

Recovery Policy

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| Contents | | Pages |
|-----------------|--|--------------|
| 1 | Policy Purpose | 2 |
| 2 | Policy Statement | 2 |
| 3 | Policy Objectives | 2 |
| 4 | Legal Framework | 3 |
| 5 | Equality Statement | 4 |
| 6 | Code of Practice | 4 |
| 7 | Information and Advice | 5 |
| 8 | Making a Payment | 6 |
| 9 | Supporting people in arrears | 7 |
| 10 | Monitoring Arrangements | 9 |
| 11 | Write Offs | 9 |
| 12 | Monitoring the Policy | 10 |
| | | |
| Appendices | | |
| | Appendix 1 – What is a Priority Debt? | 11 |
| | Appendix 2 – Breathing Space | 12 |
| | Appendix 3 - Council Tax Recovery Process | 13 |
| | Appendix 4 – Business Rates Recovery Process | 15 |
| | Appendix 5 - Payment Arrangements for Council Tax and Business Rates | 17 |
| | Appendix 6 – Housing Benefits and Council Tax Reduction - Overpayment / Excess payments Recovery Process | 18 |
| | Appendix 7 - Sundry Debts | 21 |
| | Explanation of Recovery Terms | |

1 Policy Purpose

- 1.1 This policy sets out the best practices in the collection of Council Tax, Housing Benefit overpayments, Council Tax Reduction excess payments, Non-Domestic Rates (Business Rates), and Sundry Debt, and should be read in conjunction with the Write Off Policy.
- 1.2 East Staffordshire Borough Council's Policy on Recovery is designed to set out a consistent framework for employees and provide information to other advice agencies when dealing with the recovery of debts. It also ensures that households who are overcome by debt are supported through the debt recovery process.

2 Policy Statement

- 2.1 The Council has a legal duty to ensure cost-effective billing, collection, and recovery of all sums due to the Council. We will therefore, encourage customers to pay promptly and regularly and attempt to remove barriers so that people can contact the Council as soon as problems arise. We will also ensure that services work closely together to maximise collection and minimise duplication.

3 Policy Objective

- 3.1 The key objective of this policy is to ensure that we do all that we can to maximise income for the provision of services in the borough of East Staffordshire whilst supporting people in financial difficulty, protecting residents who are at risk or vulnerable and ensuring that we are collecting payment from those that are able to pay. To do this we will:
 - Be firm and fair, yet sympathetic when assessing an individual's ability to pay. We will take an approach that separates out those residents who can't pay from those who won't pay;
 - Follow all appropriate legislative requirements and procedures in an efficient and effective way but at every point try to do this without it leading to people incurring additional costs;
 - Maximise recovery of debts using appropriate methods available;
 - Encourage the take up of benefits, reliefs and reductions where possible;
 - Be honest and fair in our dealings and communications with our residents at all times so that residents know where to get help and what to expect if they do not pay;
 - Identify and assist those who face difficulties in paying at an early stage and to actively encourage them to contact us at the earliest stage;
 - Provide and signpost to advice and support to enable debtors to take responsibility for managing their debt and progress towards financial independence in the long and short term;

- Help identify customers who face barriers e.g because of age, language, culture or disability by using different communication methods to help them understand what is expected of them.

3.2 The policy will:

- help identify deliberate non-payers or people who delay payment;
- enable people who fall into arrears to make payment agreements appropriate to their circumstances;
- ensure that when we take enforcement action it is appropriate and likely to be effective;
- enable the Council to remove barriers to fair and effective collection of debt.

4 Legal Framework for Recovery

4.1 Council Tax:

- Local Government Finance Act 1992
- The Council Tax (Administration and Enforcement) Regulations 1992 (as amended)
- Local Government Finance Act 2012

4.2 Housing Benefit Overpayment:

- Social Security Administration Act 1992 (Housing Benefits)
- Local Authority Financial Regulations
- The Housing Benefit and Council Tax Benefit (Decisions and Appeals and Discretionary Financial Assistance) (Consequential Amendments and Revocations) Regulations 2001.
- Section 123 of the Social Security Administration Act 1992.
- Section 134 of the Social Security Administration Act 1992 (Housing Benefit)
- Section 139 of the Social Security Administration Act 1992 (Council Tax Benefit)
- Sections 130, 131 of the Social Security Contributions and Benefits Act 1992
- The Housing Benefit (General) Regulations 1987 – and subsequent varying regulations
- Housing Benefit (Recovery of Overpayments) Regulations 1997

4.3 National Non Domestic Rates:

- Local Government Finance Act 1988
- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989

4.4 Sundry Income:

- Local Government Act 1972

5 Equality Statement

- 5.1 Whilst it is vital for the Council to maximise the income collected to deliver and invest in services, we also need to ensure that we are consistent and fair in our dealings with residents, regardless of race, disability, gender, gender orientation, religion or belief, or age. Our behaviour and collection practices are under scrutiny with independent debt advice organisations concerned about the impact these have on the advice we provide. The policy will contribute to the improvement in our current practices in the way we treat our customers, particularly in regards to what they can afford and customer service of the Council.
- 5.2 By administering the policy we will assist in tackling poverty by offering the right advice to enable people to maximise their income and to help prevent the build-up of debt. It will also allow us to engage with different groups and further assist specific people who may be in need of community services or who are at risk of, abuse or neglect and unable to protect themselves against the abuse, or neglect or the risk of it.
- 5.3 When people get into arrears, we will:
- 5.3.1 ensure that customers who are hard to reach, at risk or vulnerable have access to information and support to enable them to get help if they are in financial difficulty, so that they can start repaying their debts;
 - 5.3.2 ensure that as far as possible, payment arrangements reflect the ability to pay as well as the level of debt owed;
 - 5.3.3 expect Priority Debts (see appendix 1) to be given priority over other debts owed;
 - 5.3.4 work with recognised advice agencies wherever possible to reach an acceptable arrangement for the recovery of the debt;
 - 5.3.5 Ensure that Breathing Space legislation is adhered to and recovery action is suspended in relevant cases.

6 Code of Practice

- 6.1 The Council has a duty to ensure that amounts that are properly due to the Council are collected in a timely and efficient manner. The Council has statutory obligations to notify households of their liabilities. We will provide clear and prompt information about bills and liabilities. The information we provide will show:
- what the bill or liability is for;
 - the amount due;
 - how to make payment;
 - a contact point for all enquiries.

- 6.2 All correspondence will be written in plain English, without the use of jargon and will include information on how to get independent advice.
- 6.3 The Council will ensure people know how they can reduce their payments where possible by:
- informing people of their entitlement to benefits, reductions, discounts, reliefs and exemptions;
 - ensuring that maximum take-up occurs and that net bills/liabilities are issued;
 - informing people of the general availability of all income-related benefits;
 - training staff who advise the public on debt matters to be aware of the benefits, discounts, reliefs and exemptions that may be applied to ensure that take up is maximised;
 - advising people where they can get independent advice with financial problems, (for example the Citizens' Advice Mid Mercia; StepChange, Money Advice Service, etc).
- 6.4 The Council will ensure that there are clear recovery processes which are understood and implemented impartially, which should minimise referrals to enforcement agents.

7 Information and Advice

- 7.1 The Council provides information to all taxpayers on its website <http://www.eaststaffsbc.gov.uk/council-tax> which covers the following areas:
- Valuation Bands
 - Discounts
 - Reductions for people with disabilities
 - Exempt Dwellings
 - Council Tax Reduction
 - Appeals
 - How the Council Tax is spent
- 7.2 The Council provides information to all Housing Benefit claimants on its website <http://www.eaststaffsbc.gov.uk/benefits-and-support> which covers the following areas:
- Housing Benefit
 - Council Tax Reduction
 - How to calculate benefit entitlement
 - How to make a claim for Housing Benefit and/or Council Tax Reduction
- 7.3 A Housing Benefit overpayment is any amount of Housing Benefit which has been paid to a claimant that they were not entitled to and should have been aware it was being paid. An Excess Payment is any amount of Council Tax Reduction which has been paid but to which there was no entitlement.

7.4 When an overpayment or excess payment is identified the claimant is notified in writing and given the following information:

- The reason for the overpayment/excess payment
- The amount
- The benefit period covered
- The method of recovery
- Their right of appeal

7.5 The Council provides information to all Business Ratepayers on its website <http://www.eaststaffsbc.gov.uk/business-rates> which covers the following areas:

- Rateable Values
- Reliefs and Exemptions
- Appeals
- Small Business Rate Relief
- Information as supplied by the Ministry for Housing, Communities and Local Government (MHCLG)

7.6 We will make information available in a variety of formats and languages when required.

8 Making a Payment

8.1 We want to encourage prompt payment and offer a choice of convenient methods of payment for bills and invoices and details of these options are shown on each bill:

8.1.2 How payments can be made:

- Direct Debit; safe and easy and comes with a guarantee to protect payments
- Cheque Payment;
- Cash Payment;
- Debit Card;
- Credit Card;

8.1.3 Where payments can be made:

- Payzone;
- Council's Website; <http://www.eaststaffsbc.gov.uk/pay-online>
- Internet Banking;
- Council's automated debit/credit card telephone line Phone (01283 508223) anytime.
- Payment Kiosk at the Customer Service Centre, Market Place, Burton upon Trent, Staffordshire, DE14 1HA;
- The Customer Service Centre, Uttoxeter Library, High Street, Uttoxeter, Staffordshire, ST14 7JQ;

- Cheques posted to the Council at PO Box 8045, Burton upon Trent, DE14 9 JG.
- 8.2 Whatever the method of payment individuals must ensure that payments made reach the Council by the due date and therefore, must ensure sufficient time is allowed for processing the payment.
- 8.3 The Council's preferred method of payment for Council Tax and Business Rates is Direct Debit. However, we reserve the right to refuse this payment option where a customer has a proven history of dishonoured payments due to insufficient funds or cancellations and reinstatements of mandates on more than one occasion within one financial year. In such circumstances, the customer will be advised of the reason for refusal and offered advice as to alternative means of payment (eg Debit/Credit card, Payzone payment, standing order, etc).
- 8.3.1 Where direct debit payments fails for the reasons specified in paragraph 8.3, above, the taxpayer will be informed in writing that this method of payment will no longer be permitted for the remainder of that financial year, nor in relation to previous year's arrears arising from such default.
- 8.4 Housing Benefit overpayments will be recovered from on-going benefit where the claimant is still entitled to Housing Benefit.
- 8.4.1 Where the claimant is no longer receiving Housing Benefit, the Council will make use of Direct Earnings Attachments (using information obtained from HMRC via data sharing agreement with DWP) and/or Payment Deductions from Universal Credit payments (via the Payment Deductions Project Local Authority Interface).
- 8.5 Council Tax Reduction excess payments will be recovered from the claimant's Council Tax account where possible.

9 Supporting people in arrears

- 9.1 We will encourage people to contact us early if they are having difficulty paying by providing our contact details on all our letters, notices and our webpages and by letting them know we are here to help. We aim to help alleviate stress and anxiety that people in problem debt may experience by working to the principles of good debt management and will signpost them to free independent debt advice organisations at various stages in the collection process and by different methods. Many people are unaware of how to maximise their income, their rights and responsibilities regarding payments, and payment options that are available. If people contact us early we will be able to discuss their situation, provide budgeting advice where relevant, and prepare a payment plan that takes into account their financial circumstances. This will help people to manage their financial affairs in the long and short term and keep them out of debt.

- 9.2 When people contact us we will:
- Identify any benefits/income that they are not claiming to help maximise their income or refer them to organisations/agencies with specialist support;
 - Conduct an assessment of their income and expenditure using the Standard Financial Statement tool offered by the Money Advice Service to work out an affordable payment arrangement that is sustainable;
 - Advise what will happen if debts are not paid and signpost customers to regulated debt advice organisations who can provide ongoing support where needed, particularly for those with multiple debt issues;
 - advise on the most appropriate payment methods.
- 9.3 When a person in arrears makes contact we will endeavour to make a payment arrangement that ensures the debt is cleared by the end of the financial year, if it relates to the current financial year or 12 months if it relates to previous financial years. If there is any doubt as to whether the payment arrangement is realistic (either because it appears to be too high or too low), staff will help the individual to complete the Standard Financial Statement and signpost the person to other debt advice agencies where they have multiple debt issues. It is important to remind the individual to contact the Council if they anticipate problems in meeting any instalment due date. They will be advised not to wait until they have received a written response to their offer of payment, but to start and maintain payments.
- 9.4 When negotiating arrangements for payment, we will ensure that current instalments are being maintained, i.e. the arrangement will be in addition to and conditional on, the current debt being paid. When an arrangement is made on a total balance the minimum arrangement will be the usual current instalment plus a contribution towards the arrears.
- 9.5 Where arrangements are sought to clear outstanding Council Tax and / or Business Rates debts, the period of arrangement should not extend beyond the date upon which the taxpayer's original instalments were due to finish. Arrangements may be extended beyond that date, but only where mitigating circumstances exist. The period of extension will be at the discretion of the Shared Service Centre Team Leader (Revenues) as in Appendix 5, paragraph 1.3.
- 9.6 Where an arrangement is made by a recognised advice agency, an Income and Expenditure form will normally be provided. Where an individual appears to have complex benefit or money advice problems, staff will refer them to an appropriate agency or welfare benefit officer.
- 9.7 We will try to get as much detail as possible of a person's circumstances to make the best assessment of their ability to pay. Where a customer refuses to give financial information an arrangement cannot be made and therefore we will continue to follow the debt recovery procedure.
- 9.8 In some cases it may be necessary to request documentary evidence to confirm particular details when arriving at a payment arrangement, for example proof of income. Individuals should not however be asked for documentary evidence unless it is absolutely necessary.

9.8.1 If it is necessary the individual should be told of the particular items that require confirmation and be given a specified reasonable time limit within which they are required, e.g. 21 days.

9.8.2 The individual should be advised that if the evidence is not produced within the agreed timescale the offer of payment may be rejected and further action could be taken.

9.9 All information collected is governed by the Data Protection Act and the Council has a procedure and policy in place to comply with the Act.

10 Monitoring Payment Arrangements

10.1 All payment arrangements will be closely monitored.

10.2 If payments are not made in accordance with the arrangement then the arrangement will be cancelled and recovery action will continue.

10.3 As payment arrangements are at the Council's discretion, recovery action may continue, even where payment is received shortly after the due date.

10.4 The responsibility for making sure that payment reaches the account by the due date remains with the individual.

10.5 We will remind the individual that the date on which instalments are to be paid is the final date on which money should reach the account. **This means that individuals must allow sufficient time for the payment to reach the Council by the due date.**

10.6 When payment arrangements are not maintained the next course of recovery action will commence, and could include attachment of benefit orders, attachment of earnings orders or referral to Enforcement Agents.

11 Write offs

11.1 The Council recognises that not all debts are collectable and therefore, in certain circumstances it will be appropriate to categorise a debt as irrecoverable. The Council will exercise their discretion when deciding to write off debts and will only consider this as a final option when:

- The account has been closed, all methods of recovery have been exhausted and there is no prospect of collecting the debt
- Debtor is deceased and there are no funds available from the estate
- No trace of the debtor following their vacation of a property
- Debt has become uneconomical to pursue
- Debtor has been declared bankrupt
- Debtor has entered into an Individual Voluntary Arrangement with the Official Receiver
- Debtor has entered into a Debt Relief Order with the Official Receiver
- Limitations Act 1980: debt is 6 years old and expired
- Debtor has emigrated and been out of this country for over 2 years

- Debtor is terminally ill (mainly in the case of Housing Benefit overpayment cases)
- Housing Benefit overpayment was caused by an 'official error'
- The debt has been remitted by the Court

11.2 Where circumstances change or the Council later obtains new information that leads to a current address for a debtor whose previous whereabouts was unknown and it becomes possible to collect the debt then it will be written back on and pursued.

11.3 Further details can be found in the Council's Write Off Policy.

12 Monitoring the Policy

12.1 It is the responsibility of the Council to ensure the policy is effective through their monitoring and complaints procedure, taking into account the indicators listed below:

- rate of collection, including recovery of housing benefit overpayments
- number of cases reaching each stage of recovery
- number of cases where attachments of benefit/earnings are made
- number of cases being referred to the bailiffs
- number of cases where recovery is suspended due to arrangements being made
- number of cases with arrears outstanding at year end
- amount of arrears outstanding at year end
- number of complaints received where policy is not being followed
- Audit checks

What is a Priority Debt?

1 Priority debts are those debts that can result in loss of essential service, loss of your home or imprisonment

1.1 HOUSING

- Mortgage/Rent
- Council Tax

1.2 UTILITIES

- Electricity
- Gas
- Telephone
- Water

1.3 OTHER

- Business Rates
- Child Support Agency deductions
- Court Fines
- Income Tax
- Maintenance Arrears
- Secured Loan
- VAT
- Council Sundry Debts

Breathing Space

1 Introduction

- 1.1 We recognise that households in debt may not always be able to resolve their financial problems easily or quickly. The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 which comes into force with effect from 4 May 2021 ensures that we allow households the time to get independent financial help without fear of their debts increasing further, which can happen when recovery action is taken.
- 1.2 The scheme aims to help people in problem debt to better manage their finances, seek professional debt advice and reach sustainable solutions. When we are advised that people are working with a debt advice organisation to reach a sustainable solution to their debt they will be protected from recovery action for up to 60 days. If the person is receiving mental health crisis treatment then under the mental health crisis moratorium there are some stronger protections which last as long as a person's mental health crisis treatment, plus 30 days.
- 1.3 During the breathing space we will pause enforcement action on any debts included in the breathing space, freeze charges, fees and not contact the debtor to seek payment. If an account is in joint names we will apply these protections to the other people named on the account.
- 1.4 The Insolvency Service, which maintains the central electronic system that debt advisers use, will notify the Council when a person has entered a breathing space. The Council will process the notifications in order to implement the protections under the breathing space. The Council will also conduct a search of its records for any additional debt(s) owed to them by the debtor, as they may be eligible to be added to the breathing space

Council Tax Recovery Process

1 Explanation of Recovery terms

1.1 Reminder

A notice issued when an instalment is overdue

1.2 Final Notice

A notice issued when an account is in arrears and there is no right to pay by instalments

1.3 Summons

A notice issued summoning the person to Magistrates Court when there has been no satisfactory response to one of the above. At Court, the Council will make an application for a Liability Order to be granted.

1.4 Liability Order

The Magistrates will grant a Liability Order if they are satisfied that the summons was correctly issued and the debt has not been paid. The order gives the Council the power to take further action if the debt remains unpaid. The Council can still offer the debtor a payment arrangement but the main options are:

- Attachment of earnings or benefit (Income Support or Job Seekers Allowance)
- Referral to Enforcement Agents who have the power to remove and sell goods
- Committal to prison
- Bankruptcy proceedings
- Charging Order placed on property

2 Where payments due have not been made the Council will take the following action:

2.1 A Reminder notice is issued which requires the account to be brought up to date within seven days.

2.2 When there is no payment to satisfy the reminder within 14 days a **summons** will be issued.

2.3 If the person brings the account up to date within seven days but falls into arrears a second time a second reminder notice is issued. It is important that payment is made on or before the date specified in the notice.

2.4 A final notice is issued where there has been a third failure to pay an instalment on time within a financial year. The remaining instalments are cancelled and the full estimated balance to the end of the financial year becomes payable.

2.5 A summons is issued when any one of the above notices are issued and payment is not received by the specified date.

- 2.6 When a **Summons** is issued we include Guidance Notes on the back so that the debtor knows what they should do to respond to the summons. The cost of the summons is added to the debtor's Council Tax account. We can still agree a payment arrangement with the debtor but we will ask for the Liability Order to be granted at the Court hearing along with the costs for the liability order.
- 2.7 Once a **Liability Order** has been obtained in Court we will, wherever possible, obtain employment/benefit details to enable an attachment to be made where a satisfactory arrangement is not negotiated or has not been maintained. The Council will:
- monitor payment arrangements where tax payers have already contacted the Council.
 - make deductions from Benefit/Income Support or Job Seekers Allowance/Universal Credit where appropriate
 - make an attachment of earnings order where appropriate
- 2.8 In all other cases we will issue a notice confirming that a **Liability Order** has been obtained and request information about the debtor's Income.
- 2.9 If there is no response to the liability order within 14 days we will send a notice, or ask the Enforcement Agents to send a notice, giving the Council Tax payer a further 14 days to contact the Council and/or make payment. We will include a list of the fees payable should the debt be referred to Enforcement Agent for collection. If there is still no response after 14 days the case is referred to the Enforcement Agents for collection.
- 2.10 Whilst undertaking any of these activities, as a result of obtaining a Liability Order, the Council may apply for an Attachment of Earnings or deductions from benefit. We will discuss a payment arrangement at any stage and the Council aims to consider an individual's circumstances and ability to pay when reaching a debt solution. We will suspend recovery action if we are notified that a debtor has entered a breathing space for up to 60 days or longer if the debtor is receiving mental health crisis treatment.
- 2.11 If all other enforcement options fail, the Council may apply to the Magistrates Court with a view to a prison sentence if it is clear non-payment is as a result of wilful refusal or culpable neglect. We may consider Bankruptcy if the arrears are significant or apply for a Charging Order, if the debtor owns their home, to secure the debt.

Business Rates Recovery Process

1 Explanation of Recovery terms

1.1 Reminder

A reminder notice is issued when an instalment is overdue.

1.2 Final Notice

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

1.3 Summons

A notice issued summoning the ratepayer to the Magistrates Court when there has been no satisfactory response to one of the above. At Court the Council will make an application for a Liability Order to be granted.

1.4 Liability Order

The Magistrates will grant a Liability Order if they are satisfied that the Business Rates are outstanding. The liability order gives the Council the power to take further action if the account remains unpaid.

The main options are:

- Referral to the enforcement agents who have the power to remove and sell goods in extreme circumstances.
- Committal to prison
- Bankruptcy or winding up proceedings

2 Where payments due have not been made the Council will take the following action:

2.1 A **reminder notice** is issued which requires the account to be brought up to date within seven days.

2.2 When there is no response to the **reminder notice** within 15 days a **Summons** is issued.

2.3 If the ratepayer brings the account up to date within seven days but falls into arrears a second time a **final notice** is issued requesting payment for the remaining estimated Business Rates for the financial year. The right to continue paying by instalments will normally only be reinstated if a payment arrangement is agreed and a direct debit form is completed

2.4 The full outstanding balance must be paid within seven days of the notice to prevent the issue of a summons.

2.5 When a **Summons** is issued we include Guidance Notes on the back so that the debtor knows what they should do to respond to the summons. The cost of the summons is added to the debtor's business rates account. We will consider making Special payment arrangements but we will still ask for our application for a Liability Order to be granted at the court hearing.

2.6 Once a **Liability Order** has been obtained in court the Council will:

- Monitor payment arrangements where business ratepayers have already contacted the Council.
 - In most other cases the Liability Order is referred to the Enforcement Agents.
 - In other cases the Council may start bankruptcy/winding up proceedings.
 - If all other enforcement options fail, the Council will, where appropriate, apply to the Magistrates Court to have the ratepayer committed to prison for failing to pay.
- 2.7 A payment arrangement may be discussed at any stage and the Council aims to consider an individual's circumstances and ability to pay.

Payment Arrangements for Council Tax and Business Rates

- 1.1 We will encourage Council Tax payers to move to the 12 month instalment scheme if they currently pay their Council Tax under the statutory 10 month instalment scheme.
- 1.2 The majority of payment arrangements that we agree to will ensure that the outstanding balance is cleared by the end of the financial year and in most circumstances we will apply for a liability order to secure the debt. This will enable us to act swiftly and continue with recovery action if the debtor defaults on the arrangement.
- 1.3. We will consider extended payment arrangements in exceptional circumstances, subject to approval from the Shared Service Centre Team Leader (Revenues) and applying for a liability order.
- 1.4 We encourage Direct Debit as the preferred payment method for both Council Tax and Business Rates. This is the most cost effective and reliable payment method.

Housing Benefit Overpayment and Council Tax Reduction Excess payment Recovery Process

1 Housing Benefit Overpayments

- 1.1 Overpayments are created when Benefit entitlement decreases because circumstances are not correctly declared from the outset of the claim, where changes are not reported promptly, or where an error is made by the Department for Works and Pensions (DWP) or the Local Authority.
- 1.2 Once an overpayment has occurred, we must then determine:
- Eligibility to underlying entitlement;
 - Classification of the overpayment;
 - Whether the overpayment is recoverable;
 - From which party recovery will be taken;
 - The most effective recovery method.
- 1.3 All overpayments are recoverable, regardless of the reason they occurred, where the claimant or person to whom the benefit was paid can reasonably have been expected to know they were receiving benefit to which they were not entitled.
- 1.4 When an overpayment is classed as recoverable the Shared Service Centre Officer dealing with the case must make a separate decision as to whether or not the overpayment is to be recovered.
- 1.5 Housing Benefit Overpayments will be recovered from ongoing benefit at the maximum rate allowed (DWP supply current recovery rates). In addition, to this rate of recovery, where appropriate, deductions may be increased by 50% of any applicable disregard, subject to the overall maximum deduction. However, a reduction in the week recovery rate will be considered on health or financial grounds.

2 Council Tax Reduction Excess Payments

- 2.1 Council Tax Reduction excess payments will be recovered from the claimant's Council Tax account. If the claimant is currently paying their Council Tax under the statutory 10 month instalment scheme, they will be offered to move onto the 12 months instalment scheme. If the claimant is unable to afford their instalment payments on either scheme, a payment arrangement can be agreed but will be subject to summons and liability order costs.

3 Non-Recoverable Overpayments

- 3.1 Non-recoverable overpayments arise as a result of a Local Authority or Department Error, where the claimant or person to whom the benefit or reduction was paid cannot reasonably have been expected to know they were receiving benefit or reduction to which they were not entitled.
- 3.2 Non-recoverable overpayments are referred to the Shared Service Centre Team Leader (Benefits) for authorization to write off the debt.

4 Classification of Housing Benefit Overpayments

- 4.1 The overpayment must be correctly classified so that the correct subsidy can be claimed.
 - 4.1.1 Fraudulent: A person knowingly fails to report a relevant change of circumstances contrary to Regulation 75 (HB Regulations) or Regulation 65 (CTB Regulations).
 - 4.2.2 Claimant error: The claimant or the person acting on the claimant's behalf has notified us of a change in circumstances of their own accord, but that report was not prompt and there was no intent to claim benefit fraudulently.
 - 4.2.3 Local Authority error: Where information provided has not been actioned within the specified time limits or has been input incorrectly and the claim calculated.
 - 4.2.4 Other, such as DWP, Pension Service: Information provided by the departments is incorrect at the time of the calculation.

5 Classification of Council Tax Reduction excess payments

- 5.1 The overpayment must be correctly classified so that the Council can monitor action and implement further procedures as it sees fit.
 - 5.1.1 Fraudulent: A person knowingly fails to report a relevant change of circumstances contrary to East Staffordshire Borough Council's Council Tax Reduction Scheme.
 - 5.1.2 Claimant error: The claimant or the person acting on the claimant's behalf has notified us of a change in circumstances of their own accord, but that report was not prompt and there was no intent to claim benefit fraudulently.
 - 5.1.3 Local Authority error: Where information provided has not been actioned within the specified time limits or has been input incorrectly and the claim calculated.
 - 5.1.4 Other, such as DWP, Pension Service: Information provided by the departments is incorrect at the time of the calculation.

6 Notification of a Housing Benefit Overpayment and/or a Council Tax Reduction excess payment

6.1 We will send Housing Benefit and Council Tax Reduction notification letters to all affected parties to include:

- The fact that a recoverable overpayment / excess payment has occurred;
- The reason that the overpayment / excess payment occurred;
- The amount of the overpayment / excess payment;
- How the overpayment / excess payment was calculated;
- Effective dates of the overpayment / excess payment;
- Who the overpayment will be recovered from;
- The rights of appeal of the affected party.

7 Methods of Recovery

7.1 In the case of Housing Benefit Overpayments, recovery direct from ongoing entitlement to Housing Benefit at the prescribed DWP rates, dependent upon the cause of the overpayment.

7.2 In the case of Council Tax Reduction excess payments, recovery direct from the claimant's Council Tax account.

7.3 Invoice raised and arrangement agreed when no further entitlement to Housing Benefit or Council Tax Reduction exists.

7.4 Allowable deductions from certain State Benefits through the Payment Reductions service, recovery rates as per the DWP deduction rate.

7.5 Direct payment from the Landlord where appropriate

7.6 Direct Earnings Attachment order via the claimant's Employer.

7.7 Debt collection agency.

7.8 In the case of Housing Benefit, direct recovery through another Local Authority assuming an entitlement to Housing Benefit at the Authority.

7.9 County Court Orders enabling further recovery action to secure payment of the debt, attachment of earnings, warrant of execution, charging order or third party debt orders. (The most appropriate method being selected in each case to maximise the recovery of the debt.)

Appendix 7

Sundry Debts

- 1.1 Invoices will be raised for services provided by the Council but for charges below £100 payment should be made in advance of the service provision where ever possible (there will be exceptions to this for example peppercorn rents). This avoids chasing debts that are potentially uneconomical to pursue.
- 1.2 **Sundry Debt Payment Arrangements**
 - 1.2.1 Instalment arrangements to pay will be considered at any stage.
 - 1.2.2 Arrangements must clear the balance within the financial year at the latest unless there are exceptional circumstances and approval is obtained from the Shared Service Centre Team Leader (Revenues).
 - 1.2.3 We encourage Direct Debit as the preferred payment method. This is the most cost effective and reliable payment method.
- 1.3 **Where payments due have not been made the Council will take the following action:**
 - 1.3.1 A reminder is issued when the full invoice amount is not paid
 - 1.3.2 A second reminder is issued to remind the customer that payment is still outstanding and the debt may be referred to a Debt Collection Agency or progressed for County Court proceedings if payment or a suitable arrangement is not made.
 - 1.3.3 We may refer cases to a Debt Collection Agency – when the Agency's process has been completed they will return those cases which they have been unable to collect payment or make arrangements for. In these cases the Agency will have advised that failure to pay may result in a county court judgment.
 - 1.3.4 We will send a letter to those cases over an agreed amount (financially viable compared to the court costs incurred), advising that they are being referred to the county court.
 - 1.3.5 County Court Summons to be issued followed by a 'County Court Judgment' if payment is still not received. This will involve in further costs to the debtor.
- 1.4 In the case of a Housing Benefit overpayment – the Fast Track method of obtaining a County Court Judgement will be used and throughout the process, checks will be made to see if Housing Benefit is back in payment. Arrangements will be made to recover debt from ongoing benefit if appropriate. In all cases, where a successful new claim is processed and the claimant has an outstanding overpayment the overpayment will be recovered from underpaid and/ or ongoing benefit unless the claimant has made and is maintaining a reasonable repayment arrangement.