Appendix 2

Council Tax Recovery

The recovery of unpaid Council Tax is prescribed in the Council Tax (Administration & Enforcement) Regulations 1992 and in subsequent Regulations and amendments.

The administration, collection and recovery rests with the Council’s Section 151 Officer.

Our aim is to collect the Council Tax promptly and efficiently in order to prevent debt and recovery action escalating.

A Council Tax bill has an instalment profile with payments due on the date stated. Payments can be made on a weekly, fortnightly or monthly basis.

The Council believes that preventing arrears from building up is essential and we will take the follow actions to achieve this:

* We offer two dates for direct debit payments as we recognise that this is a proven cost effective method for ensuring that customers payments are made on time
* We offer a wide choice of other payment options that we advertise on all our bills and recovery documents
* We issue reminders, cancellation notices and summonses in accordance with an annual recovery timetable.
* We provide up to date advice on reductions, exemptions and reliefs and on how to pay our website and in our leaflets and other contacts with our customers.
* We will not refuse any payment which reduces the debt. However, if it is less than the requested amount, or does not reduce the on-going liability, then further recovery action may continue

When a person liable for Council Tax has not made the payments as set in their latest bill, we will take the following action in accordance with the annual recovery timetable:

## Reminders

If a statutory instalment is not paid, we may send an SMS text reminder where we have contact telephone numbers and an instalment is more than seven day days in arrears. A reminder notice will then be issued after 12 days have passed from the date the payment was due. This will ask for the outstanding payments to be brought up to date within the next seven days.

If, after a first reminder has been sent, the customer pays the required amount within the specified time period, and the customer’s instalments fall behind a second time, a second, called a final reminder notice will be issued.

## Final notices

Where the customer fails to bring their account up to date in accordance with a first reminder notice or a final reminder notice, then they will lose their right to pay by monthly instalments.

The final notice advises that a customer has lost the right to pay by monthly instalments. The outstanding balance is required to be paid in full within seven days and will specify a date by which full payment should be made to avoid the issue of a summons. If full payment is not received by this date then a summons will be issued for the outstanding balance.

The final notice will clearly explain what is owed and the consequences of non-payment, including appropriate information on how to contact the Council to pay.

The Final Notice will also contain notice of the fees which the customer may incur under the Taking Control of Goods Regulations 2013, if the Council subsequently issues a summons and then obtains a Liability Order and if the debt is referred to an enforcement agent.

## Summons

A summons will be issued where the full balance on the final notice letter has not been paid in full, by the date stated on the letter. The Council will lay a Complaint before the South and West Devon Magistrates Court. The schedule of cases will be signed by a Legal Advisor, who will have delegated authority under the legislation relating to the procedures to be followed in the Magistrates Courts.

The summonses and signatures are in a format agreed with the South and West Devon Magistrates Court in accordance with the Magistrates Court Act 1980 and other relevant legislation.

The summons will include an arrangement which the customer may pay to clear the debt, however, this arrangement will include £85.00 costs, £60.00 of which are incurred in the issue of the summons and a further £25.00 relating to the costs incurred in obtaining a Liability Order. Provided these payments are made by the due dates then no further action will be taken.

The summons will clearly explain what is owed and the consequences of non- payment, including appropriate information on how to contact the Council and how to pay. Customers will be encouraged to make contact if they disagree with the amount owed or are experiencing difficulty in making payments.

Unless the council has made a mistake in issuing the summons, proceedings will only be stopped if the debt and costs are paid in full prior to the court date. At this stage, we still make arrangements to pay but this does not stop the application to the court for a Liability Order. We will not refuse part payments in order to reduce the debt.

## Liability Order

If the outstanding balance is not paid in full by the court date, then the Council will make an application to the South and West Devon Magistrates Court for a Liability Order to be made, together with the Council’s application for costs.

When making the application for the Liability Order, the Council will be required to evidence the date on which the Council Tax charge and the Council’s revenue budget was set for the relevant financial year.

The Council will also be required to evidence that bills, reminder notices and, where required, final notices have been issued, together with the method of service used and the date of posting of the summons.

The Magistrates are required to grant the application for the issue of a Liability Order if they are satisfied that:

* The Council Tax charge has been set,
* The required noticed have been issued and;
* The debt has not been paid in full.

### Defences include the following;

* No entry for the property in the Valuation List.
* The Council Tax charge has not been properly set by the Council.
* The demand notice, or reminder notices or summons have not been served correctly
* More than six years have elapse since the date on which the balance became due
* The outstanding balance has been paid, or a payment has been misallocated, will require supporting evidence to be produced.
* Insolvency proceedings have commenced.

### The following defences are not considered valid;

Any matter which could be subject of an appeal to a Valuation Tribunal under Section 16 or 24 of the Local Government Finance Act 1982. Therefore enforcement action could be commenced even if there is an appeal outstanding. These may include:

* Whether a person should be the liable person, or
* Entitlements to discounts, or relief, or
* Whether a dwelling is a chargeable dwelling, or
* An appeal against the valuation band

## Recovery action after a Liability Order is made

Once the council has obtained a Liability Order this provides the Council with a range of options which may be used to recover the debt, including:

### Attachments to Earnings (AOE)

If the Council has employment details for a customer, it may apply an Attachment of Earnings Order. This Order is issued to the customer’s employer, who will then have a duty to make a percentage deduction from the customer’s earning and pay this amount directly to the Council. The deduction rates are set by Government and the Council nor the employer has discretion relating to the level of deduction applied.

The Order is made in accordance with The Council Tax (Administration and Enforcement) Regulations 1992. The employer may make an additional £1 deduction from each pay period deductions are applied.

Up to two Attachment of Earnings Orders can be applied at any one time. When calculating the level of deduction for the second order, the employee’s net pay will be reduced to reflect the amount deduction applied to the first order and the relevant percentage deduction applied to that figure.

Once an Attachment of Earnings Order has been made, the Council will not withdraw it unless:

* Full payment has been made
* The customer can demonstrate that the Order is causing them severe financial hardship or would place them at risk of losing their home.

An employer may be liable for a fine if they do not comply with a CTAEO.

### Attachment of Benefits (AOB)

The Council may seek to make deductions directly from a customer’s prescribed DWP Benefit. An AOB can be applied to the following benefits:

* Job Seeker’s Allowance (Income Based)
* Income Support
* Guaranteed Pension Credits
* Employed Support Allowance (Income Related)
* Universal Credit

Deductions made from DWP Benefits will be paid directly to the Council until the debt is repaid or the benefit entitlement ceases.

### Enforcement Agent

If the Court makes a Liability Order and this is referred to an Enforcement Agent, then a Notice of Enforcement will be issued advising the customer of the fees that may be incurred. This is in accordance with the Taking Control of Goods Regulations 2013 and 2014.

More detail relating to referrals to Enforcement Agents can be found in the Fair Debt Policy.

### Charging Orders, Insolvency and Committal

In cases where previous recovery activity has been unsuccessful, the Council will consider further action in the form of Charging Orders, Insolvency Proceedings and Committal to Prison.

More detail relating to referrals to Charging Orders, Insolvency and Committal can be found in the Fair Debt Policy.