

# **Harrow Council**

## **Business Rates Collection and Recovery Policy**

**April 2014**

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## **Background**

This document is Harrow Council's Business Rates Collection and Recovery Policy which sets out our approach and our statutory duties to collect Business Rates.

We endeavour to ensure that the Business Rates is charged to the correct persons and that any reliefs and exemptions that are appropriate are applied as determined by the Law. It details the methods of payments that are available and the action that the division will take and the processes it will use to recover late or non-payment of Business Rates.

### **Aims of the policy**

This policy aligns to the Corporate Debt Collection Policy available at [www.harrow.gov.uk](http://www.harrow.gov.uk).

The driving principle behind the Corporate Debt Recovery policy is to maximise income for the provision of services in Harrow whilst collecting debt responsibly, sensitively and effectively across all the Council's debt collection services.

We aim to pay particular emphasis on early identification of debt with early contact with our customers who get into debt to prevent debt occurring. We will work with customers to ensure they maintain a minimum payment to ensure arrears do not increase.

### **To deliver this effectively our customers can expect us to:**

- Comply with relevant legislation and have regard to identified good practice
- Our staff will treat customers with respect at all times and respond courteously
- Where our customers owe more than one debt to us consideration will be given to a hierarchy of debt in order to identify priority debts.
- Use data collected by us and our partner agencies – debt collectors, enforcement agents, insolvency practitioners etc. to review and report on the impact of this policy and associated service specific policies and procedures.
- Use external records, for example Land Registry, telephone directories, other local authorities and government bodies, tracing agencies, managing agents, Courts, Companies House, Internet.
- Encourage customers to apply for any relevant exemption or relief.
- Carry out regular reviews in respect of charitable, small business rate relief and empty properties.
- Work together closely with the Valuation Office.

**We would expect that customers who have a debt, or who have a liability to pay Rates to us would follow the following principles:**

- Pay amounts due promptly to ensure receipt by us on or before the date that the payment is due
- Inform us promptly of any changes to their circumstances that may affect the amount to be paid
- Notify us promptly if their address or contact address changes
- Contact us promptly if it is believed the amount charged is not correct, both where the amount may be too much or too little
- Respect the Council's employees and its agents and respond to them courteously
- Be frank and honest when providing information in connection with the billing, collection or recovery of sums due to us.

### **Paying Business Rates:**

The Council's financial year runs from April 1<sup>st</sup> through to March 31<sup>st</sup> the following year. The annual bill is sent in March each year.

The Business Rates bill can be paid in either 10 or 12 monthly instalments. Customers can request to pay over 12 months but the request must be made by the 1<sup>st</sup> February to ensure instalments are in place for the following financial year. If this is not requested, the legal default number of instalments is 10 from April to January. We also offer an annual payment scheme for all Business Rate payers.

Instalments of Business Rates are due on the 1<sup>st</sup> April and finish on either the 1<sup>st</sup> January or the 1<sup>st</sup> March dependant on whether you pay by 10 or 12 monthly instalments.

We offer a variety of ways to pay the Business Rate bill to give you the opportunity to pay in the way that most suits you.

The different ways you can pay your Business Rates are:

- We encourage payment by Direct Debit. It is the cheapest way to collect payments and that helps us to reduce costs. This method of payment is also very secure and once set up there is no chance of the payment not being made because you have forgotten to pay. In the unlikely event that an error is made by

us, or your Bank or Building Society, you have a guarantee that a full and immediate refund will be made.

- Payments can be made over our 24 hour telephone line by calling the automated telephone payment service which accepts all cards except American Express and Diners Cards – call 020 8424 1220. If a Business Rates payment is made by credit card there is a transaction charge. No charge will be made if payment is by debit card.
- Online payments can be made by using sort code 60-10-10 (National Westminster, St Anns Road, Harrow Branch) and account number 02046733.
- Payments can also be carried out on line through a smart phone by scanning the QR code on the Business Rates bill.
- Payments by cash and card can be made by using the payment kiosks at the Civic Centre between the opening hours 8.30 to 19.00 Monday – Friday.

## **The Legal Framework**

The Council must follow the legal framework for the collection and recovery of Business Rates from rate payers in the borough as laid out in schedule 9, LGFA 1988 and part two of the non- domestic rating (collection and enforcement) (local list) regulations 1989, as amended).

The Business Rates Policy sits within the Corporate Debt Collection Policy and therefore will follow any local arrangements/policies in relation to the collection of debt.

## **Vulnerability**

We will follow the corporate policy on vulnerability, which can be found at [www.harrow.gov.uk](http://www.harrow.gov.uk)

## **Collection Processes**

### **Business Rates Bill**

At the start of each financial year, in mid-March, the Council will send out the Business Rates Bill for the year April through to the following March, for each business shown on the Rates records as being responsible for payment. This is called the Demand Notice and this will include information about Business Rates on the reverse. This bill will be based on the circumstances known at the time and calculated to the end of the financial year. If the Business Rates office knows your circumstances are due to change a new bill will be issued to you nearer the time of

the change. If you are receiving a reduction that you do not believe you should be getting you must notify the Business Rates office within 21 days to notify of the changes of circumstances.

The bill will also include a statement regarding any credits or outstanding amounts from previous years.

When a bill is sent out during the year, for example when someone moves in part way through the financial year, then there will be fewer instalments.

### **The Council's approach to Business Rates Collection**

We have a legal duty to collect Business Rates. Recovery practices must be efficient and economic. Delays in collection or non-recovery of debts leads to high administrative costs and results in lower resources available for other Council services. Therefore we will diligently pursue those businesses that pay late or do not pay at all, in order to maximise income and reduce the effects of increased costs.

### **Reminders/Final Notices**

The instalment date of the 1<sup>st</sup> of the month reflects our commitment to maximise income at the lowest cost. It is imperative that payments are received by the due date in order to achieve this goal. Late payment causes cash flow problems.

We follow a strict recovery programme, and reminder notices are timetabled monthly. We can amend this timetable, adding to or removing from dates as required. This enables us to manage workloads, resources and collection requirements more effectively.

If a customer does not pay an instalment by the due date we will issue a reminder (further notice). We will ask the customer to pay the missed instalment by a given date, normally 7 days after the date on the reminder, and to ensure that future payments are made by the due dates.

If the missed instalment is received by the given date we will not take any further action; but if it remains unpaid then we will cancel the instalments and issue a summons for the full year's charge and charge you costs.

If a second instalment is missed, we will cancel the instalments and issue a final notice (reminder notice) for the full year's charge. Unless full payment is made within seven days, summons will be issued including costs.

Therefore we will issue a maximum of 1 reminder and in some instances 1 Final during any financial year. These notices will tell you what you need to pay and advise customers of the consequences of not paying as requested.

It is the customer's responsibility to make sure that instalments are paid on time. We will always send a reminder before sending a summons, but non receipt of either is no excuse for missing payments and cannot be used as a reason for non-payment.

### **Summons**

When we want to issue a summons we have to go to Court and make a Complaint stating that the Business Rates remains unpaid. If the Court agrees then the summons is issued. This work costs the Council extra money to administer and the Council also has to pay the Court a fee for each summons issued. These costs are added to the Business Rates account and therefore you would have to pay this additional cost of £250. If you receive a Summons please read the information letter, as they could save you time and money.

We will expect payment of the full balance plus the costs of the summons before the date of the hearing of the summons.

In some very exceptional circumstances, such as cases of extreme hardship and depending on the information available to us, we may agree to spread the amount over a longer period. When we make a special payment arrangement we look at the individual circumstances of the case. If these arrangements are not complied with, then we will progress further recovery action without referring back to the customer.

### **Joint and Several Liability**

Where there is a joint occupation, for example, joint owners, or lease holders, partnerships, then we will look to all parties to pay the rates. The law says that each party will be liable both for their own share of the rates and for the whole rates amount (called "jointly and severally liable"). All our bills and other communications will be addressed to all the liable persons in the property. A Summons if required will be sent to each liable party.

Where the charge is not being paid we will take action for recovery of the debt against any or all of the parties. We will endeavour to make arrangements for payment with any or all of the parties, but where we cannot make satisfactory arrangements we will continue our action against any or all of the parties.

Our bills will be addressed to all the liable parties however summons will be sent individually to each liable party. If payment is not made we will take action for recovery of the debt against any or all of the parties. We will endeavour to make arrangements for payment with any or all of the parties, but where we cannot make satisfactory arrangements we may continue our action against any or all of the parties.

### **What happens at Court**

When we issue the summons we tell you when the summons will be heard and where. We ask for payment in full by the hearing date. If the full amount, including

the costs, is paid in full before the Court Hearing no further action will be taken and the case will be noted as fully paid and no application for the Liability Order will be made.

A Bench (panel) of lay Magistrates or a District Judge will conduct the hearing. We will provide you with information when we send the summons that tries to answer as many enquiries as possible. We cannot advise what time we may go in to Court and there may be a long wait.

We have specialist officers who conduct the Court Hearings. They are experienced and have worked consistently hard with the Court staff and officials over a period of time to ensure that the proceedings run as smoothly as possible and that they conform to the Legislative requirements in every respect.

At the court hearing we will ask the Magistrates to issue a Liability Order. If you do not have a valid defence the Court is obliged to issue the Liability Order. There are very few valid defences and these are listed below:

1. Ratepayer not in occupation.
2. Defendant has gone out of occupation during the currency of the rate.
3. Rate has been paid.
4. Bankruptcy proceedings have commenced.
5. Rate has been illegally amended.
6. Defendant only occupied part of property and is rated for the whole.
7. Application was made more than 6 years after the 1<sup>st</sup> demand was issued.
8. Administration Order made under s.112 of the County Courts Act 1984 and debt is scheduled in accordance with s.113 of that act.
9. Administration Order made in respect of Company or Partnership under Provisions of Part II of Insolvency Act 1986.
10. Mandatory rate relief not applied in circumstances where ratepayer is a Charity or trustees for a Charity and hereditament wholly or mainly used for charitable purposes including Community Amateur Sports Clubs (CASC) (the appropriate formula at s.43 (5) or s.45 (5) of the LGFA 1998 has not been used in calculating the liability.)
11. Hereditament is used as a qualifying general store or qualifying post office and the conditions as to mandatory rate relief in rural settlements are satisfied.(s.43(6a) to (6e) of the LGFA 1988 as introduced by the Local Government and Rating Act 1997).



12. Amount charged is not in accordance with transitional arrangements including subsequent amendments provided for, from 010495 by the Non-Domestic Rating (Chargeable Amounts) Regulations 1994.
13. Winding Up Order has been made. (Insolvency Act 1986, s.130).
14. Billing and Enforcement requirements of the Non-Domestic Rating (Collection & Enforcement)(Local Lists) Regulations 1989 have not been complied with.
15. Billing and Enforcement requirements of Non-Domestic Rating (Miscellaneous Provisions) Regulations 1990 regarding ratepayers who are jointly and severally liable have not been complied with.

If you do not attend the court hearing we will make the application for a Liability order in your absence. These orders give us powers to take further action to recover the outstanding debts.

### **After Court**

If you do nothing, further recovery action will be taken (unless a payment arrangement has already been agreed with the Council prior to the Liability Order hearing). Further action will generally mean that your case will be issued to Enforcement Agents and this will incur additional fees and charges.

### **How we can enforce Payment**

The main ways we can enforce payment of the Business Rates debt are as follows:

**Enforcement Agents** - may be instructed to remove and sell your goods to the value of the debt that you owe to Business Rates and any outstanding charges. We will accept a payment arrangement but if we are unable to do this, most cases will be passed to Enforcement Agents.

### **Enforcement Agents Stages**

The **Compliance Stage** starts as soon as the enforcement agent receives the instruction from the council and lasts for 7 days. The fee covers all activities that are undertaken prior to the enforcement stage.

The **Enforcement Stage**. This fee covers all activities from the first attendance at the premises up to but not including the commencement of the sale stage. No particular activity is required to qualify for the fee.

The **Sale Stage**. This fee covers all activities from the first attendance at the property for the purpose of transporting goods to the place of sale or, where the sale is to take place at the property, commencement of that preparation. The goods do not have to be removed for this fee to become payable.

The above fees are recoverable from the debtor, either from the proceeds of sale or from money paid in settlement of the debt and the costs of enforcement.

The Enforcement Agents follows a strict code of conduct agreed with us and must also abide by our Terms and Conditions of their contract.

We will ensure that, as far as possible, the information the Enforcement Agent holds is as up-to-date and accurate. The Enforcement Agents are expected to behave in a fair and consistent manner and any complaints we receive are treated very seriously and investigated thoroughly. There is a separate governing body which deals with complaints about Enforcement Agents action. This is the Civil Enforcement Association (CIVEA) [www.civea.co.uk](http://www.civea.co.uk)

It is a criminal offence to interfere with an Enforcement Agent

Using Enforcement Agents is not our last resort, as we can take action as shown below.

**Bankruptcy/Winding up Proceedings** - if appropriate we will also consider taking the steps to enforce payment of the debt by commencement of bankruptcy proceedings or winding up proceedings. This is a protracted, expensive and time consuming exercise. However we have found it to be a cost effective method of recovering arrears, and in some circumstances this is the only appropriate action we can take to secure payment. The costs of this type of action will be claimed from you. In addition to high costs, you are at risk of losing your property.

We will always send letters giving you 14 days to clear the outstanding arrears before the bankruptcy proceedings/winding up proceedings are issued. This letter will also warn you of the adverse consequences and the costs involved in bankruptcy/winding up proceedings however non-receipt of this letter will not prevent us from issuing bankruptcy/winding up proceedings.

We will consider whether bankruptcy/winding up proceedings are appropriate and will weigh in the balance evidence concerning your income.

We will always give clear timescales as to what will happen next in the event that the recovery action escalates.

We will keep records of the different actions carried out showing how the matter was eventually referred for bankruptcy/winding up proceedings following non-payment.

**Committal** – If payment has not been received then we may decide that the appropriate way forward is to apply to the Magistrates' Court for your commitment to prison. This action will only be taken forward in cases where bankruptcy/winding up proceedings or charging orders are not appropriate, and in cases where the enforcement agent has attempted to collect the debt but has been unsuccessful.

Before taking this action we will advise you of our intention and again will give you another opportunity to pay in full.

If Committal is taken forward it will result in the issue of a warrant which will result in your arrest and transportation to Court. At Court you will be required to explain why the rates remain unpaid. The Court will hold a full investigation into your means and circumstances and will decide whether there has been culpable neglect or wilful refusal to pay. The Court can make an arrangement to pay the debt by Court Order and may issue a suspended sentence until the sum is paid by a specific date. The Court can remit the debt or it can impose an immediate prison sentence of up to 90 days.

**All Notices are served in accordance with the legislation and this could be to the last known address. For recovery purposes the notice is considered served unless it has been returned by the Postal Services.**

***We can be contacted to discuss your Business Rates at any stage of the recovery process***

### **Rate Avoidance**

Unoccupied properties are liable for business rates at the same basic level as occupied properties after an initial 3 month rate free period or 6 months for industrial properties. This places a financial burden on ratepayers who are paying full rates on a vacant property. Some ratepayers are looking for innovative ways to reduce their rates liability. However, the council will do everything in its power to make sure that the correct rates are paid by all.

### **Absconders**

We will use whatever records are legally available to us, from various sources in order to trace you if you have vacated a property without leaving a forwarding address. Any costs incurred by us will be passed on to you.

### **Write offs**

Whilst we will always pursue the collection of outstanding debts, there will be occasions where the debt is unrecoverable. At this stage we will consider whether the debt should be written off. If a write off is required we will follow the guidance in the Council's Financial Regulations.

### **Data Sharing**

We use data collected both internally within the Council and externally with our partner agencies, debt collectors, enforcement agents, insolvency practitioners etc.

## **Appendix A**

### **Case Examples**

Ms. A receives her annual bill in March and her instalments run from 1 April to 1 January.

She pays her April instalment on 1 April, but does not pay her 1 May instalment. We send a reminder on 16 May asking for payment by 30 May. She still does not pay. On 1 June the instalment facility is cancelled and the full amount for the year becomes payable. We send a summons on 3 June.

If the full amount on the summons is not paid by the Court hearing date, we will ask for a liability order and if successful, examine the options for further recovery.

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Mr. B receives his annual bill in March and his instalments run from 1 April to 1 January.

He pays his April instalment on 20 April, after we send out a reminder on 17 April. He pays May, June and July on time but fails to pay his August instalment. On 17 August a final notice is issued. Although no further reminders will be sent, our automated system cancels the instalment arrangement and the full amount for the year becomes due.

If we receive the full amount within 7 days, no further action is taken if not a summons will be issued.

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Mrs. C has been sent a summons. She does not appear at Court on the hearing date and a liability order is granted.

We do not hear from Mrs C following the Liability Order being granted nor has payment in full including costs made. The council will then pass the account to our enforcement agents.