

# Council Tax, Business Rates and Housing Benefit Overpayment Debt Collection Policy

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## 1.0 Introduction

- Shropshire Council has a legal duty to all residents, businesses, and other organisations to ensure the prompt and effective billing and collection of all sums due to the Council. Delays in collection and non-payment of debt lead to less overall income, higher administrative costs, and reduced resources available for the provision of essential services.
- We are aware that people fall into arrears for a number of different reasons. We are conscious that some people fall regularly into arrears, and other people are in arrears for the first time due to losing employment for example. We are committed that everyone will be treated sensitively, fairly, and realistically. We would stress that this is a two-way process and that taxpayers need to be confident enough to approach us and are willing to take steps to sort out their problems themselves, if we are going to have any chance of helping them.

## 1.1 Scope of the Policy

- The Revenues and Benefits Service is responsible for the assessment and collection of Council Tax and Business Rates, and for the collection of overpaid Housing Benefit.
- This policy relates specifically to the collection of the revenues detailed below.
  - Council Tax
  - Business Rates
  - Housing Benefit Overpayment
- The policy will be reviewed every three years to ensure it remains relevant, valid and in line with good practice.

## 1.2 Intention of the Debt Collection Policy

- The policy details the principles to be applied by the Council when undertaking the collection and enforcement of money from both residents and businesses.
- It explains how we will attempt to maximise debt recovery while treating people fairly and with respect
- It details the processes to be followed when making decisions about debt recovery that can have a wide-reaching effect on the Council's customers
- It recognises the value of early and quality assured, free, independent and impartial money advice and the importance that debt reduction and income maximisation can have on the Council's customers who have fallen into debt. It draws on links with our partners, stakeholders and other outside organisations to ensure the approach is widely understood.

### 1.3 Promoting Good Practice

- When developing this policy, the Council has considered national best practice guides including
- **DCLG** – Council Tax, Guidance to local councils on good practice in the collection of Council Tax arrears. Available at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/210478/Guidance\\_on\\_enforcement\\_of\\_CT\\_arrears.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210478/Guidance_on_enforcement_of_CT_arrears.pdf)
- **Ministry of Justice** – Taking Control of Goods: National Standards. Available at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/353396/taking-control-of-goods-national-standards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/353396/taking-control-of-goods-national-standards.pdf)
- **DWP** – Pursuing Housing Benefit overpayment recovery effectively. Available at  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/404182/housing-benefit-overpayment-recovery-good-practice-guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404182/housing-benefit-overpayment-recovery-good-practice-guide.pdf)
- **CAB** – Shropshire Council has given full consideration to the Collection of Council Tax arrears good practice protocol. Available at  
[https://www.citizensadvice.org.uk/global/migrated\\_documents/corporate/pdf-ct-protocol2013.pdf](https://www.citizensadvice.org.uk/global/migrated_documents/corporate/pdf-ct-protocol2013.pdf)

### 1.4 Debt Monitoring

- The Revenues and Benefits Service monitor the level of outstanding debt monthly in respect of Council Tax, Business Rates and Housing Benefit Overpayment

## 2.0 Who pays what?

### 2.1 Council Tax

- The Council has a statutory duty to bill and collect Council Tax to over 145,000 households in Shropshire. Council Tax is collected in respect of precepts levied by Shropshire Council, West Mercia Police and Crime Commissioner, Shropshire and Wrekin Fire and Rescue Authority, and local Town and Parish Councils. The level of Council Tax is set each year by full resolution of Shropshire Council. The Revenues Teams assess who is liable for Council Tax and award any discounts and exemptions that may apply. The Benefits Teams assess applications for Council Tax Support. Council Tax bills are issued detailing what is due to be paid and when.

### 2.2 Business Rates

- The Council has a statutory duty to bill and collect Business Rates from over 12,500 businesses in Shropshire. The Business Rates Team assesses who should pay the rate and awards any reliefs or exemptions that are applicable. Each year the Government set a multiplier, which is multiplied by the rateable value of each business to set the annual rate. Business Rates bills are issued detailing what is due to be paid and when.

### 2.3 Housing Benefit Overpayment

- Housing Benefit Overpayments occur when people have a change in their circumstances (such as an increase in their income) which results in a claimant being paid more Housing Benefit than they are entitled to.

## 3.0 KEY MESSAGE - Please get in contact

- The key message for customers in arrears/debt with their Council Tax, Business Rates or Housing Benefit Overpayment has to be that they need to get in contact with the Recovery Team as soon as possible in order to:
  - i) Make us aware of their situation
  - ii) Enable us to evaluate their situation by completing an income and expenditure form
  - iii) Make any recommendations of any other discounts or exemptions that they may be entitled to
  - iv) Explore whether they may be entitled to Council Tax Support

- v) Explore whether they may be entitled to any other welfare benefit
  - vi) Refer to an appropriate advice agency for any third-party assistance.
  - vii) Decide on the most appropriate course of action to take. This may result in making an appropriate payment arrangement or in applying for an attachment of benefit or attachment of earnings order.
- ***The most important thing is that the debtor must show willing to work with the revenues and benefits team to take responsibility and improve their situation.***
  - They may be in arrears due to different circumstances such as
    - i) Poor money management
    - ii) Inappropriate expenditure on non-priority items
    - iii) Reduced earnings requiring an evaluation of lifestyle
    - iv) Unaware of entitlement to benefits or discount
    - v) Illness/disability
    - vi) Low wage
    - vii) Irregular income
    - viii) Relationship break up
    - ix) Any combination of the above
  - We are aware that people fall into arrears for a number of different reasons. We are conscious that some people fall regularly into arrears, and other people are in arrears for the first time due to losing employment for example. We are committed to ensuring that everyone will be treated sensitively, fairly, and realistically. We would stress that this is a two-way process and that taxpayers need to be confident enough to approach us and are willing to take steps to sort out their problems themselves, if we are going to have any chance of helping them. We will encourage this through use of media messaging and material across a range of communication channels
  - If people fail to contact the Recovery Team to make us aware of their situation the likelihood is that enforcement action will continue which may involve the use of the Council's enforcement agent to enforce the debt.

### 3.1 Our commitment to you

- At Shropshire Council we are committed to helping you manage your debts. We fully appreciate that Council Tax can be a high proportion of household income, Business Rates can be a large expense for a businesses and Housing Benefit Overpayments can amount to large sums of money. We promise that if you contact us about your arrears, we will do the following: -
  - The Council will deal with you sensitively, professionally, and courteously regardless of your age, disability, gender reassignment, marriage and civil partnership arrangement, pregnancy, race, religion or belief, sex, or sexual

orientation. This is in line with the nine protected characteristics groupings of people, as set out in the Equality Act 2010

- The Council will take steps to ensure that we have made the appropriate checks to ensure inappropriate enforcement action is not taken against potentially vulnerable individuals. This is in line with our tenth category of groupings in Shropshire, of Social Inclusion, in which we include vulnerable people
- The Council will listen to what you have to say and offer advice concerning any entitlement that you may have to any welfare benefit or Council Tax discount and exemption to the best of our ability
- The Council will consider your personal and financial circumstances and in doing so may suggest alternative general spending arrangements that may better enable you to pay your debt
- The Council will ensure that all documentation issued is clear and concise, and that at each stage information is provided about what the bill payer can do to avoid the situation progressing, where the bill payer can get independent help and advice, what costs, if any, may be incurred, and what the next stage will be. A list of advertised advice agencies is at appendix D.

### 3.2 Vulnerable People

- The Council will ensure that it does not take inappropriate enforcement action in respect of vulnerable persons. Debtors who may be considered vulnerable may include persons
  - With medical conditions such as mental ill health, terminal illnesses
  - With a learning disability
  - With a physical disability or who may be housebound
  - Who are illiterate or unable to speak English
  - With an alcohol/drugs or gambling addiction
  - Fleeing domestic violence or other violence and have the support of either the police, or a statutory or voluntary agency
  - Who are prison leavers being supported by an appropriate organisation or agency
  - Who have a temporary change in their life such as a relationship breakdown or bereavement which may mean they need support on a short-term basis
  - Who have severe debt problems
  - That are subject to mortgage possession proceedings
  - Suffering any form of harassment
- This list is not exhaustive but may act as a guide.
- Where it appears to the Council that a debtor may fall into one of the above categories the following action may be taken
  - Other potential Council debt collection services will be notified to check the debtor on their records
  - All enforcement action will be suspended



- A check will be made on the Social Services and Housing systems to see if the individual is listed on their records
- Information may be sought from third party support organisations for further information

### **3.3 What we expect from you**

- In response, our staff expect to be treated with courtesy and respect. Our staff and other customers should not be expected to deal with violent, rude or disruptive customers.
- Where staff are met by violent, rude or aggressive behaviour they will ask the customer to refrain from further behaviour of that type. If behaviour continues then the interaction may be terminated.

### **3.4 Working in partnership**

- We work in partnership with other specialist companies to recover unpaid Council Tax. External companies are used for tracing absconders, enforcement agencies, insolvency work and debt collection work.

## 4.0 Council Tax Recovery

### 4.1 Council Tax Bills

- The Council has to follow regulations in the collection of Council Tax. The regulations are [The Council Tax \(Administration and Enforcement\) Regulations 1992 \(legislation.gov.uk\)](http://legislation.gov.uk).
- The Council follows the statutory instalment scheme for collection of Council Tax which requires payments in ten monthly instalments. (with effect from 1 April 2013 Council Taxpayers can request payment by twelve monthly instalments)
- The Council offers twelve monthly instalments and four payment dates to taxpayers who agree to set up a direct debit as it is the cheapest and safest method of payment.
- The Council aims to assess all passported claims for Council Tax Support prior to either sending a Council Tax bill, or, taking any enforcement action against the claimant.
- A flow chart detailing the Council Tax recovery process is at appendix E.

### 4.2 Payment Arrangements

- The Council may ask a taxpayer who contacts the Council to complete an Income and Expenditure form at any stage to allow us to fully understand your circumstances and enter into an appropriate payment arrangement. The Council are unlikely to enter into a payment arrangement with a taxpayer unless a fully completed income and expenditure form is returned to the Council.
- The Council may on occasion ask for clarification of certain items on the income and expenditure form and may ask the taxpayer to evidence certain details supplied by the taxpayer.

### 4.3 Council Tax Reminders and Final Notices

- If an instalment is not paid then the council must issue a reminder notice to the taxpayer.
- If the taxpayer fails to pay the amount detailed on the reminder notice a (discretionary) final notice is issued to advise that the full amount for the year has become due and payable
- If the taxpayer pays the balance on the reminder notice but fails to pay a future instalment on time a second reminder notice is issued
- If the taxpayer pays the balance on the second reminder notices but fails to pay a future instalment on time, then the balance for the year becomes due and a final notice is issued
- The revenues staff have discretion to withdraw a final notice if the taxpayer brings the account up to date and agrees to pay the remaining instalments by direct debit

#### 4.4 Summons and Magistrates Court

- If the taxpayer fails to pay the full balance as detailed in the final notice a summons to magistrates court is issued incurring £35.00 court costs (sum correct as at 1 April 2021).
- At the court hearing the Council will ask the Magistrates to award a Liability Order and a further £35.00 costs (sum correct as at 1 April 2021).
- The court costs charged are reviewed every year to confirm that they are reasonable and only charged in accordance with regulations.

#### 4.5 Council Tax Enforcement

- A Liability Order gives the Council certain powers that it can use to secure the debt. There are detailed rules that govern how the Council uses these powers. In the main these powers are:
  - Request for Information
  - Attachment of earnings
  - Attachment of benefit
  - Pass to enforcement agent for collection
  - Charging Order
  - Bankruptcy or winding up procedure
  - Committal to Prison
- The Council will normally prioritise an attachment of earnings or attachment of benefit order over other enforcement options if the information is available to do so. There may be circumstances, however, when other options will be considered. The Council will not consider charging orders and bankruptcy for enforcement unless attachment orders and enforcement agent action have been considered.

#### 4.5 Request for Information

- The Council has to decide the most appropriate method of enforcement to use in each case. ***We will always ensure that a request for information form is sent asking for details of a person's earnings and benefits entitlement, as well as a means enquiry form prior to taking any other form of enforcement action.*** If this form is completed by the debtor and returned to the Council, we will have a better understanding of the debtor's circumstances and hopefully be able to either apply for an attachment of earnings or benefit or make an appropriate payment arrangement.
- The Council will only consider relevant expenditure or outgoings when assessing a taxpayer's ability to pay. More information on how we assess this is included below.

#### **4.7 Attachment of Earnings/Benefit**

- Once a Liability Order is awarded the Council's preferred method of enforcement is by Attachment of Earnings.
- If the debtor is on a low income and is in receipt of an attachable benefit, then the Council will apply for an attachment of earnings. The Council can apply for two attachment of earnings orders at any one time but there are strict rules surrounding how different attachment of earnings orders are applied by employees and there are circumstances when an employer may not be able to action an attachment of earnings.
- The rates of deduction from either earnings or benefit are set regulations and the rates are detailed at appendix A.

#### **4.8 Enforcement Agents – The use of Enforcement Agents for Council Tax**

- The Council uses a company of certified enforcement agents for enforcement of unpaid Council Tax and Business Rates
- The Council has a service level agreement with the enforcement agent and a strict code of practice that it expects the enforcement agent to adhere to.
- The Council undertake regular monitoring of cases that have been passed to its enforcement agent to ensure enforcement agent activity is within the code of practice and enforcement agent fees have been applied correctly to taxpayer's accounts. Enforcement agent fees in relation to Council Tax enforcement are set out in Council Tax regulations. The level of enforcement agent fees that may be charged are set out in appendix B.
- The Council has regular quarterly meeting with its enforcement agent to discuss progress of accounts collection, any issues outstanding, any complaints received, and action taken.
- The enforcement agent is required to send a copy of any complaint received and a copy of their response to the Revenues and Benefits Service Manager.
- The Council will pass a case to the enforcement agent in the following circumstances
  - No contact has been received from the taxpayer
  - The taxpayer has consistently failed to adhere to payment arrangements that have been made
  - The taxpayer is not willing to enter into meaningful discussion about their income and expenditure and enter into an appropriate payment arrangement
  - The Council has been unable to secure an attachment of earnings or attachment of benefit order
  - The taxpayer has ignored the latest communication sent by the Council in relation to the debt
- The Council, or the Enforcement Agent will always issue a warning letter to the taxpayer prior to passing their case through to Compliance Stage with an accompanying income and expenditure form to enable the taxpayer to enter into meaningful communication with the Council and avoid enforcement agents being utilised.

- The Council generally do not recall a case once it has been sent to the enforcement agents, but may review this in the following circumstances
  - The debtor subsequently appears to be a vulnerable person
  - The Council becomes aware of the debtor's employment status and believes that an attachment of earnings would be a more suitable collection method. (The Council will include enforcement agent fees that have been incurred in the attachment of earnings order).
  - The Council becomes aware that the debtor is in receipt of Income Support
- Where a Council Taxpayer has sought debt advice and is committed to repaying their Council Tax arrears the Council will take this into account and may instruct the enforcement agent to accept a reduced offer of payment. Before making this decision, the Council will also consider any additional information that is made available from the enforcement agent.

#### 4.9 Charging Orders/Bankruptcy/Committal

- In accordance with the Council tax (Administration and Enforcement) Regulations 1992 if the total debt outstanding is in excess of £1,000 the Council may apply to the County Court for a Charging Order imposing on any interest held beneficially by the debtor in the relevant designated dwelling, a charge for securing the due amount. The due amount will be the aggregate of the amount outstanding under the Liability Order plus a sum equal to the reasonably incurred costs.
- The Council will consider applying for a charging order, initiating bankruptcy or Committal to prison in the following circumstances:
  - The Council has been unable to secure an attachment of earnings or attachment of benefit order
  - The Council's enforcement agent has been unable to secure payment of the outstanding debt
  - The taxpayer is not willing to enter into meaningful discussion about their income and expenditure and enter into an appropriate payment arrangement
  - The taxpayer has consistently failed to adhere to payment arrangements that have been made
  - The Council is satisfied that no other person would be likely to be unduly prejudiced by the chosen means of enforcement
  - The Council has made reasonable efforts to contact the debtor in person to discuss the outstanding debt including a visit to the debtors property
  - A Revenues Team Leader has reviewed the case to consider whether the chosen means of enforcement is a fair and proportionate action
  - The Council has undertaken internal checks with its social care teams to ensure that the debtor is not a known vulnerable person
  - The debtor has had written warning of the consequences of the chosen means of enforcement and that the council is considering this as a means of enforcement, including signposting the debtor to a relevant advice agency

#### **4.10 Council Tax Support**

- In 2018 the Council amended its Council Tax Support scheme and introduced 20% a minimum payment into its Council Tax Support scheme for working age claimants
- Collection of council tax from working age council tax support claimants is dealt with sensitively.

#### **4.11 Council Tax Discretionary Discount under LGFA Section 13A (1) (c)**

- Under LGFA Section 13A (1) (c) the Council retains the discretion to reduce the council due of any council taxpayer as it sees fit.
- The Councils policy, explanatory notes and an application form (where the application for discount is due to financial hardship) can be accessed from the link below
- <https://shropshire.gov.uk/council-tax/discountsdisregards-exemptions-and-reductions-for-disabilities/discounts/>

## 5.0 Business Rates Recovery

### 5.1 Business Rates Bills

- The Council has to follow regulations in the collection of Non-Domestic Rates (Business Rates). The regulations [The Non-Domestic Rating \(Collection and Enforcement\) \(Local Lists\) Regulations 1989 \(legislation.gov.uk\)](#).
- The Council follows the statutory instalment scheme for collection of Business Rates which requires payments in ten/twelve monthly instalments.
- The Council offers twelve monthly instalments and four payment dates to ratepayers who agree to set up a direct debit as it is the cheapest and safest method of payment.
- A flow chart detailing the Business Rates recovery process is at appendix F.

### 5.2 Business Rates - Payment Arrangements

- The Council may ask a ratepayer who contacts the Council to complete an Income and Expenditure form at any stage to allow us to fully understand your circumstances and enter into an appropriate payment arrangement. The Council are unlikely to enter into a payment arrangement with a taxpayer unless a fully completed income and expenditure form is returned to the Council.
- The Council may on occasion ask for clarification of certain items on the income and expenditure form and may ask the taxpayer to evidence certain details supplied by the taxpayer. Please see section on Interpreting Debtors Expenditure for further details.

### 5.3 Business Rates Reminders and Final Notices

- If an instalment is not paid then the Council must issue a reminder notice to the ratepayer.
- If after receiving a reminder the ratepayer brings their instalments up to date but subsequently falls behind again the Council will issue a final notice and the ratepayer will lose the right to pay by monthly instalments and the whole amount for the year will become due.
- The revenues staff has discretion to withdraw a final notice if the ratepayer brings the account up to date and agrees to pay the remaining instalments by direct debit.

### 5.4 Summons and Magistrates Court

- If the ratepayer fails to pay the full balance as detailed in the final notice a summons to magistrates court is issued incurring £35.00 court costs (sum correct as at 1 April 2016).

- The revenues staff will seek to enter into arrangements at this stage, but the Council will still proceed to court for a Liability Order.
- At the court hearing the Council will ask the Magistrates to award a Liability Order and a further £35.00 costs (sum correct as at 1 April 2016).
- Making an appeal against a rating assessment to the Valuation Office is not a valid defence against the issue of a Liability Order.

### **5.5 Business Rates Enforcement**

- A Liability Order gives the Council certain powers that it can use to secure the debt. There are detailed rules that govern how the Council uses these powers. In the main these powers are: -
  - Pass to enforcement agent for collection
  - Bankruptcy or winding up procedure
  - Charging Orders
  - Committal to Prison

### **5.6 Enforcement agents – The Use of Enforcement Agents for Business Rates**

- The Council uses a company of certified enforcement agents for enforcement of unpaid Council Tax and Business Rates.
- The Council has a service level agreement with the enforcement agent and a strict code of practice that it expects the enforcement agent to adhere to.
- The Council undertake regular monitoring of cases that have been passed to its enforcement agent to ensure enforcement agent activity is within the code of practice and enforcement agent fees have been applied correctly to taxpayer's accounts. Enforcement agent fees in relation to Business Rates enforcement are set out in Business Rate regulations. The level of enforcement agent fees that may be charged are set out in Appendix B.
- The Council has regular quarterly meeting with its enforcement agent to discuss progress of accounts collection, any issues outstanding, any complaints received, and action taken.
- The Council will pass a case to the enforcement agent in the following circumstances: -
  - No contact has been received from the ratepayer.
  - The ratepayer has consistently failed to adhere to payment arrangements that have been made.
  - The ratepayer is not willing to enter into meaningful discussion about their income and expenditure and enter into an appropriate payment arrangement.
  - The taxpayer has ignored the latest communication sent by the Council in relation to the debt.



- The Council will always issue a warning letter to the ratepayer prior to passing their case to the enforcement agent.
- Anyone who appears to the Council to be a vulnerable person will not have their Business Rates Liability Order passed to the enforcement agent for collection. Our guidelines for who we would consider to be a vulnerable person are set out in Section 8.4 below.
- The Council generally do not recall a case once it has been sent to the enforcement agents, but may review this in the following circumstances:
  - The debtor subsequently appears to be a vulnerable person.

### **5.7 Bankruptcy and Insolvency/ Committal to Prison (if sole trader)**

- The Authority will consider bankruptcy/insolvency and committal proceedings in order to collect Business Rates arrears.
- The Council will consider bankruptcy/insolvency and committal as a means of enforcement in the following circumstances: -
  - The ratepayer is not willing to enter into meaningful discussion about their income and expenditure and enter into an appropriate payment arrangement (if sole trader).
  - The ratepayer has consistently failed to adhere to payment arrangements that have been made.
  - The Council is satisfied that no other person would be likely to be unduly prejudiced by the making of the order.
  - The Council has made reasonable efforts to contact the ratepayer in person to discuss the outstanding debt including a visit to the debtors property (if applicable e.g. sole trader).
  - A Revenues Team Leader has reviewed the case to consider whether the chosen means of enforcement is a fair and proportionate action.
  - The Council has undertaken internal checks with its social services teams to ensure that the debtor is not a known vulnerable person (if sole trader).
  - The debtor has had written warning of the consequences of the chosen means of enforcement and that the council is considering this as a **means** of enforcement, including signposting the debtor to a relevant advice agency (if sole trader).
  - The Council has taken full consideration on the effects on the local community in relation to the business no longer trading.

## 6.0 Housing Benefit Overpayment

- Housing Benefit overpayments are recovered in accordance with Regulations 99-107 of the Housing Benefit (General) Regulations 2006 (as amended) and with Regulations 80-88 of the Housing Benefit (State Pension Credit) Regulations 2006.
- This policy provides an overview of how Housing Benefit Overpayment may occur and recognises that there is detailed legislation and case law concerning administration of the Benefits System.
- This Policy is designed to provide guidance about how the Authority will recover an overpayment and does not cover wider administration of Housing Benefit.

## 6.1 What causes Housing Benefit Overpayments

- Benefit overpayments can occur for a number of reasons including
  - Local Authority Error
  - DWP Error
  - Claimant Error
  - Third Party Error
  - It is no one's fault
  - Other

## 6.2 Which Overpayments are Recoverable?

- An overpayment is recoverable if
  - It arose because of 'official error' and the claimant or someone acting on their behalf could reasonably have been expected to realise it was an overpayment
  - It is due to an error (or fraud) of the claimant or third party
  - It is no one's fault

## 6.3 How we decide if we should recover the Overpayment

- The Council has a degree of discretion whether to recover an overpayment. Personal circumstances are always considered before deciding to recover any outstanding amounts
- The Council may decide not to recover an overpayment where the claimant circumstances are exceptional, or where the Council considers the claimant to be a vulnerable person. (See Section 8.4 below)

- Current subsidy arrangements penalise the Council financially if we decide not to recover the majority of overpayments. Consequently, the Council must carefully consider any decision to attempt to recover an overpayment (or not), bearing in mind the wider and potentially significant financial implications for the Council.

#### **6.4 Notification of Overpayments**

- Any claimant asked to repay an overpayment must receive notification. This notification must confirm:
  - That an overpayment has occurred and whether it is recoverable
  - The reason for the overpayment
  - The amount of the overpayment
  - How the overpayment was calculated
  - The dates the overpayment covers
  - The amount of the deduction from ongoing benefit (if appropriate)
  - The right of appeal

#### **6.5 Who we should recover from?**

- Overpayments can be recovered from the claimant, the person acting on the claimant's behalf and/or from the person to whom it was paid. We are also able to recover from landlords when they have received the money directly.

#### **6.6 Methods of Recovery**

- There are several methods of recovery for overpaid Housing Benefit.
  - From arrears of Housing Benefit that become payable while there is an outstanding overpayment
  - By deduction from ongoing Housing Benefit
  - By deduction from the partner's ongoing Housing Benefit, as long as the claimant and partner were a couple at both the time of the overpayment and when deductions are being made
  - By deduction from certain DWP benefits
  - By applying to another Local Authority to ask them to deduct the overpayment from the claimant's ongoing Housing Benefit entitlement in their area
  - By recovering from Housing Benefit paid to a landlord/agent for another tenant. i.e. when the landlord has been classed as responsible for the overpayment
  - By invoicing the affected person for the amount outstanding

- By Direct Earnings Attachment
- By civil proceedings
- From the estate of a deceased person who has an overpayment
- By asking an enforcement agent to collect the debt on behalf of the Council

### **6.7 Deductions from Ongoing Benefit**

- We will usually deduct a recoverable overpayment of Housing Benefit from ongoing Housing Benefit which could be paid to the claimant, landlord, appointee or agent. The maximum rates of recovery are set out by the Government each year. The rates for 2016-17 are set out at Appendix C.
- In order to recover from ongoing Housing Benefit entitlement, the claimant must have a minimum entitlement to Housing Benefit of £1.00 and be left with a minimum of 50p per week.
- Where a claimant contacts the Council and states that the level of recovery is causing financial hardship, they will be asked to complete an income and expenditure form. The Council will then decide based on this information whether to arrange for a lower amount to be recovered.
- Should a claimant wish to repay an overpayment at a higher rate, we can accept this as long as it does not exceed the customer's ability to make the payments.
- In order to maximise recovery, the Council periodically runs a report to identify all claims where we could potentially be recovering an overpayment at a higher weekly account. Any identified claims are reviewed to decide whether it is appropriate to do so.

### **6.8 Raising a Sundry Debt for claimants no longer in receipt of Housing Benefit**

- Where the claimant is no longer in receipt of Housing Benefit an invoice will be raised and sent for the full balance outstanding.
- If the Invoice remains unpaid or the claimant has failed to make contact and agree a payment arrangement a reminder notice will be issued within 21 days
- If the Invoice remains unpaid or the claimant has failed to make contact and agree a payment arrangement a final notice will be issued within a further 21 days
- The Council will seek to agree an appropriate payment plan to clear the debt

- If the Invoice remains unpaid or the claimant has failed to make contact and agree a payment arrangement the debt may be passed to the Councils Enforcement Agent to contact the debtor and agree a repayment plan

### 6.9 Deduction from other DWP Benefit

- A recoverable overpayment of Housing Benefit may be deducted from the claimant's or partner's DWP benefits, but only if the overpayment was due to misrepresentation of, or failure to disclose, a material fact, and only if the authority is unable to recover overpaid Housing Benefit from future awards of Housing Benefit.
- The authority can recover from the following DWP benefits
  - Attendance Allowance (AA)
  - Bereavement Allowance (BA)
  - Carer's Allowance (CA)
  - Disability Living Allowance (DLA)
  - Employment Support Allowance (contributory) (ESA(C))
  - Employment Support Allowance (income-related) (ESA(IR))
  - Incapacity Benefit (IB)
  - Industrial Death Benefit (IDB)
  - Industrial Injuries Disablement Benefit (IIDB)
  - Income Support (IS)
  - Jobseeker's Allowance (contribution based) (JSA (C))
  - Jobseeker's Allowance (income based) (JSA(IB))
  - Maternity Allowance (MA)
  - Personal Independence Payments (PIP)
  - Severe Disablement Allowance (SDA)
  - State Pension Credit (SPC)
  - State Pension (SP)/Retirement Pension (RP)
  - Universal Credit (UC)
  - War Disablement Pension (WDP)
  - War Pension (WP)
  - Widowed Parents Allowance (WPA)
- The maximum rates of deduction from IS/JSA (IB)/PC/ESA (IR) are as set out in Appendix C. For other DWP prescribed benefits the rate of deduction can be up to one third of the debtor's personal entitlement (these rates are updated annually). The debtor can contact DWP Debt Management to request a reduction in the rate of recovery if it is causing hardship.

### 6.10 Direct Earnings Attachment

- The Welfare Reform Act 2012 supported by the Social Security (Overpayments and Recovery) Regulations 2013 introduced Direct Earnings Attachments (DEA) from April 2013.
- A DEA allows for recovery of overpaid benefit directly from a debtor's earnings without having to apply via the court system. The regulations also allow Local Authorities to recover overpayments of Housing Benefit using a DEA. Where the Council becomes aware of a debtors employment the Council will consider a DEA as a means to recover the outstanding money.
- In order to make the debtor aware that a DEA is being considered the Council will always issue a *Letter Before Action* to the debtor. The purpose of the *Letter Before Action* is to prompt the debtor to contact the Council in an attempt to seek a voluntary repayment from them without the need for a DEA. If there is no contact from the debtor, the DEA is implemented after 21 days.
- Since 2018 the Council has accessed the Housing Benefit Debt Service which provides Local Authorities with access to real time employment and income information to help with the recovery of Housing Benefit debt.

### 6.11 Blameless Tenant Recovery

- If a recoverable overpayment of Housing Benefit was paid to a landlord/agent, the overpayment can be deducted from future payments to landlords/agents in respect of another 'blameless' tenants Housing Benefit
- If the Council decides to utilise this method, we will notify the landlord/agent which tenant's Housing Benefit was overpaid and who is the blameless tenant. The blameless tenant will not be notified.

### 6.12 Recovery Through the County Court

- The Council may commence proceedings against the debtor in the County Court and obtain a County Court judgement. If the Council obtains a County Court judgement significant costs may be incurred payable by the debtor.
- A County Court Judgement will usually be entered on the register of County Court Judgements. Most entries stay on the register for six years. Organisations such as banks, building societies and credit agencies use information on the register when someone applies for credit such as a loan or overdraft and use this information to help them decide whether or not that person would be able to pay off the credit.

- The Council will send due notification to the debtor if is considering proceedings against the debtor in the County Court.

## **7.0 Debt Reduction/Income Maximisation/Expenditure Review**

### **7.1 Debt reduction and income maximisation**

- Reducing any debt outstanding and ensuring that the debtor is maximising their income should form a major part of any debt collection strategy. Revenues and Benefits Officers are trained to understand wider welfare benefits in order to be able to signpost debtors to ensure they are claiming their maximum entitlement.
- A document providing welfare benefit advice called 'A Helping Hand' is available for all officers to access. This provides an outline of all the major welfare benefits and lists relevant contact agencies and has internet links for further information.

### **7.2 Interpreting Debtors Expenditure**

- The Council has to be satisfied that all debtors are taking responsibility for their own affairs. We are conscious that many people fall into debt problems due to an inability to properly manage their financial affairs. This can be due to excessive expenditure on non-priority items such as pay TV, mobile phones, cigarettes, alcohol and other non-necessity luxury items. It may be due to taking on an unaffordable rental liability, or no longer being able to afford mortgage payments. The Council has to make a reasonable assessment whether the taxpayer has fallen into arrears because of poor financial management. The Council will work to ensure that the debtor is able to afford a re payment arrangement by taking all relevant factors into account.
- Where the debtor has entered into a contract for repayment such as pay TV or Hire Purchase items the Council may ask for confirmation of when the contract ends or payments cease in order to re adjust the payment arrangement at that time, if appropriate, to increase payments to reflect the income increase.

### **7.3 Debt Prioritisation**

- The Council is aware that people may have a number of different debts owed to either other Council departments or to other bodies. The Council will work and communicate with different bodies where relevant to ensure that any arrangements entered into with the debtor consider their wider circumstances.

#### 7.4 Breathing Space

- Breathing Space was introduced with effect from 4 May 2021. The Breathing Space Regulations give someone in problem debt the right to legal protection from their creditors for a period of time in order to put their financial affairs in order.
- Standard Breathing Space last for 60 days and must be initiated by a debt advice provider
- Mental Health Breathing Space lasts as long as a debtor is receiving mental health crisis treatment plus 30 days.
- Shropshire Council receives Breathing Space notifications and takes appropriate action to stop enforcement action while a debtor is in Breathing Space



**Appendix A – Attachment of Earnings Order Deductions**

<b>DEDUCTIONS FROM WEEKLY EARNINGS</b>	
<b>Net Earnings</b>	<b>Deduction Rate %</b>
Not Exceeding £55	0
Exceeding £55 but not exceeding £100	3
Exceeding £100 but not exceeding £135	5
Exceeding £135 but not exceeding £165	7
Exceeding £165 but not exceeding £260	12
Exceeding £260 but not exceeding £370	17
Exceeding £370	17 in respect of the first £370 and 50 in respect of the remainder

<b>DEDUCTIONS FROM MONTHLY EARNINGS</b>	
<b>Net Earnings</b>	<b>Deduction Rate %</b>
Not Exceeding £220	0
Exceeding £220 but not exceeding £400	3
Exceeding £400 but not exceeding £540	5
Exceeding £540 but not exceeding £660	7
Exceeding £660 but not exceeding £1040	12
Exceeding £1040 but not exceeding £1480	17
Exceeding £1480	17 in respect of the first £1480 and 50 in respect of the remainder

<b>DEDUCTIONS FROM DAILY EARNINGS</b>	
<b>Net Earnings</b>	<b>Deduction Rate %</b>
Not Exceeding £8	0
Exceeding £8 but not exceeding £15	3
Exceeding £15 but not exceeding £20	5
Exceeding £20but not exceeding £24	7
Exceeding £24 but not exceeding £38	12
Exceeding £38 but not exceeding £53	17
Exceeding £53	17 in respect of the first £53 and 50 in respect of the remainder

**Appendix B – Enforcement agent fees schedule**

<b>Enforcement Agent Fees</b>	
<b>Stage</b>	<b>Fee</b>
<b>Compliance</b>	£75.00
<b>Enforcement</b>	£235.00 plus 7.5% of the debt amount that exceeds £1500.00
<b>Sale</b>	£110.00 and 7.5% of the debt amount exceeding £1500.00

**Appendix C – Maximum Rates for Deductions from Ongoing Benefit 2021-22**

<b>Maximum Rates for Deductions from Ongoing Benefit 2021-22</b>	
Standard Rate	£11.25
If the claimant has been found guilty of fraud, or admitted fraud after caution	£18.75
Plus 50% of any earned income disregards	
Plus any disregard of regular charitable or voluntary payments	
£10 disregard of war disablement or bereavement pension	

## Appendix D – Useful telephone numbers

Council Tax	0345 678 9002
Recovery Team	0345 678 9002
Benefits	0345 678 9002
Payment Line	0345 678 9009
Business Rates	0345 678 9002

[Council.tax@shropshire.gov.uk](mailto:Council.tax@shropshire.gov.uk)

[Business.rates@shropshire.gov.uk](mailto:Business.rates@shropshire.gov.uk)

[benefits@shropshire.gov.uk](mailto:benefits@shropshire.gov.uk)

Revenues and Benefits

Shropshire Council

PO Box 4749

Shrewsbury

SY1 9GH

[www.shropshire.gov.uk](http://www.shropshire.gov.uk)

**Appendix E - Free, independent, and impartial money advice**

If you have run into financial difficulties, or are worried about debt and paying your bills, or just need some advice and support there are a number of organisations who offer free help and impartial advice. All of the services below are free, confidential and hold a standard accredited by the Money Advice Service [www.moneyadviceservice.org.uk](http://www.moneyadviceservice.org.uk)

<p><b>CITIZENS ADVICE BUREAU</b> Citizens Advice offers free, independent, confidential and impartial debt advice through their webchat service <a href="http://www.cabshropshire.org.uk">http://www.cabshropshire.org.uk</a> 03444 99 11 00</p>
<p><b>STEP CHANGE DEBT CHARITY</b> Step change helps change the lives of thousands of people every week. Their expert advice is impartial and personalised to each individual situation. <a href="http://www.stepchange.org">www.stepchange.org</a> 0800 138 1111</p>
<p><b>MONEY ADVISOR NETWORK</b> The Money Adviser Network offers free telephone debt advice backed by Money Helper. Provide your contact details in confidence and we'll connect you with a qualified and regulated money advice provider so you can get back on track. <a href="https://adviser.moneyhelper.org.uk">https://adviser.moneyhelper.org.uk</a></p>
<p><b>NATIONAL DEBTLINE</b> National Debtline has helped millions of people with their debts. They'll talk you through options and give clear advice on how to take back control <a href="http://www.nationaldebtline.org">www.nationaldebtline.org</a> 0808 808 4000</p>
<p><b>DEBT ADVICE FOUNDATION</b> Debt Advice Foundation is a national debt advice and education charity offering free, confidential support and advice to anyone worried about debt <a href="https://www.debtadvicefoundation.org/">https://www.debtadvicefoundation.org/</a> 0800 430 40 50</p>
<p><b>FINANCIAL WELLNESS GROUP</b> Financial Wellness Group provides free advice and solutions for people struggling with money, debt and budgeting. We have 27+ years' experience supporting people to find a route to become debt free <a href="https://www.financialwellnessgroup.co.uk/MAS">https://www.financialwellnessgroup.co.uk/MAS</a> 0161 518 8285</p>
<p><b>PAYPLAN</b> Payplan provides the debt advice and support to enable you to take charge of your finances and focus on living again <a href="http://www.payplan.com">www.payplan.com</a> 0800 280 2816</p>
<p><b>BUSINESS DEBTLINE</b> <a href="http://www.businessdebtline.org">www.businessdebtline.org</a> 08001976026</p>

## Appendix F – Glossary of Terms

**Arrangement** - An agreement between a creditor and debtor for regular monthly payments to be made to pay a debt.

**Attachment of Benefits** - Where the Council can order the DWP to deduct money directly from the debtor's benefits to pay to the Council towards the outstanding debt.

**Attachment of Earnings** – Where the Council can order the debtors employer to deduct money directly from the debtors salary to pay to the Council towards the outstanding debt.

**Bankruptcy** – a legal status of a person who cannot repay their debts where there are certain legal restrictions.

**Business Rates** – Rates payable by businesses in respect of business premises.

**Charging Orders** – An order whereby the outstanding debt must be repaid out of the proceeds of the sale of your property.

**Council Tax** – Local Authority property tax.

**Court Costs** – The Costs incurred by the debtor and payable to the Council because the Council has had to take the matter to Magistrates Court.

**Creditor** – Person who is owed money by a debtor.

**Debtor** – Person who owes money to someone else.

**Department of Work and Pensions** – Government department responsible for Housing Benefit regulations and administrative guidance

**Direct Earnings Attachment** – A Direct Earnings Attachment allows for recovery of overpaid Housing Benefit directly from a debtor's earnings without having to apply via court.

**Enforcement Agent** – formally known as bailiffs. Can visit your home if you don't pay your debts. May take some of your belongings to sell. Additional fees will be incurred.

**Final Notice** – A legal notice issued by the Council where the full amount of Council Tax or Business Rates has not been paid and needs to be paid.

**Income and Expenditure Form** – A form that the debtor should complete to provide the Council with information about their earnings and benefits, and their outgoings, to assist the Council in deciding about a realistic payment arrangement.

**Liability Order** – An order made by the Magistrates Court at the Court Hearing that gives the Council certain powers to enforce collection of the outstanding debt.

**Recovery** - The process a creditor follows to ensure that their debtor pays them their money.

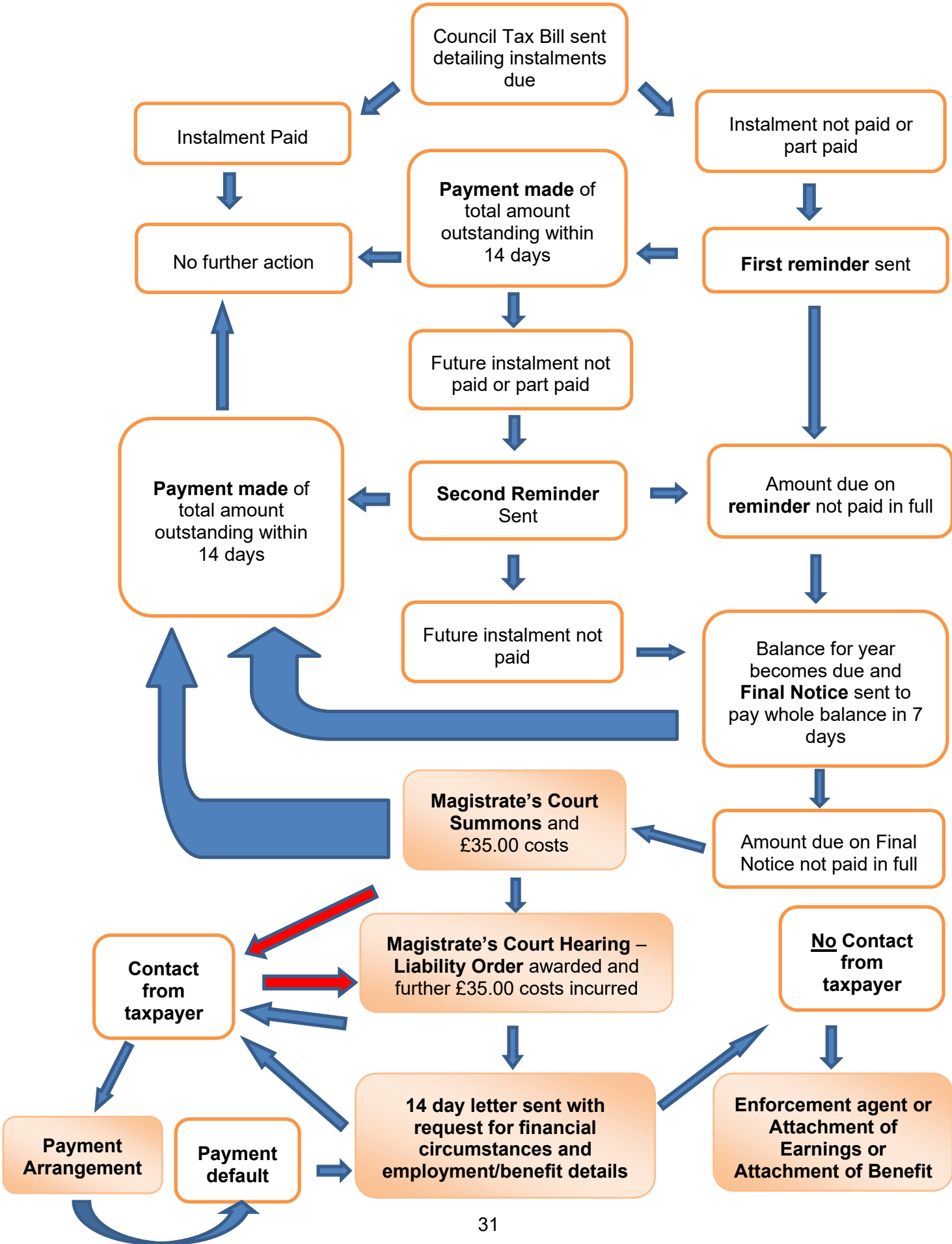
**Reminder Notice** – A legal notice issued by the Council where a Council Tax or Business Rates instalment has not been paid and needs to be paid.

**Request for Information** – A legal Notice issued by the Council asking for information about the debtor's employment or benefits.

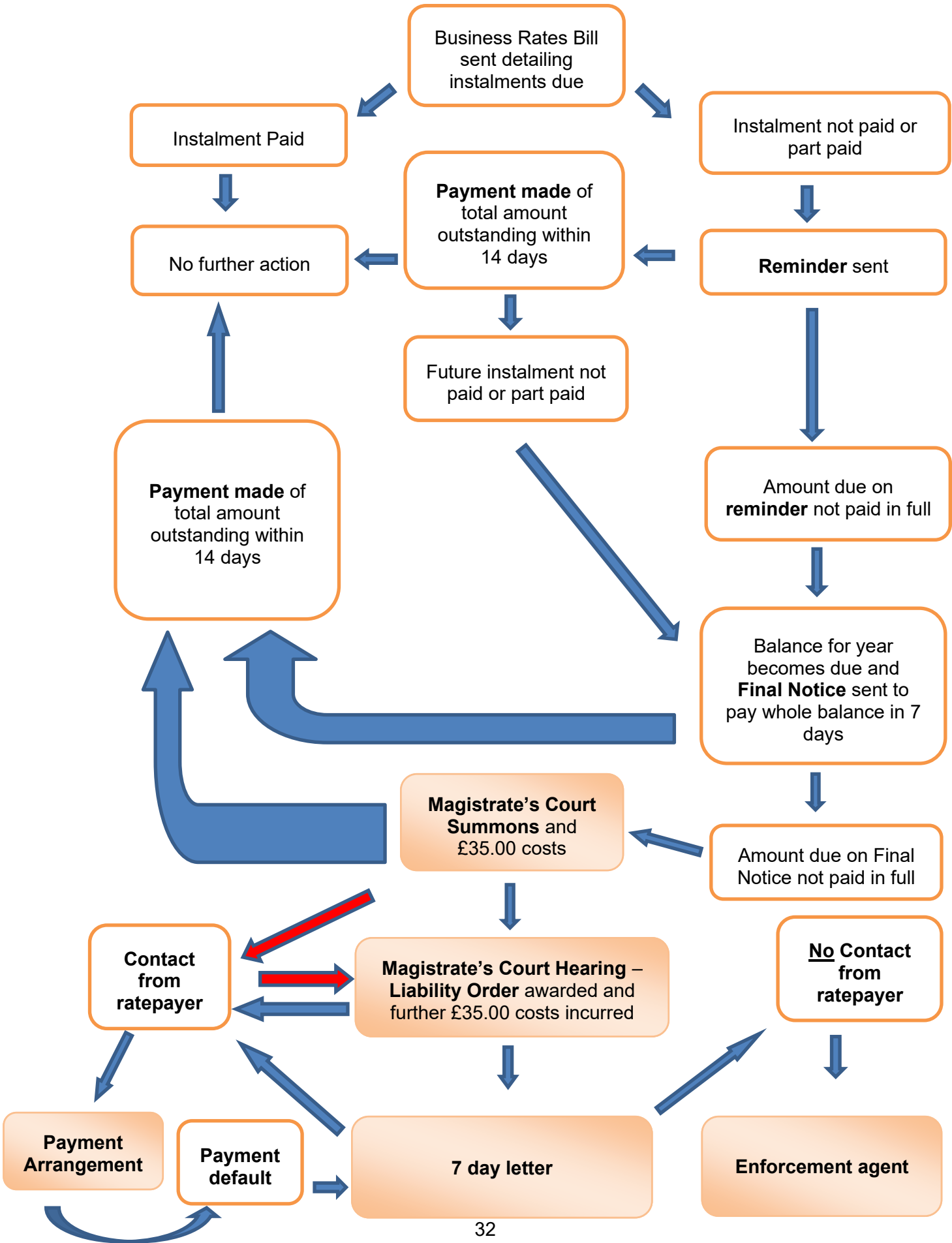
**Summons** – A Legal Notice advising the Council Taxpayer or business ratepayer that the Magistrates Court are advising them to attend a court hearing because the outstanding amount has not been paid to the Council.

**Vulnerable person** – see section 3.2 for details

**Appendix G – Council Tax Recovery flow chart**



**Appendix H – Business Rates Recovery flow chart**





**Appendix I – Housing Benefit Overpayment Recovery flow chart**

