



MANCHESTER

CITY COUNCIL

Council Tax Service Revenues and Benefits Unit Debt Recovery policy 2009/10

Version: Final 2009

Contents

	Page No.
1. Recovery process up to Liability Order stage	1
2. Recovery process after Liability Order granted	5
2.1 request for financial information	5
2.2 attachment of earnings	5
2.3 deductions from benefits	6
2.4 bailiff action	6
2.5 insolvency action	5
2.6 charging orders	8
2.7 committal proceedings	8
3. External specialist service providers	10
4. Hardship	10
5. Write offs	10
6. Gone away (absconders)	11
7. Costs	11

Appendices

A - Bailiff code of conduct

B - Council Tax recovery process flowchart

part 1 - bill to liability order

part 2 - liability order to results

part 3 - type of results

Definition

In this policy 'we' or 'our' means Manchester City Council's Revenues and Benefits Unit.

1. Recovery process up to Liability Order stage

- 1.1 We send annual Council Tax bills in mid-March each year. We also send amended bills on a daily basis for accounts where amendments have been made, for example, a change of address or a benefit award.
- 1.2 We offer a number of different payment methods and dates for you to pay your account. Details of these are on your bill. We promote payment by direct debit, as it is the most efficient payment method. It also helps you to avoid missing instalments and being subjected to recovery action.
- 1.3 All bills include a monthly instalment arrangement. If you want to change the date when your instalment is due you must contact us as soon as possible. If you make regular payments, but not on or before the date the instalment is due, we will still take recovery action, as payments are late.
- 1.4 We have a tight timetable for recovery action; both reminders and summons are issued weekly.
- 1.5 If you do not pay an instalment, we will send you a 'reminder'. The reminder gives you seven days to bring your account up to date by paying the overdue instalment..
- 1.6 If payment is not made, a summons is requested from the Magistrates' Court. Once a summons has been issued, the full amount of Council Tax is due, together with the summons costs.
- 1.7 If the overdue instalment is paid, but a future instalment is missed, a second reminder is issued. If you then pay the second overdue instalment, you can continue to pay your account in monthly instalments.

However, if you miss a third instalment, we will send you a 'final notice'. This means that you have to pay your annual charge in full, immediately, otherwise a summons is issued.
- 1.8 No more than three reminders are issued in a financial year; a maximum of two instalment reminders and one final notice.
- 1.9 If you do not pay as your reminder, or final reminder instructs, a summons is requested from the Magistrates' Court. The summons gives details of when you must attend court to explain why you have not paid your bill. The cost of sending the summons is added to your bill.
- 1.10 If you pay the full amount of the summons, including costs, before the hearing date, you do not have to attend court.
- 1.11 If you make a payment arrangement with us before the hearing, you do not have to attend court. However, we will ask the Magistrates Court to grant a 'liability order' to secure the debt (explained below). Providing you keep to the payment arrangement, no further recovery action is taken.

- 1.12 At the court hearing, we must satisfy the Magistrates Court that we have followed the correct procedures, that is, sending a bill, reminder and summons to your property, or your last known address. We must also confirm that you are liable for Council Tax and that the debt is outstanding. If the Magistrates Court are satisfied with the evidence we present they grant a liability order.
- 1.13 A liability order is a decision by the court confirming that you are liable to pay Council Tax and have not done so in accordance with the law. It gives us powers to recover the outstanding debt using other methods. These are explained in more detail below.
- 1.14 The Magistrates Court may not grant a liability order if you can provide a valid defence, such as:
- we have not demanded the Council Tax as the law sets out;
 - you have already paid the amount on the summons;
 - you are not the person liable for Council Tax; or
 - more than 6 years have passed since we sent you a bill for the amount.
- 1.15 It is not a valid defence if you are unable to pay because you:
- have applied for Council Tax Benefit; or
 - have appealed to the Valuation Tribunal against your Council Tax valuation band.
- The law states that you must pay the amount due.
- 1.16 A Liability Order gives us the power to:
- ask for financial information including your employment status and employer details that you must provide;
 - take money directly from your wage using an Attachment of Earnings Order;
 - take money directly from your benefits, for example, Income Support, Jobseekers Allowance, Pension Credit or Employment Support Allowance;
 - use bailiffs to remove your goods and sell them to pay the debt;
 - start insolvency proceedings (against companies);
 - seek a Charging Order against your property;
 - start committal proceedings for your imprisonment for up to 90 days; or
 - start bankruptcy proceedings (against individuals).

2. Recovery process after Liability Order obtained

2.1 Request for financial information

- 2.1.1 Once we have a Liability Order we send you an 'income details form' asking you to supply details about your income and expenditure. You have two weeks to complete it and return it to us.

This letter also contains details of what happens if your account is issued to our bailiffs for them to collect the outstanding debt from you.

- 2.1.2 If you do not complete and return the income details form within two weeks, we can take action against you. This may result in a fine of up to £500. and a criminal record. If you knowingly supply false information you are liable to a fine of up to £1,000.

2.2 Attachment of Earnings

- 2.2.1 We can tell employers to make deductions directly from your salary or wages to pay your Council Tax debt.
- 2.2.2 The amount of the deduction depends on how much you earn. If you have arrears we can make two deductions.

Table of deductions from monthly earnings for each order issued after 1 April 2009

Take home (net) wage	Percentage we can deduct	Amount to be deducted
Under £300	0%	Nil
Over £300 but under £550	3%	£9 - £16.47
Over £550 but under £740	5%	£27.50 - £36.95
Over £740 but under £900	7%	£51.80 - £62.93
Over £900 but under £1,420	12%	£108.00 - £170.28
Over £1,420 but under £2,020	17%	£241.40 - £343.23
Over £2,020	17% of the first £2,020 plus 50% of the rest	£343.40 plus 50% of the rest

Table of deductions from weekly earnings for each order issued after 1 April 2009

Take home (net) wage	Percentage we can deduct	Amount to be deducted
Under £75	0%	Nil
Over £75 but under £135	3%	£2.25 - £4.02
Over £135 but under £185	5%	£6.75 - £9.20
Over £185 but under £225	7%	£12.95 - £15.68
Over £225 but under £355	12%	£27.00 - £42.48
Over £355 but under £505	17%	£60.35 - £85.68
Over £505	17% of the first £505, plus 50% of the rest	£85.85 plus 50% of the rest

- 2.2.3 Your employers can deduct a further £1 per order for each time they make a deduction. This is for their administration costs.
- 2.2.4 Deductions continue until your Council Tax is paid in full.
- 2.2.5 You must tell us within two weeks of any changes in your employment.

2.3 Deductions from benefits

- 2.3.1 We can ask the Department for Work and Pensions to make deductions directly from your Income Support, Jobseekers Allowance or employment Support Allowance.
- 2.3.2 The money deducted is sent to us each month and continues until your Council Tax is paid in full, or your benefit entitlement stops.

2.3.3 You must tell us within two weeks of any changes in your benefit entitlement.

2.4 Bailiff action

2.4.1 We can instruct bailiffs to collect the outstanding Council Tax debt from you if you fail to:

- complete and return the Income Details enquiry form; or
- make a suitable payment arrangement and make the agreed payments.

2.4.2 Before we ask the bailiff to visit, we send you a final warning letter to tell you about the instruction of the bailiffs and the costs involved.

2.4.3 Our bailiffs are certificated through the County Court and abide to a Code of Practice (see Appendix A).

2.4.4 When the bailiff visits you, they ask for full payment and will add further costs (see section seven for more details of the costs the bailiff can add to your bill).

2.4.5 If you cannot pay the amount due in full immediately, the bailiff may agree a payment arrangement. This is covered by a 'walking possession' agreement. This is where the bailiff records an inventory of goods that can be sold to repay the debt. You will be asked to sign the walking possession agreement.

Additional fees will be added to your bill for this action. Providing you pay as arranged there are no further costs.

2.4.6 If your goods are subject to a walking possession agreement you cannot move or dispose of them without the bailiff's permission.

2.4.7 If you fail to pay as arranged and you have signed a walking possession agreement, the bailiff may re-enter your property, using force if necessary, to take the goods listed on the inventory. You are charged for their removal and sale.

2.4.8 If the bailiff believes that you may intentionally dispose of your goods, they may take 'close possession' of them. This means that the bailiff remains in your property until the debt is paid or the goods removed by the bailiff. Additional costs are added to your bill.

2.4.9 The bailiff may visit your property to enforce the liability order by removing goods. If a van is used, additional costs are added to your bill.

2.4.10 If the bailiff cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to the property, they send a certificate to us to confirm no, or insufficient, goods could be found.

2.5 Insolvency action

2.5.1 We may decide to take insolvency action against you if the total debt you owe to the Council is more than £750. If the court declares you bankrupt you could lose your home and possessions to pay the debts and have to pay significant additional costs on top of the Council Tax debt that is owed to the Council.

- 2.5.2 We send you a letter warning of bankruptcy proceedings and give you a last chance to pay before bankruptcy action starts.
- 2.5.3 If you do not make an agreed payment, we serve a 'Statutory Demand' on you. This is the first formal stage in a process that may lead to bankruptcy.
- 2.5.4 If you do not agree a payment arrangement after the service of a Statutory Demand, or if the court does not set your case aside, we then serve you with a bankruptcy petition.
- 2.5.6 Our documents advise all customers in this position to seek independent legal advice (Citizens Advice Bureau, solicitor etc).

2.6 Charging Orders

- 2.6.1 If you own your property we may decide to apply for a Charging Order to be placed on it. This is similar to a mortgage and means we can recover outstanding debt from the proceeds of sale if the property is sold at a later date.
- 2.6.2 Once the Charging Order has been granted against a property, we can ask the court for an order to evict you and enforce the property's sale to recover the money owed.

2.7 Committal proceedings

- 2.7.1 We may take committal proceedings against you if you do not try to clear your debt. This means you could go to prison for the non-payment of Council Tax.
- 2.7.2 If the bailiffs have been unable to remove goods to pay for your debt, or if we think other recovery options are inappropriate, we can ask the Magistrates' Court to send you a summons to attend a committal hearing.

This means that we ask the Magistrates' Court to decide whether to send you to prison for not paying your Council Tax.

- 2.7.3 At the hearing, our representative will confirm to the Magistrates' Court that a Liability Order has been granted and that the bailiffs have either been unsuccessful in removing your goods or you do not have goods of sufficient value to clear the debt. The Magistrates' Court then asks you why you have not paid your Council Tax bill and decides whether you have failed to pay due to 'willful refusal' or 'culpable neglect'.
- 2.7.4 The Magistrates Court asks you questions about your income and expenditure. This is called a 'means enquiry'. It helps the court decide whether you have been guilty of willful refusal or culpable neglect.

2.7.5 There are several decisions the Magistrates Court can make:

Court order with suspended sentence
You could be sentenced to a term of imprisonment but this sentence will be suspended provided you keep to the conditions of the suspension. This is usually an order to pay a set amount to clear the debts. If you fail to do what is ordered by the Magistrates' Court the Council will apply for you to be brought back to court for the prison sentence to be enforced.
Court Order without a suspended sentence
You could be ordered to pay a set amount. If you do not keep up the payments, you are ordered to come to court again to explain why you have not paid. The Magistrates Court will then decide what to do next. The Council will apply for the order to be backed by a suspended sentence.
Write off all or some of the debt
The Magistrates Court can write off all or some of the Council Tax you owe, if they feel the situation deserves this. If only some of the debt is written off, the Magistrates Court may make a Court Order for the rest.
Take no action
The Magistrates' Court may decide that no further action is appropriate.
Adjournment
If more information or evidence is needed before a decision can be made, your case can be postponed until a later date.
Committal to prison
The Magistrates Court can decide to send you immediately to prison for up to 90 days.

2.7.6 If you do not appear in court, we ask the Magistrates' Court to issue a warrant for arrest with bail. This means that a Warrant Officer can arrest you and bail you to appear in court at a later date.

2.7.7 When you then appear in court, the process outlined in points 2.7.3 to 2.7.7 will be followed.

2.7.8 If you do not appear at court after being bailed, we ask the Magistrates Court to issue a warrant for your arrest without bail. In this case, a Warrant Officer can arrest you and take you to police custody or straight to the Magistrates Court to appear in front of the District Judge.

3 External specialist service providers

- 3.1 We work in partnership with a number of specialist companies to recover unpaid Council Tax. These companies provide additional support and are specialists in their respective areas of recovery.
- 3.2 External companies are used for tracing absconders, bailiff action, insolvency work and debt collection work.
- 3.3 All external companies working with us are required to follow our policies and procedures at all times.

4. **Hardship**

- 4.1 The Council is committed to reducing poverty and hardship and ensuring benefits and other income is maximised.
- 4.2 If you experience considerable financial hardship or have multiple arrears we will look at your case on its own merit and may agree an extended payment arrangement looking at all your debts. We will always expect you to pay your current years' Council Tax plus an amount towards the arrears.
- 4.3 If you fail to pay as arranged, further recovery action is taken.

5. **Write offs**

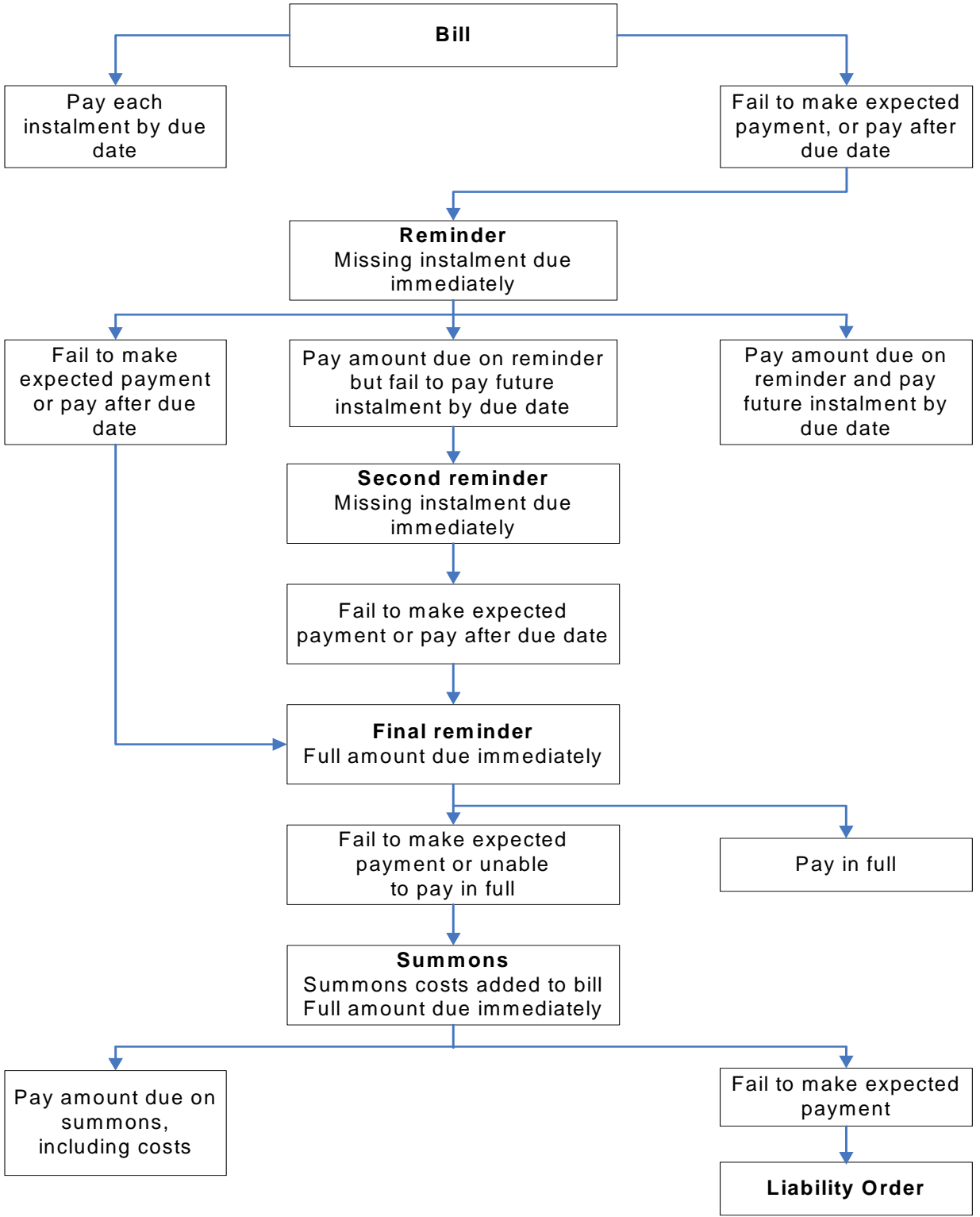
- 5.1 We have an agreed procedure for writing off Council Tax debts, provided that the debt is considered unrecoverable. For example, in circumstances where we are unable to trace the customer, or if they have died without assets.

7. **Costs**

2009/10		
Summons costs	Council Tax Business rates	£74 £95
Bailiff fees (Maximum allowed)	First visit Second visit Van visits	£24.50 £18 £110 minimum (or a percentage of debt outstanding)
Warrants of Arrest	With or without bail Other warrants	£75 (first warrant) £75

Council Tax recovery process flowchart

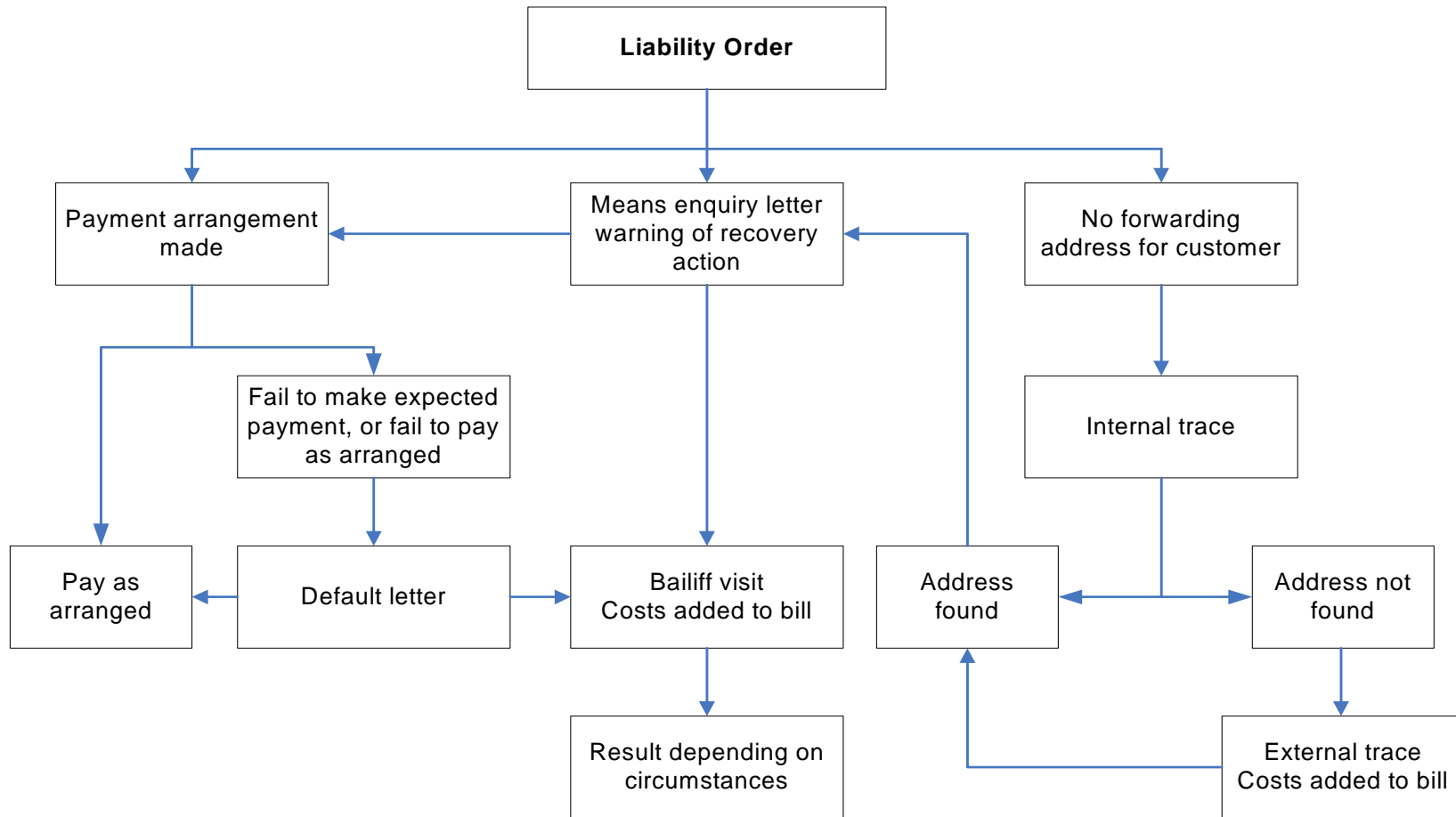
Part 1 September 08



Council Tax recovery process flowchart

Part 2

September 08



Council Tax recovery process flowchart

Part 3

September 08

