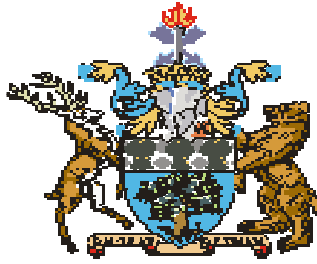


# **GEDLING BOROUGH COUNCIL**



## **A Fair Collection and Debt Recovery Policy**

# **‘GET IN TOUCH, NOT IN DEBT’**

**A Handbook for:**

**Gedling Borough Council Staff and Members**

**Local Advice Workers**

**The Council’s Collection Agents**

**Our Customers**

## **FOREWORD**

Gedling Borough Council believes there is a need to develop a collection and debt recovery policy that is fair to everyone, especially people on low incomes.

The production of this document aims to draw together our procedures and sets them out in clear language.

Initiation of this document is designed to help ensure that people are treated fairly while still recovering debt effectively.

It is intended that this Fair Collection and Debt Recovery Policy will be a 'living' document and subject to a yearly review.

If you have any difficulty reading this document and would like a copy in large print, please contact the Customer Services Team by telephoning 0115 901 3950

## 1. **GLOSSARY**

Throughout this document, we use several words or phrases that may have different meanings to different people. This section provides the Council's accepted definitions of some of those terms.

### 1.1. **Poverty**

Poverty is "a lack of the resources needed to participate in society".

### 1.2. **Minimum Accepted Standard of Living**

The means-tested benefits level is a simple and measurable indicator of how much someone needs to live on. However, we accept that this level is insufficient for a decent standard of living and it does not fully consider individual circumstances. The Council, therefore, uses this level as a minimum while allowing some flexibility for special costs or expenses that individuals or families may face.

### 1.3. **Priority Debts**

Priority debts are those where the action taken to collect them can result in the loss of an essential service, the home or even imprisonment.

The table below sets out the important debts that people may face with priorities highlighted in bold.

| <b><u>Local Authority Debts</u></b> | <b><u>Utility Debts</u></b> | <b><u>Other Debts</u></b>   |
|-------------------------------------|-----------------------------|---|
| <b>Council Tax arrears</b>          | <b>Electricity</b>          | <b>Mortgage arrears</b>   |
| <b>Fines</b>                        | <b>Gas</b>                  | <b>Income Tax</b>   |
| <b>Rent arrears</b>                 | <b>Water</b>                | <b>Secured Loans/Loans</b>  |
| Sundry Debtors                      | Other Fuel                  | <b>VAT</b>  |
| Benefit Overpayment                 | Telephone Bills             | <b>Court Fines</b>  |
| <b>Business Rate arrears</b>        | Digital TV                  | <b>Child Maintenance and Enforcement Commission/<br/>Child Support Agency</b> |
|                                     | TV Licence                  | Deductions  |
|                                     |                             | Hire Purchase   |

#### 1.4. **Essential Spending**

This is spending that we consider reasonable to prevent poverty as defined in paragraph 1.1. above. The items of expenditure that are considered essential will depend on the circumstances of the individual. These may include items like TV licence payments, car insurance, petrol and telephone costs.

## 2. **INTRODUCING OUR FAIR COLLECTION AND DEBT RECOVERY POLICY**

This policy handbook will help:

- All Council staff to follow an agreed process
- All Council Members to understand the agreed process
- Advice workers to tell people about our procedures and make sure we keep to them
- The Council collection agents understand and follow our procedures and
- Our customers get out and stay out of debt.

### 2.1. **We aim to:**

- Prevent debts from mounting up – for example, by helping people to make the most of their incomes and offering different payment methods
- Take action against deliberate non payers or those who delay payment without good reason
- Make sure we make early contact when problems arise, to avoid debts increasing
- Encourage our customers to contact us as soon as they have a problem with payments;
- Work with people in debt or at risk of getting into debt, to set payments they can afford
- Make sure that all parts of the Council work the same way on billing, reliefs, benefits and multiple debts and
- Consider our customers' other debts and outgoings when agreeing payment arrangements.

- Treat individuals consistently and fairly regardless of age, gender, disability and sexual orientation, race and religious belief and to ensure that customers' rights under Data Protection and Human Rights legislation are protected.

## 2.2. **Making Our Policy Effective**

We know that for our policy to work, we must:

- Send clear and accurate bills quickly;
- Respond to changes in our customers' circumstances as soon as we are told about them;
- Work out and pay benefits quickly and accurately and
- Make sure people pay as agreed and take action if they do not

## 2.3. **Information Sharing**

Customers are encouraged to tell the Council when they owe money to more than one department of the Council and to seek advice as soon as possible.

Where information comes to the attention of one department that the debtor owes money to another department, that knowledge shall be shared and a common approach agreed, having regard to limitations imposed by the Data Protection Act or any other legislation.

## 3. **THE BENEFITS OF OUR FAIR COLLECTION AND DEBT RECOVERY POLICY**

We believe our policy will:

- Help people in debt set up payments they can afford
- Make sure the action we take over non-payment is appropriate to the individual
- Let people know they can talk to us so that they are more likely to contact us when they first have problems
- Help reduce the burden of debt
- Let people change their payments if they need to, allowing flexibility with payments where necessary and
- Identify the difference between those "who can't pay" and those who "wont pay" and take appropriate action.

### 3.1. **Statement of Principles for Our Fair Collection and Debt Recovery Policy**

We:

- Believe people must pay what they owe;
- Will stay in touch with customers until their debts are paid
- Want to help people make the most of their money
- Will provide clear, accurate and prompt bills and information about amounts that are due and
- Will provide a service that works and considers peoples needs

### 3.2. **When People Get into Debt we will:**

- Contact our customer as soon as possible
- Make sure payment arrangements are affordable, taking account of the number and the value of the debts;
- Take no further action if agreed payments are being made
- Respect the needs of the person in debt and their family responsibilities
- Put priority debts (see Glossary on page 2) first and
- Deal with, advise workers and consider offers they make on behalf of our customers (but we can only do this when we have the customer's written authority to do so).

### 3.3. **Our Duty to Collect and Recover**

We have a duty to all residents to ensure cost effective billing, collection and recovery of all money due to the Council.

We know people do not pay for many reasons:

- Some people may fail to pay or forget to pay because of personal difficulties. We will try to help these people by encouraging them to tell us about their problems so we can help find ways they can pay. Where necessary we will refer them to specialist welfare rights advisers;
- Some people may fail to pay or make late payments on purpose. In these cases, we will take action to try to get payments;

- Some people may not seek help. We will try to identify these customers and give support and guidance.
- Gedling Borough Council also employs a dedicated Benefit and Income Maximisation Officer who can advise customers and ensure they are in receipt of relevant Benefits. The Benefit and Income Maximisation Officer can be contacted on 0115 901 3626 or 07973 476684.

We will try to reduce the problems debt can cause.

It is vital to stay in touch. If people do not, we might take action that could otherwise be avoided. When a customer contacts us, we will aim to agree a realistic payment plan.

### 3.4. **Information**

We will let people know quickly and clearly, what they owe the Council. The information we provide will show:

- Why money is owed to us
- How much is owed;
- How, when and where to pay
- Where to contact and how to apply for Housing and Council Tax Benefit
- Appeal rights
- How to apply for Housing and Council Tax Benefit where applicable.

We will use plain language and help people find advice if they need it.

### 3.5. **Extra Information about Council Tax**

We will send a leaflet to all Council Tax payers with their first Council Tax bill each year. This will provide information about the budgets and spending plans of Gedling Borough Council, Nottinghamshire County Council and the Nottinghamshire Police Authority. The leaflet outlines some of the key achievements of each authority over the previous year and plans for the coming year. It also gives information about reductions in Council Tax and how to apply for them as detailed below:

- Valuation Bands and Appeals;
- Liability – How Much and Who Pays
- Discounts

- Empty and Exempt Properties
- Student Discount and Student Exemptions
- Reduction for Disabled Persons
- Ways to Pay
- Council Tax Benefit
- What Happens if You Don't Pay – A separate leaflet is issued with all reminder notices sent out

### 3.6. **Extra Information about Business Rates**

A leaflet is enclosed with rate bills that tells Business Ratepayers how their charge is calculated and how it is affected by “transitional arrangements” if this is applicable. The leaflet also gives information about some of the reductions from rates that are available in certain circumstances.

We will provide information about all types of rate relief and reductions on request.

### 3.7. **Extra Information about Housing and Council Tax benefit Overpayments**

An information leaflet about Housing Benefit and Council Tax benefit overpayments is available from the Customer Services team at Civic Centre, Arnot Hill Park, telephone number (0115) 901 3970.

### 3.8. **The Council's Promise**

The Council's Customer Charter tells customers what to expect from us.

We will:

- Provide a polite and courteous service
- Use plain language
- Be accessible to all our customers
- Respond to all customer complaints and comments and use them to provide our service to others;
- Provide a fair and unbiased service;
- Continually seek to improve our service to customers



- Supply information in accessible formats and languages when requested.

Additionally we will:

- Do everything we can to help our residents to make the most of their incomes and reduce their debts before they become a problem by agreeing reasonable arrangements and avoiding court costs, collection agent fees and administration fees.
- Make sure information is available in a variety of ways
- Ensure that accurate bills are issued at the right time
- Tell people about Council Tax discounts, reliefs, disability reductions, exemptions and second adult rebate
- Let people know about income-related benefits such as Job Seekers Allowance, Income Support, Pension Credit, Tax Credit, Housing Benefit and Council Tax Benefit.
- Check if people are entitled to any other benefits or sources of income and encourage them to claim and,
- Provide high quality impartial welfare benefits advice, promoting the availability of welfare benefits and maximising our customers' entitlements.

#### 4. **MAKING PAYMENTS**

We will provide a variety of easy ways to pay. We know the easier it is to pay, the more likely it is that people will do so. We will give full details of the different ways to pay on each bill.

We will try, wherever possible, to prevent people having to spend more on travel just to pay bills. We aim to have payment points within easy reach of people's homes. Payments can be made at any Post Office without extra charge, although a plastic payment card will be needed.

##### 4.1. **How You Can Pay**

By Direct Debit – The Council's preferred method

By post – send cheques to the Civic Centre, Arnold

In person – by cash or cheque at the Civic Centre, Arnold

Via the internet at: [www.gedling.gov.uk](http://www.gedling.gov.uk)

Through our 24 hour telephone payment service: 0161 627 9907 (Debit Cards only)

Through our Cash Office telephone payments systems (office hours only) by Debit Card: 0115 901 3949

At a Post Office – (but a fee will be charged for each transaction unless you are paying Council Tax by using a plastic card which will be free of charge).

#### **4.2. Where you Can Pay**

Council Offices, Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU

Opening hours:

Monday to Thursday 8.45 am – 5.15 pm    Friday 8.45 am – 4.45 pm

Tel: 0115 901 3950

Fax: 0115 901 3921

Minicom Service : 0115 901 3935

Website: [www.gedling.gov.uk](http://www.gedling.gov.uk)

Email: [counciltax@gedling.gov.uk](mailto:counciltax@gedling.gov.uk)

#### **4.3. Frequency of Payment**

**Council Tax/Business Rates** – most people pay over ten monthly instalments between April and January.

People who opt to pay their Council Tax by direct debit have a choice of four payment dates within a month of the 1<sup>st</sup>, 7<sup>th</sup>, 15<sup>th</sup> and 28<sup>th</sup>. Payment can be made over ten instalments, or extended through to March in some circumstances.

Business Rate Direct Debit payers have the choice of the 1<sup>st</sup>, 7<sup>th</sup>, 15<sup>th</sup> or 28<sup>th</sup> of the month.

**Other Council Debts** - Other Council debts are due on demand but where an account is ongoing such as Commercial Rent, customers can pay by monthly instalments or by standing order.

Customers must pay on time. We cannot stress too much the need to let us know if there is a problem.

When people contact us, we will:

- Check if they should be paying less or nothing at all;
- Check if all the benefits, discounts, reliefs, exemptions and rebates are being claimed;

- Tell them about all the payment methods;
- Tell them about independent advice; and
- Update information on the customer's file to help us manage the debt effectively.

## 5. **COUNCIL TAX RECOVERY : WHAT WE DO**

Council Tax recovery procedures are laid down by statute in the Council Tax (Administration and Enforcement) Regulations 1992 SI 613 and subsequent amendments.

It is important for us to collect the Council Tax that is due to us. This is because it helps pay for the services provided by the Council and also those provided by the Nottinghamshire County Council and the Nottinghamshire Police Authority and Fire Authority.

Council Tax may be just one of many debts a person has. Managing arrears effectively involves good liaison with other key organisations including our Benefits, Landlords, Advice Agencies (see contact details on page 23), the Department for Work and Pensions and Her Majesty's Revenue and Customs.

We will always encourage people to get in touch with us straight away if they have any difficulties in making their Council Tax payments. Early contact is very important to try to avoid unnecessary legal action that can increase the amount of money owed.

Generally, we will use the following process to recover unpaid Council Tax:

- We will always send a bill setting out what is due and when payments are to be made;
- If a payment is missed we will send a reminder, which will state that payments must be brought up to date within 7 days, with an option under certain circumstances to be paid by direct debit.
- If the instalment is paid within 7 days of the issue of the reminder, the right to pay by instalments can continue;
- If, in that same financial year, a second instalment is not paid, the above reminder process is repeated.
- If the outstanding payment on a first or second reminder remains unpaid, the right to pay by instalments is lost and the whole remaining balance for the financial year becomes due within a further 7 days;
- The right to pay by instalments is also lost if a third instalment is not paid within a financial year or when the Council Tax account is closed

and a balance remains outstanding. In these cases, we will issue a final notice for the full outstanding balance.

- If the whole remaining balance is not paid within the 7 days we will apply to the Magistrates Court for the issue of a summons and court costs will be added to the bill.
- We will then send a summons, on behalf of the Court, asking full payment to be made before the date of the court hearing.
- If a person disputes the summons, they should contact our Customer Services and we will try to resolve the matter.
- If the person still disagrees, they can attend the Magistrates Court on the day of the hearing to say why they have not paid.
- We will ask the Court to issue a liability order for each unpaid summons and if the order is granted, more costs will be added to the bill.
- The Liability Order gives us the power to obtain information about the financial circumstances of the person owing money and details about their employment.
- The Liability Order allows us to obtain payment in a number of ways;
  - Deductions taken directly from salary or wages
  - Deductions taken from Income Support, Income Based Jobseekers Allowance, Income Based Employment Support Allowance and in some circumstances Pension Credit.
  - Use of collection agents; where we use agents they will be required to work to Government National Standards for Enforcement Agents. Additionally they will be supplied with a copy of this Policy and will be expected to adhere to it.
  - By applying to the County Court for a Charging Order which would pay the amount owed when the property is sold
  - Submit a petition for a bankruptcy
  - Apply for committal to prison.
- When a Liability Order is granted, we will send a “Notice of Liability Order” to let a person know that full payment is due immediately.
- If the person cannot pay in full, the Income and Expenditure form, which is sent with the Notice, must be completed and the form returned to us. Any reasonable offer of payment will be considered and a payment arrangement agreed if the customer contacts the Customer Services Team.

- The Notice of Liability Order will also warn the person of the possible action by our collection agents. If they are used, further costs will be added to the bill.
- We will determine from the financial information given on the Income and Expenditure form if it is likely that the customer is entitled to any benefits that they are not currently receiving. These cases will be referred to the Benefits Advice Team to follow up by way of letter, telephone call or visit.
- During the Council Tax recovery process we will always take into account a person's circumstances and ability to pay. This is why it is important people co-operate and give us the information we need to assess their circumstances and to consider these when deciding what action to take. Where circumstances change, we will adjust payment arrangements to take account of this.

**5.1. What we will do if payment is not made after a Liability Order has been obtained?**

- We will first pass the account to bailiff company and they will contact the person and try to collect the money; the bailiff will always listen to any offers made by the person to pay by instalments and will inform them if their offer is acceptable or not.
- Check if they should be paying less or nothing at all
- Check if all the benefits, discounts, reliefs, exemptions and rebates are being claimed;
- Tell them about the payment methods
- Tell them about independent advice and
- Update information on the customer's file to help us manage the debt effectively
- If the bailiff cannot obtain payment (because they cannot gain entry, or the person has insufficient goods to cover the debt) then we will consider further recovery in the form of
  - i) Bankruptcy proceedings (where the debt exceeds £750)
  - ii) Charging orders (where the debt is over £1000)
  - iii) Committal to prison of an individual
- All of these have very serious implications for the person and none are undertaken lightly by the Council. Consequently, before taking any further action we will carry out a review of the case to ensure no other methods of recovery are available. We will again

check the Revenues system to see if we can find employment details (for an attachment of earnings order) or information about current benefits (to see if deductions can be made from these).

- We will also write one further time to the person with a Financial Information form and ask that they contact us urgently to arrange payment (or discuss with us why they are unable to do so) and we will consider these serious options; we will explain to him the serious consequences if he fails to co-operate.

## 5.2. **Bankruptcy Proceedings**

We will usually only consider this where the person owns his own property and where the equity in the property is likely (so far as the Council can assess) to be sufficient to cover both the amount of the debt and the costs of the bankruptcy and sale.

Where we do decide to pursue Bankruptcy we will write to the debtor and explain to him the consequences of bankruptcy.

If the matter is still not resolved then the file will be referred to our Insolvency Practitioners for action. They will again write to the debtor confirming that the file has been passed to them and that Bankruptcy proceedings will be started unless an arrangement is entered into. This letter will again set out the serious consequences including a warning that the debtor could lose their home and incur substantial costs. If no arrangement is made or response received, a Statutory Demand for payment will be served on the debtor to commence the formal Bankruptcy proceedings.

Once an order for Bankruptcy has been obtained, we will ask the Trustee in Bankruptcy to seek an order of possession and immediate sale of the property. This will mean that the debtor will have to pay the court costs and a cost of the sale, which may be many times the amount of the debt.

We (or the Trustee in Bankruptcy) will write to the debtor at all stages of the process giving him the opportunity to contact us to make payment or to discuss his personal circumstances with us.

## 5.3. **Charging Order**

An application to the County Court for a charge over the debtor's property will always be considered by us before instigating Bankruptcy proceedings.

If we do decide to apply to the Court for a charge, the costs of the court action will be added the amount owed.

Once we have the charge over the person's property we can then ask the Court for an order that the property be sold. Before doing this we

will again write to the person explaining the consequences to him. We will also ask again that the person makes some arrangement with us for payment that will not involve him losing his house.

If we decide not to ask the court to order the sale of the person's house, we will claim back the money owed (plus interest) when the house is sold by the person.

#### 5.4. **Committal to prison**

It is only in extreme cases that we will consider asking the court to send someone to prison for not paying his Council Tax as we are aware that this action can have a profound effect on the customers' economic and social well-being.

At any hearing the Magistrates have the power to Commit the customer to Prison, fix a suspended sentence based on repayments or remit the debt. The Local Authority has no discretion or power to remit debts.

#### 5.5. **Bankruptcy or Charging Order or Committal to Prison?**

We will always consider other alternatives first, but where we need to consider the alternatives of Bankruptcy/Charging order we will look at the following factors when coming to a decision as to which (if either) step to take;

- (i) What is the likely equity in the property?
- (ii) Which one would be the most effective way of recovering the money?
- (iii) Is the debtor paying current Council Tax?
- (iv) Is there anyone else living with the debtor at the property? if yes,
- (v) Are they children/elderly/otherwise vulnerable?
- (vi) Is there any other information, which we have which will indicate that either bankruptcy or a charging order would be more appropriate than the other?

As indicated above this will only be considered in the most serious of cases where there is no other option.

**Once a decision has been made we will again contact the person to warn of the consequences of the action which we have decided to pursue.**

## 6. **BUSINESS RATES RECOVERY : WHAT WE DO**

National Non-Domestic Rates recovery procedures are laid down by statute in the Local Government Finance Act 1988 and subsequent regulations and amendments.

If a payment is missed, we will send a reminder requesting payment within 7 days, with an option under certain circumstances to pay by direct debit.

- If the outstanding amount remains unpaid, the right to pay by instalments is lost and the whole remaining balance for the financial year becomes due within a further 7 days. If the instalment is paid within 7 days of the remainder, the right to pay by instalments can continue.
- If the right to pay by instalments is lost and the whole remaining balance is not paid within a further 7 days, we will apply to the Magistrates' Court for the issue of a summons and court costs will be added to the bill.
- We will then send a summons, on behalf of the Court, asking for full payment before the date of the court hearing. If the ratepayer disputes the summons they should contact our Customer Services and we will try to resolve the matter.
- If the ratepayer still disagrees, they can attend the Magistrates' Court on the day of the hearing to say why they have not paid.
- We will ask the Court to issue a Liability Order for each unpaid summons and if the Order is granted, more costs will be added to the bill.
- The Liability Order allows us to obtain payment in a number of ways;
  - Use of collection agents
  - A petition for Bankruptcy for an individual, or a winding up order for a company;
  - Committal to prison
- When a Liability Order is granted, we will send a "Notice of Liability Order" to let the ratepayer know that full payment is due immediately.
- If the ratepayer cannot pay in full, any reasonable offer of payment will be considered and a payment arrangement agreed if the ratepayer contacts the Customer Services Team.
- The Notice of Liability Order will also warn of possible action by our collection agents. If they are used further costs will be added to the bill.



- During the Business Rates recovery process we will always take into account a ratepayer's circumstances and ability to pay. Where circumstances change, we will adjust payment arrangements to take account of this.

## 7. **RECOVERY OF HOUSING BENEFIT AND COUNCIL TAX BENEFIT OVERPAYMENTS**

Housing Benefit overpayments are reclaimed in accordance with Regulations 98-105 of the Housing Benefit (General) Regulations 1987 (as amended).

Housing Benefit and Council Tax benefit are paid to help people who are liable to pay their rent and/or Council Tax. Our policy on benefit overpayments is available on request.

Overpayments may happen because:

- We have the wrong information about a claimant's income or circumstances
- There is a delay in us finding out about changes in circumstances
- Some benefits are paid in advance, so when we know about a change it may be too late to alter the amount paid; or
- We make an error when assessing a claim.

In most cases, if changes are reported quickly overpayments can be avoided. We may need to stop payments until we work out the correct benefit and we will do this as quickly as we can.

### 7.1. **Notification of Decisions**

We must write to the claimant or the person acting for them, telling them:

- Why the overpayment has happened
- That we may recover the overpayment
- Who needs to repay the overpayment
- How much has been overpaid and how we have worked this out
- The period the overpayment covers
- How we will recover the overpayment and
- The right to appeal against our decision
- We will also tell them if we change our decision

## 7.2. **Who we can recover overpaid benefit from**

Overpayments can be recovered from:

- The benefit claimant
- Someone acting on behalf of the claimant if they cannot act for themselves
- Someone who supplies false information; or
- Whoever received payment – for example a landlord or agent

We will decide who should repay the money and tell the claimant and anyone else affected. If a landlord or agent fails to repay, we may refuse to pay benefits to them in the future.

When deciding who will repay, we will consider:

- Why the overpayment was made
- Who gave wrong information and whether they did it on purpose
- Who should have realised too much money was being paid, or told us about any changes, but did not
- Who the benefit was paid to
- Who told us the overpayment was being made; and
- The most suitable way we can recover the money

Benefit overpayments are recoverable unless we have made a mistake and it would be unreasonable to expect the claimant to realise this. We will tell the claimant about their right to appeal against any decision we make about a benefit overpayment.

We may decide not to recover the money if:

- The person cannot afford to repay the money as it would cause extreme hardship (but the person or someone acting for them must tell us about their situation and why it would cause extreme hardship);
- The person has died and the assets in the estate cannot cover the debt; or
- The person's individual circumstances persuade us that recovery would be unreasonable (but the person or someone acting for them must tell us about the personal circumstances and why it would be unreasonable for us to recover)

We can recover debts we have written off if circumstances change

### 7.3. **Methods of Recovery**

Overpayment of Council Tax benefit will be added to the person's Council Tax bill. Non payment will lead to the usual Council Tax recovery process (see pages 11 and 12).

Overpayment of Housing Benefit will be recovered in one or more of the following ways:

- Ongoing deductions from future Housing Benefit payments
- Deductions from any lump sum arrears of Housing Benefit due to be paid
- Ongoing deduction from social security benefits
- Ongoing deductions from Housing Benefit payments made to landlords and agents; or
- Send an invoice where no other methods are suitable. If the person cannot pay the invoice in full, they must contact us to arrange to tell us about their financial situation and why they cannot pay in full; we may then agree that the person can pay by instalments.
- Where payment by instalments is agreed the Council will regularly review the payments and will seek to adjust these (up or down) when a person's financial situation has changed.

If a person does not pay their bill and either does not contact us or does not stick to an arrangement they have made, we may:

- Ask a collection agent to collect the amount owed or
- Take County Court action to collect the amount owed

If we obtain a County Court judgement we can ask the court to:

- Set up an attachment of earnings or benefits
- Use a collection agent to seize goods
- Recover the money from bank accounts
- Apply to the court to make a person bankrupt and/or
- (if the person owns a house) apply to the court for a Charging Order

If we use the County Court we will add the Court fees we incur to the amount owed.

**We will only consider bankruptcy or a charge over the house where other methods have failed; please refer to paragraph 5 where we tell you about how the Council will decide about these (but please note that Committal to prison is NOT possible for anything other than failure to pay Council Tax);**

When we decide how to recover the money, we will consider:

- Any previous overpayments and what caused them;
- The amount of the overpayment
- The need to prevent future payments
- Who will be repaying the overpayment
- Whether the person repaying the money can afford it and if so what they can afford to pay (but we cannot do this unless the person provides us with full and true information about their personal circumstances) and
- If the person is entitled to any other benefits, to help them repay the amount owed.

## **8. RECOVERY OF OTHER COUNCIL DEBTS**

Where payments are due for other council debts, we will:

- Send an invoice showing the amount owed and how to pay
- If no payment is received, we will send a reminder asking the debt to be paid.
- If we do not receive a payment, we will send a second reminder.
- At any point accept payment in full or consider an arrangement.
- Send a letter to the person telling them the amount owing is being passed to a Collection agent, if it remains unpaid.
- Consider issuing a summons in the County Court if the collection agent is unable to collect the amount owing.
- Once we have obtained a County Court judgement against a person, we will collect payment in the most suitable way, for example;
  - Payment arrangements
  - Deductions from earnings
  - Bankruptcy and/or
  - Charge over property

**We will only consider Bankruptcy or a charge where other action has failed. Please see paragraph 5 above for information about how we will consider these (but please note that committal to prison is NOT possible for any debts other than Council Tax arrears)**

## 9. **ADVICE AND SUPPORT**

We will talk to people who owe us money and/or their advisors (where we are authorised by the debtor to do so) and will try to agree fair repayment plans.

We encourage people to seek independent advice about their rights, managing their money and debts. Where people are unsure how to obtain this advice, we recommend that they contact either the Citizens Advice Bureau or Nottingham Welfare Rights Team.

### 9.1. **Making Arrangements for People in Arrears**

We will:

- Try to contact people as soon as possible
- Prioritise debts (see glossary)
- Agree payments that take into account the date a person receives income and how often;
- Make sure the person understands that they must pay any current instalments as well as payments for arrears;
- Where a person appears to have complex benefit or money advice problems, we will refer them to the independent advisors and
- Find out as much as we can about whether a person can pay.
- Give special considerations where we are aware that a person may be vulnerable (see paragraph 10 below).

It is important for the person to contact us if they think they might have problems in paying when they should. When a person gets in touch, we will ask for full information about their personal circumstances; once we have this we will discuss their income and expenditure and agree payments they can afford. These payments will be reviewed periodically and adjusted (up or down) to take into account any change in circumstances. Although we will try to assess whether there is anything which makes a person vulnerable, we do rely on them (or their representative) to draw to our attention anything which may affect their ability to pay.

If a person fails to co-operate (by, for example, refusing to provide information about their financial situation, or failing to pay any agreed

arrangements on time without contacting us first to agree), recovery action will be taken promptly in the ways set out above except that we will be unable to take into account the person's circumstances when deciding what action to take.

## 9.2. **Monitoring Payment Arrangements**

- All payment plans will be closely monitored
- Further recovery action may be taken for late or missed payments
- The person owing the money is responsible for making sure that payment reaches the account by the due date; and
- When a person fails to pay for the first time following an arrangement, we will send a written notice telling them to pay. This also gives the person the opportunity to tell us of a change of circumstances.

## 10. **VULNERABLE PEOPLE**

### 10.1 These may include (for example)

- People who are elderly or over 80 years of age
- People who are severely ill or disabled
- People with young children and where there is severe deprivation
- People with a mental illness
- Single parents
- Recent marital break up
- People recently bereaved
- People who have an obvious difficulty in understanding written or spoken English.
- Anything else which makes a person more likely to fall into debt and less likely to be able to deal with the consequences of debt than would otherwise be the case.

10.2. We will try to identify vulnerable people as soon as we can and to take into account, when deciding how to recover the debt, their particular vulnerability

10.3. Where a debtor, or someone with knowledge of this person, suspects that they may come into this category then they should tell us as soon as possible. Where any Collection Agency is instructed to collect a

debt for us and they have reason to think that a debtor comes into this category then they should refer the debt back to us for further investigation.

11. **TRAINING**

- Although there are variations in the procedures relating to different departments, they must reflect the Council's requirement for a corporate approach to recovering debts.
- This policy will be made available to all staff dealing with income and collection recovery. This will be reinforced with training and management supervision of all staff involved in debt collection.

12. **MONITORING OUR FAIR COLLECTION AND DEBT RECOVERY POLICY**

We will monitor this policy so we can change it if it does not work. We will consider:

**Council Tax and Business Rates**

- Rate of collection
- Number of cases reaching each stage of recovery
- Number of cases being passed to collection agents
- Number of cases where recovery is suspended due to arrangements being made
- Number of complaints received where it is felt we are not following the policy and
- Number of arrangements paid or defaulted.

**Overpayment of benefits**

- Number of referrals to the Citizens Advice Bureau and other advice agencies.
- Amount of overpaid benefit recovered
- Number of people maintaining satisfactory payment arrangements
- Number of cases where no money has been received and
- Costs incurred against the amount of money recovered.

**Other Council debts**

- Level of arrears

- Number of cases reaching each stage of recovery
- Number of cases being passed to collection agents

**In addition to the above**

- Number of complaints where it is felt we are not following the policy.

**If you have difficulty in understanding anything in this document, please go to the Civic Centre, Arnot Hill Park, Nottingham NG5 6LU, where we can call in an interpreter for you through the National Interpreting Service.**

**CONTACT DETAILS:**

**Gedling Borough Council:** Civic Centre, Arnot Hill Park, Arnold, Nottingham NG5 6LU

Opening hours: Mon to Thurs 8.00 am – 5.15 pm Fri 8.00 am – 4.45 pm

Tel: 0115 901 3950  
 Fax: 0115 901 3921  
 Minicom: 0115 901 3935  
 Website: [www.gedling.gov.uk](http://www.gedling.gov.uk)  
 Email: [counciltax@gedling.gov.uk](mailto:counciltax@gedling.gov.uk)

**Benefit and Income Maximisation Officer:**

Gedling Borough Council's Benefit and Income Maximisation Officer can advise customers and ensure they are in receipt of relevant Benefits.

Tel: 0115 901 3626 or 07973 476684.

**Contact details for free and independent Advice Agencies:**

**Nottingham & District Citizens Advice Bureau:** 32-36 Carrington Street, Nottingham. NG1 7FG

Tel: 0115 938 8050  
 Fax: 0115 958 5628  
 Websites: [www.nottinghamcab.org.uk](http://www.nottinghamcab.org.uk)  
[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**National Debtline:** Tricorn House, 51-53 Hagley Road, Edgbaston, Birmingham. B16 8TP



Tel: 0808 808 4000 Mon to Fri 9am-9pm Sat 9.30am-1pm  
Fax: 0121 410 6230  
Website: [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)

**Nottingham Welfare Rights Service:** Contact on 0115 915 1355 or  
[http://www.nottinghamcity.gov.uk/sitemap/services/health\\_and\\_social\\_care/welfare\\_rights/local\\_advice\\_centres/welfare-rights.htm](http://www.nottinghamcity.gov.uk/sitemap/services/health_and_social_care/welfare_rights/local_advice_centres/welfare-rights.htm)