



## **Business Rates**

## **Recovery Policy**

## **1. Introduction**

1.1 The purpose of this policy is to provide the framework for the efficient and effective collection of business rates.

## **2. Aims**

2.1 The aims of this policy are to;

- Help minimise debts to the Council through the efficient and effective collection of business rates;
- Effectively pursue all amounts due to the Council so that all ratepayers who have the ability to pay do so;
- Ensure that the ratepayer's circumstances (where known) are taken into account when deciding the most appropriate form of recovery action to take

## **3. Recovery process**

3.1 Before any recovery action is taken, a bill for the business rates liability will have been issued to the person or organisation that the Council has determined is responsible for payment of the business rate liability. This will detail the dates and amounts of payments required.

3.2 If the person or organisation named on the bill considers that they are not responsible for payment for the property or period stated on the bill, then they should contact the Business Rates team to discuss this.

## **4. Reminders and final notices**

4.1 Where a monthly instalment payment plan is in place, on the first occasion that a payment is not received by the due date a reminder notice will be issued. This will request payment of the instalment within 7 days.

4.2 If this payment is not made, then the full outstanding balance due to the end of the financial year becomes payable in full within a further 14 days.

4.3 If payment of another monthly instalment in the financial year is not received by the due date, a final notice will be issued which will require the full outstanding balance due to the end of the financial year to be paid within 7 days.

4.4 Where there is no instalment plan in place (eg because a bill is issued following the termination of an account), if payment is not made by the date shown on the bill then a notice will be issued requesting payment within 7 days.

## **5. Issuing of a Summons**

5.1 Where a ratepayer has not made payment in accordance with the notices issued, a complaint will be made to the Magistrates Court requesting that a summons is issued.

5.2 If the ratepayer disputes their liability, they should contact the business rates team. However the full amount billed remains due and payable until investigation into the dispute has been concluded.

5.3 Costs are payable by the ratepayer once a summons has been issued and only in exceptional circumstances are these deemed not payable.

5.4 If the Magistrates are satisfied that the sum shown on the summons is payable by the defendant (ratepayer) they will issue a Liability Order to Southwark Council. This will result in the ratepayer incurring further costs.

## **6. Payment arrangements**

6.1 Ratepayers that are experiencing financial difficulties and who are unable to pay in accordance with a recovery notice issued are encouraged to contact the business rates team to discuss a payment arrangement.

6.2 When making a payment arrangement, the Council will seek to clear debts within the financial year of the liability.

6.3 Where this is not possible, the Council will seek to reach an agreement that allows, as a minimum, the payment of the continuing liability plus an affordable amount off any arrears.

6.4 Arrangements will be assessed based upon the affordability and sustainability for payment and seek to ensure that the debt is paid off within a reasonable period.

6.5 The Council may request financial information such as accounts and a forecast of income and expenditure when considering a payment arrangement.

6.7 Where a payment arrangement is agreed following the issuing of a summons, the Council will continue with the application to the Magistrates Court for a liability order but will not take any further recovery action while payment is being made as agreed.

6.7 Where a ratepayer fails to make payment in accordance with a payment arrangement, the payment arrangement will be withdrawn and recovery action will continue.

## **7. Recovery action following the issuing of a liability order**

7.2 Following the issuing of a liability order, a Business Rates Officer will contact the ratepayer to obtain payment or agree a payment arrangement.

7.3 Where the Council is unable to make contact or agree a payment arrangement, the account is reviewed and if appropriate, the debt is referred to an enforcement agent.

## **8. Referral to an enforcement agent**

8.1 Following referral to an enforcement agent, further costs will be incurred which will increase the ratepayers debt.

8.2 For further details on enforcement agents, please see the policy on internal enforcement agents.

## **9. Further recovery options**

9.1 Where an enforcement agent has been unsuccessful in obtaining payment of a debt or referral of a debt to an enforcement agent is not considered to be appropriate, the Council may pursue other recovery options.

9.2 These recovery actions may have more severe implications for the ratepayer and are:

- Bankruptcy
- Winding up procedures
- Committal to prison

9.3 Any action to recover amounts by these methods will be considered on its merits on an individual case by case basis, having regard to the 'Recovery Checklist' completed by the Council's Revenues Officers. This will include the following;

- A record of why other methods of recovery are not appropriate
- Where little or no personal contact has been made, details of at least one visit to the property
- A record of information gathered and the reasons for the proposed action

9.4 Documentation issued to ratepayers will include:

- Clear written warnings listing the consequences of failing to respond to the letter or notice

- A date by which the response must be received
- Recommendations that ratepayers suffering financial difficulty contact their local Citizens Advice, Business Support Agency or Debt Advice Agency for debt advice

## **10. Bankruptcy**

10.1 The option of bankruptcy is only applicable where the ratepayer is an individual.

10.2 This will be considered where;

- Other types of recovery action have been unsuccessful or are not appropriate
- The debt outstanding is above £5,000

No bankruptcy proceedings will take place without first attempting to contact the ratepayer or their representative

10.3 A statutory demand will be served on the ratepayer detailing;

- the debt outstanding
- the options available to the ratepayer to prevent further action
- the timescale in which the ratepayer must respond
- the contact details of the officer dealing with the case

10.4 A guide to the potential bankruptcy costs is included with the statutory demand. No additional costs are incurred at this stage, and the Council may agree a payment arrangement with the ratepayer.

10.5 If the ratepayer does not respond within the timeframe specified in the statutory demand or the Council is unable to agree a payment arrangement to discharge the debt, the Council will consider if a petition for bankruptcy should be issued.

10.6 Before a bankruptcy petition is issued, the Council will make all reasonable attempts to establish the ratepayers personal and financial circumstances.

## **11. Winding up proceedings**

11.1 The option of winding up proceedings is only applicable where the ratepayer is a limited company registered in England or Wales.

11.2 This will be considered where;

- Other types of recovery action have been unsuccessful or are not appropriate
- The debt outstanding is above £5,000

No winding up proceedings will take place without first attempting to contact the ratepayer or their representative

11.3 A formal request for payment will be sent to the ratepayer detailing;

- the debt outstanding
- the options available to the ratepayer to prevent further action
- the timescale in which the ratepayer must respond
- the contact details of the officer dealing with the case

11.4 No additional costs are incurred at this stage, and the Council may agree a payment arrangement with the ratepayer.

11.5 If the ratepayer does not respond within the timeframe specified in the notice or the Council is unable to agree a payment arrangement to discharge the debt, the Council will consider if a petition for winding up should be issued.

11.6 The petition will notify the ratepayer of the date and time of the hearing. The serving of a petition will result in significant costs being incurred.

11.7 If the ratepayer fails to attend the hearing, generally this will result in the company being wound up.

11.8 When a winding up petition is granted, the case will be referred to the Official Receiver for a liquidator to be appointed.

## **12. Committal proceedings**

12.1 The option of committal proceedings is only applicable where the ratepayer is an individual and the enforcement agent has certified that there are insufficient goods to levy distress.

12.2 A letter will be sent to the ratepayer requesting attendance at an informal interview with a Business Rates Officer to discuss their financial and personal circumstances and to reach an arrangement without the need for proceedings to be commenced.

12.3 Where the ratepayer fails to attend the interview or it is not possible to make a payment arrangement, the Council will apply to the Magistrates Court for a warrant without bail.

12.4 The ratepayer will be required to attend a Magistrates Court hearing for a full means enquiry to establish if non payment is due to wilful refusal or culpable neglect.

12.5 The Magistrate may sentence the ratepayer to a term of imprisonment not exceeding three months. The sentence may be suspended on terms that the Magistrate considers appropriate or all or part of the debt can be remitted.