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1. Introduction

- 1.1 For Local Authorities, responsible financial management is critical to enable the delivery of the necessary infrastructure to supports its Local Plan. The Council has a duty to ensure that income is maximised and that all monies are collected effectively for the benefit of our residents. Effective debt management is crucial to the success of any organisation. It is essential that the Council has clear policies and procedures to manage the recovery of debt.
- 1.2 An important source of income in regards to the funding of infrastructure is the Community Infrastructure Levy, which is charge placed on development, such as new homes and extensions to homes according to their floor area. The CIL regulations are very procedural and the process of debt collecting is set out in this document.

2. Collection and initial recovery process

- 2.1 CIL becomes due upon commencement of development. However, providing the correct procedures have been followed, the charge will be paid by instalments in line with the [Council's instalment policy](#).
- 2.2 Whenever an instalment becomes due, the Council sends out a reminder to the party which is liable for the CIL charge. This reminder is not a legal requirement. However, it shows proactive engagement from the Council and reduces the number of payments that become 30 days overdue.

- 2.3 If no payment has been received within 30 days of the due date, a surcharge of 5% and late payment interest is added to the outstanding amount. If a payment becomes six months overdue, another surcharge of 5% and late payment interest is added. A final surcharge of 5% and late payment interest is added when the charge becomes 12 months overdue. This approach is mandatory as set out in CIL regulations 85 and 87.
- 2.4 Final Reminder Notices are issued at least 7 days after the last notice where arrears still exist.
- 2.5 If the customer fails to adhere to the final Reminder Notice, the Council will summons them to the Magistrates Court and make an application for a Liability Order. Without this Order, the Council cannot take further enforcement action to collect the debt and protect the Council's interests.
- 2.6 Summonses will be issued at least 18 days after the final Reminder Notice, where there remains a balance outstanding. Costs for the issue of the Summons are added to the account. The Council will withdraw the Summons if full payment has crossed with the issue of the Summons.
- 2.7 Application will be made to the Magistrates Court for the issue of a Liability Order at least 14 days after the issue of the summons where:
- There is a summonsed balance outstanding;
 - The case has not been adjourned to a later date;
 - The Summons has not been withdrawn.
- 2.8 Where only the Summons cost remains outstanding the Council may not consider it to be appropriate or cost effective to pursue collection. However, where payment of a summons is received without costs, a letter will be issued to the customer advising them that the costs remain unpaid and that the Council will continue with the application for a Liability Order if payment of the costs is not received. A decision to pursue collection will be decided on an individual basis, having regard to the circumstances and history of the account.

3. Enforcement Action

- 3.1 A Liability Order gives the Council various powers to enforce payment.

Taking Control of Goods

- 3.2 This option allows County Court Certificated Enforcement Agents (previously known as Bailiffs) to remove and sell certain goods owned by the customer (within England and Wales). Fees are chargeable and specified within the Taking Control of Goods Regulations 2013 (TCOG). Accounts in arrears are passed to the Enforcement Agents where a balance remains outstanding and no payment arrangements have been agreed.

- 3.3 The primary aim of the Enforcement Agent should be to collect the full payment of the debt. If they are unable to do this because of financial or personal circumstances of the customer, realistic repayment arrangements can be agreed to.
- 3.4 Where the Council employs the services of external Enforcement Agents, all companies acting on behalf of the Council must adhere to regulations set out in TCOG. A code of practise which outlines the way that internal Enforcement agents or external Enforcement agent companies collecting debts on behalf of the council should conduct themselves can be found in the Council's Revenues and Housing Support Services Recovery Policy. The aforementioned policy also includes a table of fees and charges that can be raised by the Enforcement Agents.

Charging Order

- 3.5 Where Liability Orders have been granted for an aggregate amount of £1,000 or more it is possible to apply to the County Court for a Charging Order to be placed upon the customer's property until the debt is discharged or the property is sold. Consequently, the Council may have to wait a considerable period of time before any payment is actually obtained.
- 3.6 Generally, making an application for a Charging Order will only be considered when other methods of recovery have proved unsuccessful and there is sufficient information available to recommend this course of action. A Charging Order only acts as a charge on the customer's property. It is the Council's intention to apply and enforce Charging Orders where the debt is large enough to meet legislative criteria (£1,000) and where there is on-going default.

Enforcement of local land charges

- 3.7 All CIL liabilities are registered as a local land charge against the land the development is located on. The CIL legislation contains provisions the recover CIL charges from the landowner if it has been unable to collect the funds from the liable party.
- 3.8 Where Liability Order have been granted for an aggregate amount of £2,000 or more it is possible to apply to the County Court for consent to enforce the local land charge.

Insolvency

- 3.9 Where a customer owes a debt that is over a prescribed amount (currently £5,000), insolvency action may be instigated. There are two types of insolvency action that may be taken which are personal (Bankruptcy) and company (Liquidation).
- 3.10 Where the customer is made insolvent or subject to a voluntary arrangement any CIL charges due to the Council prior to the date of the insolvency will be included and

claimed in full within the insolvency. This effectively stops any alternative recovery action being taken to recover the debt.

- 3.11 Where the CIL liability is in joint names and only one of them has been made Bankrupt the Council can still pursue the second named person for the outstanding liability; however, consideration should be given to the likelihood of the Council recovering the debt from that person. If they are unlikely to be able to discharge the debt the debt should be submitted under the Bankruptcy Order.
- 3.12 Insolvency proceedings are fairly expensive to undertake with fees having to be paid to the County Court. Whilst these fees form part of the sum due to the Council from the customer, there is no guarantee of being able to recoup either the fees or the debt from the insolvency. Due to the nature of this course of action, no insolvency proceedings will be instigated without prior consultation with the relevant portfolio holder and authorisation and approval of a senior manager.

Commitment to Prison

- 3.13 Where it has not been possible to collect the debt through any of the remedies detailed in this policy, the customer will be summonsed to court where any enquiry will be made as to their means and conduct with regard to the non-payment.
- 3.14 Making such an application for a commitment to prison for non-payment must continue to be a last resort and therefore, all other alternative recovery action should be considered right up to the Court hearing date.
- 3.15 The Council will carefully consider the appropriateness of each case taking into account the individual personal and financial circumstances of the customer in consultation with the relevant portfolio holder.
- 3.16 Any case recommended for committal action must be authorised by a senior manager in partnership with a Legal Executive as the committal process is very labour intensive and therefore a costly recovery tool with varying degrees of success.