.

There are limits to the types of goods that court Enforcement Agents (Bailiffs) may remove. They cannot remove goods that are necessary to allow a judgment debtor a basic standard of living or the tools of his trade.

A Warrant of Control cannot be issued for more than £5,000 except to enforce an agreement made under the Consumer Credit Act 1974.

Where a debt is in excess of £5,000 the judgment creditor cannot apply to the County Court for the execution, instead they must apply to the High Court for execution, where the terminology changes slightly and it becomes a "Writ" of Execution or a Writ of Control to be executed by a High Court Enforcement Officer

- **A Charging Order**

A Charging Order may be granted following obtaining a money judgment. The Charging Order secures a judgment debt against the property of a debtor, such as a house or land, or other qualifying asset such as shares. The effect of the Charging Order is that the debt may be repaid from the sale proceeds, should the property to which it has been secured, be sold.

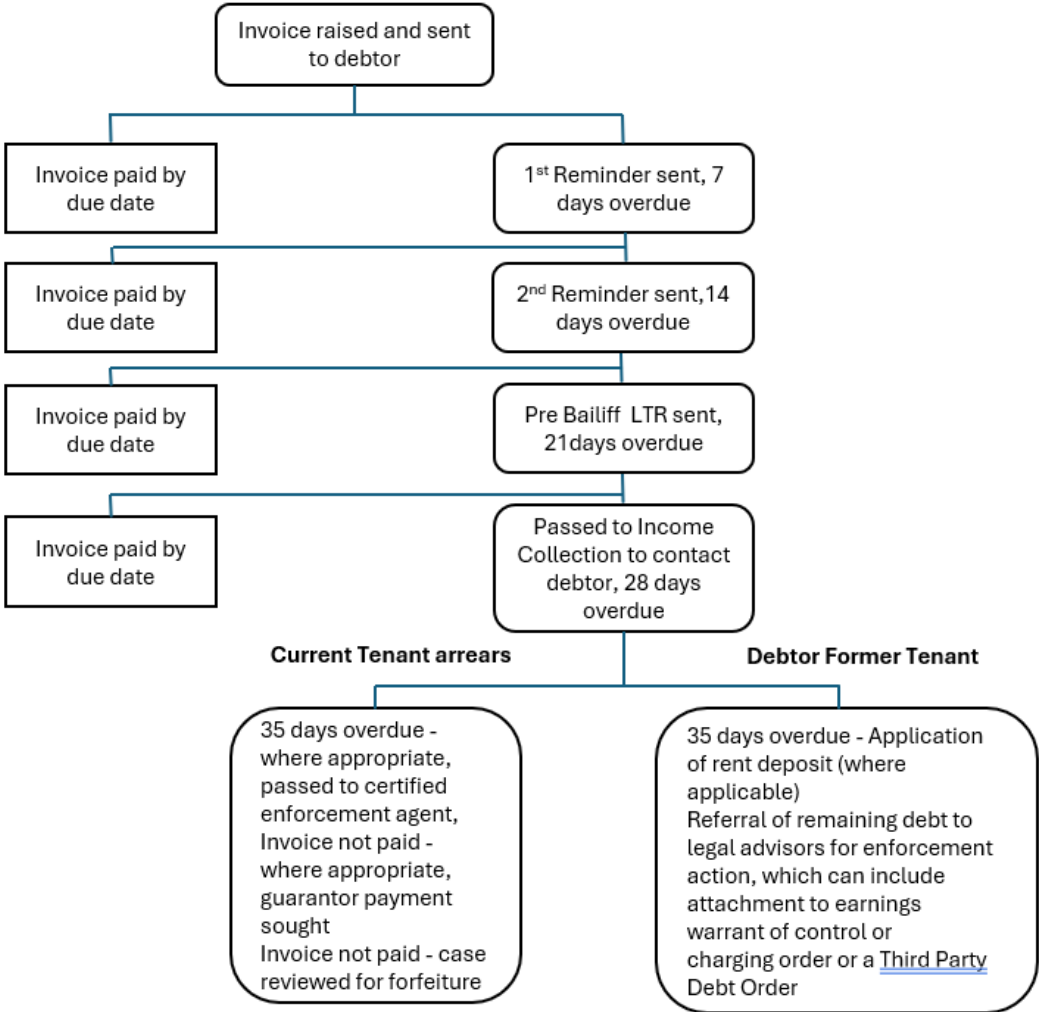
A Charging Order alone does not compel the judgment debtor to sell their property. However, once the Charging Order is in place, the creditor may apply to the Court for an Order for Sale, requiring the property to be sold, so that the creditor may then recover the debt from the sale proceeds.

- **A Third-Party Debt Order**

Following obtaining a money judgment, should the debt remain unpaid, a Third-Party Debt Order may be applied for. Such an order enables the creditor to recover monies owed to the debtor by a third party, most commonly funds which are held within the debtor's bank account or building society account. This may first involve the Court making an interim order to freeze funds and then granting a final order requiring payment to the creditor.

This action is suitable where the Council receives reliable information that the debtor holds accessible funds to repay the debt or is due payment from a third party.

Commercial Rent Collection Flow Chart



Sundry Debt Recovery Procedures

Introduction

1. This policy relates to all other monies owed to the Council that are administered in the ASH Sundry Debtor System, except for commercial rents and services charges already covered in Appendix 8 of the Corporate Debt Policy.
2. The Income Collection Team (incomecollection@exeter.gov.uk) support services across the Council with the recovery of sundry debts which include Home Call alarm, Waterways, Allotments, Leasehold Flat service charges and repairs, Housing recoverable repairs, CIL and Section 106 sums, Leisure and Trade Waste.
3. This appendix must be read in conjunction with the Corporate Debt Management Policy. The Service Specific procedures prevail, where a conflict arises.

Administration

4. Individual service areas are responsible for raising sundry debtor invoices for goods and services supplied or other charges and selecting the appropriate recovery pathway, as this determines the payment terms and the issuing of reminders. Please refer to Appendix 9a.
5. The Income Collection Team are responsible for producing periodic invoices, for issuing reminders, Direct Debit payment runs, co-ordinating any annual uplifts in relation to fees and charges and supporting services with any account queries.
6. The Income Collection Team seek advice from Legal Services in relation to recovery, as required, on behalf of services and refer back to services to confirm instructions.
7. All sundry debtor records are held and managed in the ASH Debtor system. All users are required to update records to reflect any debt recovery activity and record contact details for each debtor.

Protocols

8. The Council believes that preventing arrears from building up is essential and the additional measures taken are as follows:
 - The Council offers for payments to be made by Direct Debit on the 1st (for all services) and 15th (commercial waste) of each month.
 - Whenever possible, invoices should be raised in advance of providing goods and services, to encourage payment in advance and avoid a debt position. In the event of non-payment the service will either not be provided or could be withdrawn.
 - Services will enter into payment arrangements to encourage and support customers in getting back on track with their payments, based on an assessment of affordability.

Support is available from the Income Collection Team to set the agreed plan up in the ASH Debtor system.

- Services are expected to liaise with their customers to encourage settlement and to avoid further debt recovery actions.
- Customers facing financial hardship may be signposted to services, programmes and activities that support building financial resilience through the Crisis and Resilience Fund.
- The Council will not refuse any payment which reduces the debt. However, if it less than the requested amount recovery action may continue.

9. Recovery Action

If, after the issue of reminders and final notices, payments remain outstanding and the debtor has failed to agree a repayment plan or engage with services, then recovery action will commence.

Legal Services Advice

The Income Collection Team act on behalf of services to seek advice from Legal Services to determine available recovery options due to the diverse range of sundry debts, including an assessment of recoverability and costs to pursue. Recommended actions are then agreed with the respective service manager.

Recovery action can include:

- **Customer Contact**
Additional attempts to engage with the customer and seek settlement of invoices; either by the respective service and/or the Income Collection Team
- **Money Claim**
Debts may be pursued via an application for a County Court Judgement using Money Claims online or the County Court. Prior to claim to Court being issued a 'letter before action' must be sent, in accordance with the Pre-Action Protocol for Debt Claims. This will give the individual debtor 28 days to pay, respond with an instalment offer or complete a Standard Financial Statement form, before the Court application is made.

The procedure followed, and timescales for the debtor to respond will differ should they be a corporate debtor.

Once the Council obtains a money judgment, enforcement action may be considered, should the debt remain outstanding. It should be noted that the enforcement action available will be dependent on the legal basis for the debt. The enforcement action available generally is as follows:

- **Attachment of Earnings**

If the debtor's employment details are known, an Attachment of Earnings Order may be made. This action permits deductions taken directly from the debtor's salary to recover the debt. The action would require the debtor's employer to deduct the amount specified by the Court from the debtor's earnings and remit it to the Council. This action will remain in force until the debt has been satisfied.

Failure to comply with the terms of an Order may be further enforced by a fine, or in certain cases imprisonment up to 14 days.

This action can be used against individuals, such as sole traders, however not against corporate tenants.

- **Enforcement Agents**

A Warrant of Control authorises Enforcement Agents to attend at the judgment debtor's home or business address. They will collect money (or monies) owed under the judgment debt or remove goods from the home or business to sell at auction.

There are limits to the types of goods that Court Enforcement Agents may remove. They cannot remove goods that are necessary to allow a judgment debtor a basic standard of living or the tools of his trade.

A Warrant of Control cannot be issued for more than £5,000 except to enforce an agreement made under the Consumer Credit Act 1974.

Where a debt is in excess of £5,000 the judgment creditor cannot apply to the County Court for the execution, instead they must apply to the High Court for execution, where the terminology changes slightly and it becomes a "Writ" of Execution or a Writ of Control to be executed by a High Court Enforcement Officer.

The Council may also appoint their own bailiffs to act as enforcement agents, following obtaining a money judgment, without the need to apply for a warrant of control. The Council must still ensure that private bailiffs act within the law, particularly in cases involving vulnerable debtors, and maintain clear protocols and complaints procedures.

- **Charging Order**

A Charging Order may be granted following obtaining a money judgment. The Charging Order secures a judgment debt against the property of a debtor, such as a house or land, or other qualifying asset such as shares. The effect of the Charging

Order is that the debt may be repaid from the sale proceeds, should the property to which it has been secured, be sold.

A Charging Order alone does not compel the judgment debtor to sell their property. However, once the Charging Order is in place, the creditor may apply to the Court for an Order for Sale, requiring the property to be sold, so that the creditor may then recover the debt from the sale proceeds.

In accordance with the Council's Constitution, the Council will only proceed with seeking a charging order, after seeking approval with the Chief Executive and Relevant Portfolio Holder and after prior advice from Legal Services.

- **A Third-Party Debt Order**

Such an order enables the Council to recover monies owed to the debtor by a third party, most commonly funds which are held within the debtor's bank account or building society account. This may first involve the Court making an interim order to freeze funds and then granting a final order requiring payment to the Council.

This action is suitable where the Council receives reliable information that the debtor holds accessible funds to repay the debt or is due payment from a third party.

10. Monitoring and Reporting Performance

In addition to the performance metrics in the Corporate Performance Framework, a report of outstanding invoices is provided to the Strategic Management Board and Operational Management Board each month.

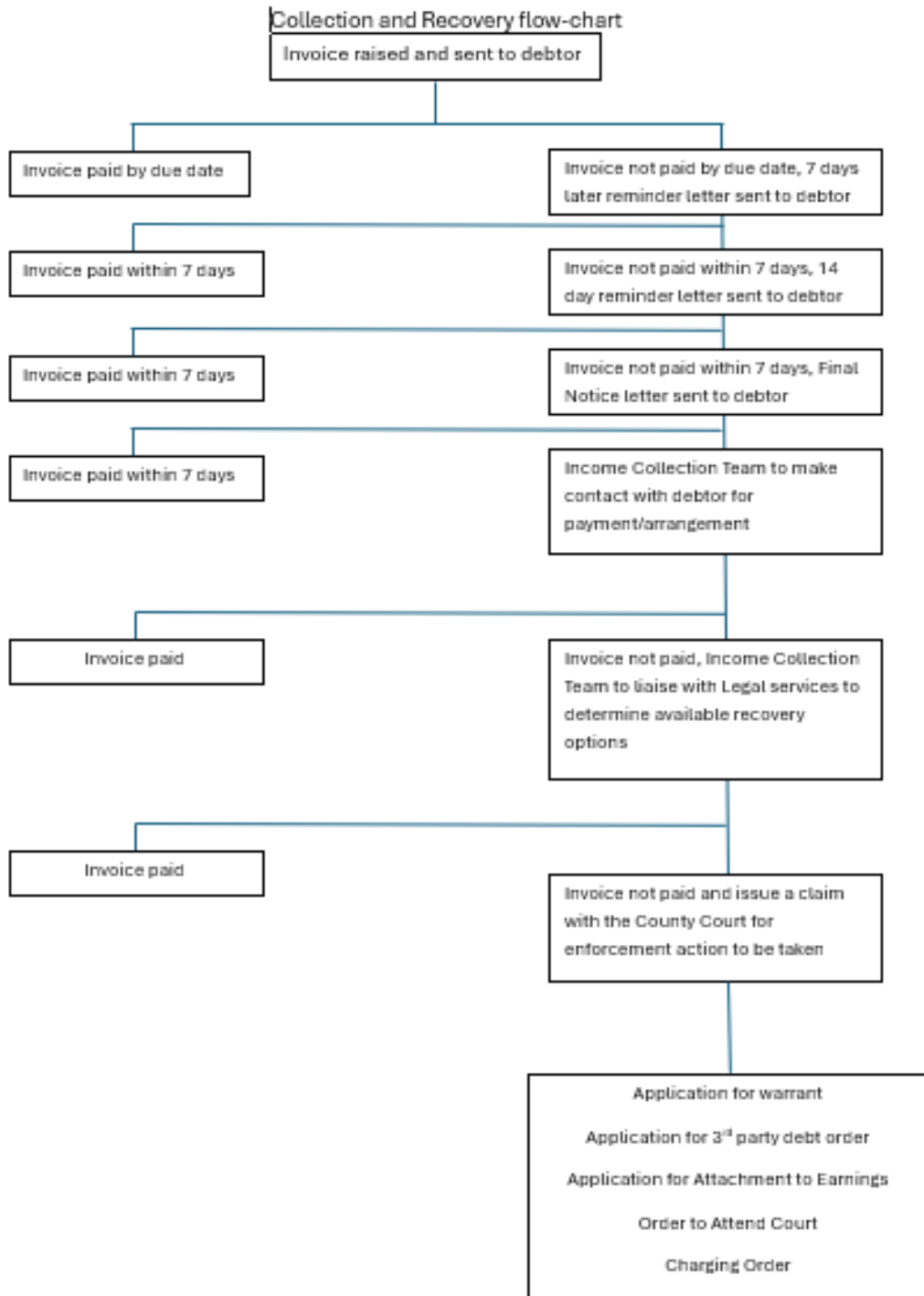
11. Community Infrastructure Levy (CIL) Exception

CIL invoices (demand notices) are raised in the ASH sundry debtor system, but their recovery is managed in accordance with Community Infrastructure Levy Regulations. The regulations give collecting authorities the power to issue a range of surcharges, stop notices and if necessary to recover funds by appropriate legal action.

CIL debt is monitored on a weekly basis, and the Strategic Management Board receive quarterly updates.

The Council reserves the right to pursue the most appropriate recovery methods depending on the specific personal and financial circumstances of the debtor.

Example of Sundry Debtor Recovery Flow-chart (reminder timings & numbers vary between services)



Recovery Pathways

Debt Type	Default terms	Number of reminders	1 st reminder	2 nd reminder	3 rd reminder	Service area involvement
Trade waste collection service	14 days	3	14 days reminder letter	7 days	10 days	Referred after reminders
Trade waste consumables	21 days	3	14 days copy invoice	7 days	10 days	Referred after reminders
Home Call	Nil	1	21days copy invoice			Referred after reminder
Waterways	14 days	2	7 days copy invoice	10 days		Referred after reminders
EBAC	21 days	3	7 days copy invoice	10 days	10 days	Referred after reminders
Allotments	21 days	1	21days copy invoice			Referred after copy invoice sent
Leasehold flats – major works	28 days	3	7 days copy invoice	10 days	10 days	Referred after reminders
Housing Recoverable Repairs	21 days	3	7 days reminder letter	14 days	7 days	Referred after copy invoice sent
Leasehold flat – service charges	Nil	1	21 days copy invoice			Referred after copy invoice sent
CIL & S106	21, 28 or 60 days	2	Varies	Varies	Varies	Managed by service
Leisure	21 days	2	15 days	14 days	n/a	Referred after reminders
Other sundry	Varies	Varies	n/a	n/a	n/a	