



MANCHESTER
CITY COUNCIL

Council Tax Service
Revenues and Benefits Unit
Debt recovery Policy 2021-22

1. Recovery process up to the Liability Order stage

Due to the impact of Covid-19 on employment and earnings, a number of changes have been made to the usual recovery process. These are incorporated in this document but may be subject to change as the situation in Manchester evolves.

1.1. We send annual Council Tax bills in 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 an award of Council Tax Support. These can be issued electronically on request.

1.2. We offer different payment methods and dates for you to pay your account. Details of these are on your bill. We actively 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 and summons costs.

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 may still take recovery action, as payments are late. You have the option to pay over 12 instalments so long as the first payment is made before the end of April.

1.4. We have a tight timetable for recovery action; both reminders and summons are issued weekly.

1.5. We recognise the impact that Covid-19 has had on earnings and employment and will consider any reasonable offer to clear arrears over a longer period at any stage in the recovery process. It is important that you contact us to discuss your situation as soon as possible as this makes finding an acceptable solution easier.

1.6. 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. You must also make future instalments by their due date. If we have your mobile phone number, we may send you a warning text as well.

1.7. If the overdue instalment is not made, you lose the right to pay by instalments and a summons is requested from the Magistrates' Court. Again, if we have your mobile phone number, we may send you a warning text as well. Once a summons has been issued, the full amount of Council Tax is due, together with the summons costs. If you are struggling to pay your instalments, you should contact us as soon as possible or seek independent debt advice. Contact details are on the back of bills and reminders.

1.8. 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.

1.9. No more than three reminders are issued in a financial year; a maximum of two instalment reminders and one final notice.

1.10. If you do not pay as your reminder or final notice 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 raising the summons is added to your bill.

1.11. If you pay the full amount of the summons, including costs, before the hearing date, you do not have to attend court and the case against you will be withdrawn.

1.12. If you make a payment arrangement with us before the hearing, including the payment of costs, 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 will be taken.

1.13. At the court hearing, we must satisfy the Magistrates that we have followed the correct procedures. These are: sending a bill; reminder; and summons to your property, or your last known address. We must also confirm that you are liable to pay Council Tax and that the debt is outstanding. If the Magistrates' Court is satisfied with the evidence we present, they grant a liability order.

1.14. A liability order is a decision by the court confirming that you are liable to pay the Council Tax due 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.

1.15. The Magistrates' Court may not grant a liability order if you can provide a valid defence, such as:

- the Council has 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 the Council sent you a bill for the amount.

1.16. It is not a valid defence if you are unable to pay because you:

- are in receipt of means tested benefits, including Universal Credit;
- cannot afford to pay what you owe;
- have applied for, or have been refused, Council Tax Support; or
- have appealed to the Valuation Office against your Council Tax valuation band, because we have not awarded a discount or you believe you are not liable to pay.

This list is not exhaustive

The law states that you must still pay the amount due.

1.17. 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, Universal Credit, Income Support, Jobseekers Allowance, Pension Credit or Employment Support Allowance;
- instruct an enforcement agency to collect the debt on our behalf;
- start winding up proceedings (against limited 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. Hardship

2.1. As well as Covid-19, the Council is aware of the pressures being put on the people of Manchester through the Welfare Reform programme and is committed to reducing poverty and hardship where possible and ensuring benefits and other income is maximised.

2.2. 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.

2.3. We are aware that care leavers may struggle to adjust to unsupported living and ex-Armed Forces personnel can also experience difficulties after leaving military service. These groups can expect additional support from the Council.

2.4 If you are of working age, in receipt of the maximum amount of Council Tax Support and have arrears of £150 or less, your account will not usually be passed to Enforcement Agents companies for collection. We will work with you to establish an affordable payment arrangement that clears the debt before the end of the financial year.

2.5. If you fail to pay as arranged, further recovery action is taken.

3. Recovery process after a liability order is obtained

3.1 Request for financial information

3.1.1. 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 warns you of a possible visit from an enforcement agent and contains details of what happens if your account is issued to the enforcement agencies for them to collect the outstanding debt from you.

3.1.2. If you do not complete and return the income details form within two weeks, we can take legal 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.

3.1.3. If you do not respond to the request for financial information, we will send you one final warning letter telling you that your account will be passed to enforcement agents if you do not make contact and detailing what bailiff charges will be added to your account.

3.2. Attachment of Earnings

3.2.1. We can tell employers to make deductions directly from your salary or wages to pay your Council Tax debt.

3.2.2. The amount of the deduction depends on how much you earn. If you owe Council Tax for two or more years, 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

3.2.3. Your employers can deduct a further £1 per order for each time they make a deduction. This is for their administration costs.

3.2.4. Deductions continue until your Council Tax is paid in full.

3.2.5. You must tell us within two weeks of any changes in your employment.

3.3. Deductions from benefits

3.3.1. We can ask the Department for Work and Pensions to make deductions directly from your Universal Credit, Income Support, Jobseekers Allowance or Employment Support Allowance.

3.3.2. The money deducted is sent to us each month and continues until your Council Tax is paid in full, or your benefit entitlement stops.

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

3.4. Action by Enforcement Agents

3.4.1. We can instruct an enforcement agent company to collect the outstanding Council Tax debt from you if you fail to:

- complete and return the income details form; or
- make a mutually acceptable payment arrangement and make the agreed payments.

3.4.2. If you are of working age, in receipt of the maximum amount of Council Tax Support and one of the DWP benefits which we can take deductions from, your debt will not normally be passed to an enforcement agent company.

3.4.3. The enforcement agents are certificated through the County Court and abide to a Code of Practice.

3.4.4. The enforcement agent company will first send you a 'seven-day notice'. As soon as they do this, they add an administration fee to your debt, currently £75. They will then contact you by phone and letter to seek immediate payment or make an arrangement.

3.4.5. If you ignore the contacts from the enforcement agent company, they will instruct one of their enforcement agents to visit you at your home. As soon as they make the first visit to your home, they add an enforcement fee to your debt, currently £235. If your debt is more than £1,500, the enforcement agents will charge an additional fee of 7.5% of the amount over £1,500. They will not add further costs for additional visits. When the enforcement agent visits you, they will ask for payment in full, including all their costs.

3.4.6. If you cannot pay the amount due in full immediately, the enforcement agent may agree a payment arrangement. This is covered by a 'controlled goods order'. This is where the enforcement agent records an inventory of goods that can be sold to repay the debt if you do not keep to your arrangement. You will be asked to sign the controlled goods order.

3.4.7. If your goods are subject to a controlled goods order you cannot move or dispose of them without the enforcement agent's permission

3.4.8. If you fail to pay as arranged and you have signed a controlled goods order, the enforcement agent may re-enter your property, using force if necessary, to take the goods listed on the inventory. You are charged a sale fee if goods are removed

and sold plus other disbursements such as auctioneer's fees. This can add a significant amount to the costs that you will be liable for.

3.4.9. If the enforcement agent considers it appropriate, for example because of a lack of cooperation/transparency or a belief that you may intentionally relocate or dispose of your goods, they may take control and remove goods immediately.

3.4.10. If a debt has been passed to an enforcement agent and payment is made directly to the Council, without including the enforcement agent's fees then the enforcement agent will continue the enforcement process for the fees incurred.

3.4.11 If the enforcement agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to the property, they send a certificate to the Council to confirm that no, or insufficient, goods could be found. One of the other remedies detailed below will then be considered by the Council.

3.5 Insolvency action

3.5.1 We may decide to take insolvency action against you if the total debt you owe to the Council is more than £5,000. 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.

3.5.2 We will send you a letter warning of bankruptcy proceedings and give you a last chance to pay before bankruptcy action starts. It is very important that you contact us at this stage to make an arrangement and avoid the significant costs that are charged during the bankruptcy process.

3.5.3 If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement, we will serve a Statutory Demand on you. This is the first formal stage in a process that may lead to bankruptcy.

3.5.4 If you do not pay the full amount outstanding including costs or agree an acceptable payment arrangement after the service of a Statutory Demand, or if the court does not set your case aside, we will then serve you with a bankruptcy petition.

3.5.6 Our documents advise debtors in this position to seek their own independent legal advice.

3.6 Charging Orders

3.6.1. 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 and statutory interest from the proceeds of sale if the property is sold at a later date.

3.6.2. 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

you owe us from the proceeds.

3.7 Committal proceedings

3.7.1. 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.

3.7.2. If the enforcement agents have been unable to remove goods to pay for your debt and 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.

3.7.3. At the hearing, our representative will confirm to the Magistrates' Court that a Liability Order has been granted and that the enforcement agents have either been unsuccessful in removing your goods or you do not have goods of sufficient value to clear the debt. The Magistrates' Court will then ask you why you have not paid your Council Tax bill and decide whether you have failed to pay due to 'willful refusal' or 'culpable neglect'.

3.7.4. 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.

3.7.5. 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 to prison immediately for up to 90 days.

3.7.6 If you do not appear in court, we will 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.

3.7.7 When you then appear in court, the process outlined in points 3.7.3 to 3.7.5 will be followed.

3.7.8 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.

4. External specialist service providers

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

4.2 All external companies working with us must follow our policies and procedures at all times.

5. Write-offs

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 debtor, or if they have died without assets.

6. Gone-aways (absconders)

If you leave your address without providing us with a forwarding address, we will look to trace you by making use of internal systems and external databases. If our in-house team cannot find a forwarding address for you, we may use an external specialist tracing company.

7. Costs

Type of cost	Amount of cost
Council Tax summons	£79.50
Enforcement agent fees: admin stage	£75 per liability order
Enforcement agent fees: enforcement stage	£235 plus 7.5% of any balance over £1,500
Enforcement agent fees: sale stage	£105 plus other fees connected with removal and auctioning of goods
Warrant with or without bail	£75 (first warrant)
Other warrant	£75

8. Review of this policy

This policy will normally be reviewed on an annual basis.