



MANCHESTER
CITY COUNCIL

Business Rates Service
Revenues and Benefits Unit

Debt Recovery Policy 2021/22

1. Introduction

1.1. This policy document explains the Council's policy in respect of the recovery of National Non-Domestic Rates, commonly referred to as business rates and described as such in the remainder of this document.

1.2. This policy complies with the key legislation covering business rates recovery including the Local Government Finance Act (1988), The Non-Domestic Rates (Collection & Enforcement) Regulations, SI 1989/1058 and the Tribunal, Courts and Enforcement Act (2007).

1.3. Due to the impact of Covid-19 on businesses, 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.

1.4. Because of Covid-19, enforcement agents are required to follow guidance issued by Civil Enforcement Association (CIVEA) on safe contacts with the public, along with any additional restrictions imposed on them by the Council.

2. Recovery process up to the Liability Order stage

2.1. We send annual business rates 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 a business rates relief.

2.2. We offer a number of different payment methods on request – including over 12 months, as long as this is requested in the April of the year the business rates are due. Details of these are on the bill. We promote payment by BACS and Direct Debit as these are the most efficient payment methods - helping to avoid missing instalments and reducing the potential for summons costs, recovery action and enforcement agent costs.

2.3. All bills include a monthly instalment arrangement – including over 12 months, as long as this is requested in the April of the year the business rates are due. If a change to the instalment date is required, contact should be made as soon as possible. If regular payments are made, but not on or before the date the instalment is due, we will take recovery action, as payments are late.

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

2.5. If an instalment is not paid, we will send a reminder notice. This gives seven days to bring the account up to date by paying the overdue instalment(s). Future instalments must be paid on or by their due date.

2.6. If the overdue instalment(s) is not paid in time the charge for the whole year becomes due and a summons is issued. Once a summons has been issued £102.50 of costs will be added to your account. The summons gives details of when the rate payer must attend court to explain why the bill has not been paid.

2.7. If the overdue instalment(s) is paid, but a future instalment is missed, we will send you a 'final notice'. This means that the annual charge must be paid in full, within 7 days, otherwise a summons is issued.

2.8. No more than two reminder letters are issued in a financial year; the further notice and a final notice.

2.9. If the further notice or final notice is not paid as instructed, a summons is issued. The summons gives details of when the rate payer must attend court to explain why the bill has not been paid. The cost of issuing the summons is added to the bill.

2.10. We recognise the impact that Covid-19 has had on businesses 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 it easier to find an acceptable solution.

2.11. If the full amount on the summons, including costs, is received by us before the hearing date, attendance at court is not required.

2.12. If we agree a payment arrangement before the hearing day, including the payment of costs, attendance in court is not required. However, the Council will ask the Magistrates Court to grant a liability order to secure the debt (explained below). Providing the payment arrangement is maintained no further recovery action is taken.

2.13. At the court hearing, we must satisfy the Magistrate that we have followed the correct procedures. These include sending a bill; relevant notices; and summons to the business's registered office or the property itself or last known address. We must also confirm liability for the business rates and that the debt is outstanding. If the Magistrates' Court is satisfied with the evidence we present, they may grant a liability order.

2.14. A liability order demonstrates the court's decision that there is a liability for rates which is unpaid. It gives us powers to recover the outstanding debt by legal means. These are explained in more detail below.

2.15. The Magistrates' Court may not grant a liability order if you attend the court and can provide a valid defence, for example:

- the Council has not demanded the business rates as the law sets out;
- the amount on the summons has been paid; or
- the liability is incorrect

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

- there is an application for relief from the Council; or
- the rate payer does not have the funds to pay; or
- an appeal has been submitted against your property's rateable value.

This list is not exhaustive

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

2.17. A liability order gives the Council the authority to:

- instruct an enforcement agent to collect the debt;
- start winding up proceedings (against limited companies);
- start committal proceedings for imprisonment for up to 90 days; or
- start bankruptcy proceedings (against individuals).

3. Recovery process after a liability order is obtained

3.1 Action by enforcement agents (bailiffs)

3.1.1. We will instruct enforcement agents to collect the outstanding business rates debt if:

- the full amount that is due including costs has not been paid; or
- a mutually acceptable payment arrangement with the Council has been agreed in writing but not maintained

3.1.2. The enforcement agents are certificated through the County Court and abide by a Code of Practice (see Appendix A).

3.1.3. The enforcement agents will first send a seven-day notice. As soon as they do, they add an administration fee of £75 to the debt.

3.1.4. If contact from the Enforcement Agencies does not result in payment, they will instruct one of their enforcement agents to visit to enforce the debt. This adds an enforcement fee of £235 to the debt. If the 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, they will ask for payment in full, including all their costs.

3.1.5. If the amount due is not paid in full immediately, the enforcement agent may agree a payment arrangement over a maximum period of three months, or up to nine months if Covid-19 is recognised as a major contributor to late payment of business rates. 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 the arrangement is not kept. You will be asked to sign the controlled goods order.

3.1.6. If the goods are subject to a controlled goods order they cannot be moved or disposed of without the enforcement agent's permission.

3.1.7. If a controlled goods order has been signed and payments are not made, the enforcement agent may re-enter the property, using force if necessary, to take the goods listed on the inventory. A sale fee will be charged if goods are removed and sold and other disbursements such as auctioneer's fees. This could add a substantial amount to the sum owed.

3.1.8. If the enforcement agent considers it appropriate, for example due to lack of cooperation/transparency or a belief that goods may be intentionally relocated or disposed of, they may take control and remove goods immediately.

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

3.1.10. 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.

3.2. Insolvency action

3.2.1. We may decide to take insolvency action if the total debt owed to the Council is more than £5,000. For sole traders, if the court declares someone bankrupt, they could lose their home and possessions to pay the debts and have to pay significant additional costs on top of the business rates debt that is owed to the Council. For limited companies, the court could wind up the business and the assets would be used to clear the debt.,

3.2.2. A letter warning of insolvency proceedings will be sent by solicitors acting on behalf of the Council giving the debtor an opportunity to pay before action starts.

3.2.3. If a mutually acceptable payment is not made, we will serve a Statutory Demand on sole traders or issue a letter warning of the start of winding up proceedings to limited companies. This is the first formal stage in a process that may lead to insolvency.

3.2.4. If a mutually acceptable payment arrangement is not agreed and maintained after the service of a Statutory Demand, or if the court does not set the case aside a bankruptcy petition will be served. For limited companies, a notice of winding up proceedings will be advertised in the London Gazette.

3.2.5 If a property is owned by the ratepayer, we may apply for a Charging Order to be placed on it. This means we can recover an outstanding debt and statutory interest from the proceeds of sale if the property is sold later.

3.3. Security for unpaid rates

3.3.1. We may enter into an agreement with a ratepayer where any interest of that person in the property is made the subject of a charge to secure payment and, in consideration of such a charge, we will take no steps for a period specified in the agreement to recover any payment in respect of the amount covered.

3.3.2. Such an agreement may not be made for a period of more than three years. Once the charge has been placed on the ratepayer's interest, we can ask the court for an eviction order and enforce the sale of the property to recover the money owed to the council, from the proceeds.

3.4. Committal proceedings

3.4.1. We may take committal proceedings if a debt is not paid due to willful refusal or culpable neglect. If proven, the court can issue a committal order sentencing the debtor to a prison sentence.

3.4.2. If the enforcement agents 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 requiring attendance at a committal hearing.

3.4.3. 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 goods or there are goods of sufficient value to clear the debt. The Magistrates' Court then asks why the business rates bill has not been paid and decides whether the debtor has failed to pay due to 'willful refusal' or 'culpable neglect'.

3.4.4. The Magistrates' Court asks questions about income and expenditure. This is called a 'means enquiry'. It helps the court decide whether a debtor has been guilty of willful refusal or culpable neglect.

3.4.5. There are several decisions the Magistrates' Court can make:

- **Court order with suspended sentence** - Sentenced to a term of imprisonment but this sentence will be suspended provided the conditions of the suspension are maintained. This is usually an order to pay a set amount to clear the debts. If a debtor fails to do what is ordered by the Magistrates' Court the Council will apply for the debtor to be brought back to court for the prison sentence to be enforced.
- **Court Order without a suspended sentence** - Ordered to pay a set amount. If the payments are not maintained, the debtor will be ordered to come to court again to explain why payments have not been made. 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 business rates that are owed, 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, the case can be postponed until a later date.
- **Committal to prison** - The Magistrates' Court can decide to send a debtor to prison immediately for up to 90 days.

3.4.6. If the debtor does 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 the debtor and bail them to appear in court at a later date.

3.4.7. When the debtor appears in court, the process outlined in points 2.7.3 to 2.7.5 will be followed.

3.4.8. If the debtor does not appear at court after being bailed, we ask the Magistrates Court to issue a warrant for arrest without bail. In this case, a Warrant Officer can arrest and take the debtor 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 business rates. These include tracing companies, law firms specialising in insolvency, enforcement agencies and other debt collection companies.

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 business rates 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 we do not have a forwarding address, we will look to trace debtors by making use of internal systems and external databases. If our in-house team cannot find a forwarding address we will use an external specialist tracing company.

7. Costs

Type of cost	Amount of cost
Business rates summons	£102.50
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	£240 (first warrant)
Other warrant	£240

For more information about how the Council charges and recovers summons costs, please see the separate Costs Policy.

8. Review of this policy

This policy will normally be reviewed on an annual basis.