



EASTBOURNE BOROUGH COUNCIL  
COUNCIL TAX AND BUSINESS RATES  
COLLECTION AND RECOVERY POLICY

## **Background**

1. Council Tax is the contribution made by the residents and owners of domestic properties in the Borough for the many services Eastbourne Borough Council provides such as collecting rubbish, providing housing, funding for the police and fire services, schools and social services.

The level of Council Tax payable by residents in the Eastbourne area is decided annually and consists of a contribution towards services provided by East Sussex County Council, Eastbourne Borough Council, Sussex Police Authority and East Sussex Fire Authority.

2. Business Rates is also known as National Non-Domestic Rates (NNDR) and is a tax that is charged on properties that are used for a wide range of purposes, which does not include domestic or residential use. Examples of properties, which are subject to a Business Rates charge include shops, factories, offices and beach huts. The Council does not keep the money that is for Business Rates. The Council gives the money directly to the Government. All Business Rates collected in England is put into a central pool. The money from the pool is distributed back to Councils by the Government, according to how much they feel is needed to contribute towards the services that we provide.

## **The Regulations governing Council Tax and Business Rates**

3. The Regulations governing the collection of Council Tax and Business Rates are:
  - The Local Government Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992
  - The Local Government Finance Act 1988 and the Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
  - The Distress for Rent Act
  - The Insolvency Act
  - The Local Government Act 1972

## **Statutory and voluntary instalment schemes**

4. The collection of Council Tax and Business Rates is strictly regulated by legislation, which has been in place for many years and which applies to all Councils that send out demand notices.

5. The Council is obliged to send out demand notices in advance of the annual due date (01 April) so that liable tax payers may know exactly how much they have to pay and when.
6. By law, Council Tax and Business Rates payers are entitled to pay their annual charges over 10 equal instalments. In Eastbourne we collect the 10 instalments on the 1st, 5th or 7th day of each month from April to January of the following year. Council Tax Direct Debit customers are offered a range of payment dates (1st, 7th, 15th or 25th).
7. The Council has discretion to offer alternatives to the statutory 10 monthly instalments. Acceptable alternatives schemes agreed by the Council include:
  - Twice-yearly payments (April and September)
  - Annual payments (April)
  - Weekly payments (April to January)
  - Fortnightly payments (April to January)
8. Before the Council agrees to such 'voluntary' arrangements, customers must accept that the Council will recover late payments and non-payments in the same way as the statutory scheme.

### **Methods of Payment**

9. It is possible to make payment for Council Tax using any of the following methods:
  - Direct Debit
  - On-Line with a debit or credit card  
([www.eastbourne.gov.uk/council/tax/payments](http://www.eastbourne.gov.uk/council/tax/payments))
  - Automated telephone service  
(Tel: 01323 649358)
  - Standing Order
  - With a payment card at a Post Office or certain Retail outlets
  - By cash, using our automated kiosk at 1 Grove Road
  - By cheque (or postal order)
  - By deduction from salary or allowance for Council employees and Council members

Business Rate payers can use any of the following:

- Direct Debit
- On-Line with a debit or credit card  
([www.eastbourne.gov.uk/business/rates/how-can-i-pay](http://www.eastbourne.gov.uk/business/rates/how-can-i-pay))
- Automated telephone service  
(Tel: 01323 649358)
- Standing Order
- By cash, using our automated kiosk at 1 Grove Road
- By cheque (or postal order)

10. The Council promotes Direct Debit as it's preferred method of payment. This is because it is, by far, the cheapest collection method available. It is also very reliable, easy to set up and cancel, and is backed by a refund guarantee.
11. Because Direct Debit is so much cheaper than other methods of payment it is possible to offer 4 payment dates (1st, 7th, 15th and 25th of each month) as an incentive to our customers.
12. The Council does not promote and discourages customers from paying by Standing Order. This is because Standing Orders are much less flexible than Direct Debits and cause a number of problems such as underpayments, overpayments and late payments.

### **Effects of late Payment**

13. There is a legal duty on the Council to collect Council Tax and Business Rates income.
14. Recovery practices must be efficient and economic. Delays in collection or non-recovery of debts leads to high administrative costs and results in lower resources available for other Council services with higher charges being passed on to other residents.
15. Some Council Tax and Business Rate payers do not make payment by the due dates. Some customers wait for the Reminder, Final Notice or Summons before making payments. Some dispute their liability or the amount owed. Some ignore all communication from the Council in the hope that it will "go away".

16. In addition, there are those customers whose personal circumstances or poor health cause other problems, which may temporarily affect their ability to pay.
17. For the 2006/07 financial year the effect of a person making a payment of £100, which is 30 days late meant the Council had to give up interest of approximately £0.41. This seems a small amount in itself but if 4,000 Council Tax payers are 30 days late with their payment each month, this equates to approximately £1,640 lost to the Council. Regular late and non-payments by the residents of Eastbourne costs the Council thousands of pounds annually. These sums could be used to provide more services or reduce the overall Council Tax for everyone.
18. It is therefore, in the best interest of the Council and Eastbourne residents to vigorously encourage local taxpayers to pay on time. The Council should diligently pursue those residents and businesses who pay late or do not pay at all, in order to maximise income and reduce the effects of increased costs.

### **Good Practice**

19. The Council's aim is to obtain the best possible cash flow with minimum arrears by following the good practice points below:
  - Produce clear and understandable documentation. Bills and Recovery Notices will show clearly what to pay and when to pay it, in with Regulations
  - Ensure that all Recovery documentation is clear and informative so that defaulting taxpayers are fully aware of the recovery procedures, consequences and the options available to the Council to recover unpaid debts
  - Follow up unpaid amounts early to avoid the build up of arrears. The higher the arrears the more difficult it is for the taxpayer to catch up
  - Ensure, at all stages of recovery that taxpayers are aware of Benefits and Discounts which may be available to them
  - Regularly and timely follow up and monitoring of arrangements
  - Make use of the most appropriate recovery action, subject to legal restraints, by using a flexible approach to the recovery of monies due to the Council

## **Assistance for Customers**

20. The Council will, at all times, try to help customers who are experiencing difficulties in paying. Wherever possible we will try to distinguish between those who cannot pay with those who will not pay, or are deliberately withholding, delaying or giving false information in respect of paying Council Tax.

Where a customer is experiencing difficulties in paying, Council Officers will recommend that they should contact an independent advisor, such as the Citizens Advice Bureau, so that they may advice in debt management.

21. All available allowances, discounts, rebates and reliefs will be granted where appropriate. This will be done at the earliest possible time, in order to ensure the amount of Council Tax or Business Rates liability is correct. Clear information regarding benefit is available at our offices at 1 Grove Road. Council Officers will advise taxpayers of details of benefits and how to make claims at all stages of recovery.

## **Reminders and Final Notices**

22. One common misunderstanding that the Council faces on a regular basis is the belief that it will allow late payers to pay on a "red" reminder at the end of every month. This is not the case.
23. The Council is entitled to issue a first Reminder to anyone who has not paid an instalment, within 7 days of the due date. This means that, if a taxpayer whose instalment date is the 1<sup>st</sup> of the month fails to pay by the 8<sup>th</sup> of the month, we may issue a first Reminder. The Reminder clearly states that payment of the missed instalment **MUST** be made within 7 days. If this does not happen, the taxpayer's right to pay by instalments is lost for the whole year. The debtor will then be issued with a summons to appear before the Magistrates at the Local Court. The Summons notice will be issued for the total amount outstanding plus costs.
24. If a taxpayer pays on a Reminder, and then pays every other instalment on time, they keep their right to pay by instalments.
25. If a taxpayer who pays by cash or cheque agrees to sign up to Direct Debit, the missed instalment must be brought up to date immediately and the instalment plan will be reinstated. This will only happen once we receive a completed and signed Direct Debit Instruction.

26. If a customer falls into arrears a second time another Reminder will be issued. This is the taxpayer's last chance to keep their right to pay by instalments. Failure to pay within 7 days of a second Reminder means that the right to pay by instalments is lost and the balance for the whole year becomes due and payable in full and in advance.
27. If a taxpayer pays on a second Reminder, and then pays future instalments on time, they keep their right to pay by instalments.
28. If a taxpayer defaults for a 3rd time (that is, fails to make a payment within 7 days of the due date) the right to instalments is automatically lost. The Council will have provided sufficient warning to the taxpayer that this would happen and so does not have to send another Reminder. A Final Notice is sent at this point, which demands the balance due until 31st March in full and in advance.
29. Often, the next communication from the Council to someone who has defaulted in this way is a Summons to appear at the Magistrates Court for non-payment of the balance due to the end of the year. This can be a shock to someone who has not read their Reminder notices fully and expects the Council to continue to issue "red" Reminders.
30. The Council frequently receives irate telephone calls from taxpayers who assume that they may pay regularly on their own chosen date, for example, the 28th of each month to fit in with other bills or with salary dates. Because of the financial impact and effect of several thousand people doing this, the Council loses substantial amounts of money and, as a result, cannot allow individuals to go their own way, even if the taxpayers consider themselves to be good payers because they pay regularly. Such a person will find that, within 2 or 3 months, they will have their right to pay by instalments cancelled so that they have to pay the annual charge in a lump sum, or go to court for non-payment. Whilst it is regretted that such action is necessary, it must be recognised that, to be a good payer, it is necessary for the taxpayer to pay regularly and on time.
31. The only exception to this rule is Direct Debit customers, for reasons that are explained in the section Methods of Payment.

## **After instalments are cancelled**

32. If a taxpayer has had their instalments cancelled, so long as we have not issued a summons or taken further recovery action, we will accept the following alternatives:

- Payment of the full balance due to the end of the year within 7 days, or
- Reinstated instalments in line with the original scheme **ONLY** when the customer agrees to pay off instalments, which are in arrears, within 7 days **AND** agrees to change the method of payment to Direct Debit for the remainder of the year

33. The second of these options is a concession that we will allow based on the taxpayer's commitment that future instalments will be paid on time. However, if the taxpayer goes back on his/her agreement (for example, by cancelling the Direct Debit) and defaults on a payment again, we will not offer the concession a second time.

## **Issuing a summons**

34. If a taxpayer's right to pay by instalments has been cancelled, and the full debt is not paid in 7 days, we will go to the Magistrates Court and make an application for a Liability Order. This allows us to recover the money due to the Council by a number of means such as setting up an attachment of earnings/benefits or sending the case to the bailiff.

35. The first thing the defaulting taxpayer will know is that they will receive a Summons to appear at Court to explain to the Magistrates the reason that the tax has not been paid. The Council is entitled to request "reasonable costs" to be added to the balance due, and these are shown on the Summons. If the taxpayer pays the full amount due before the Court date (including the Summons costs), the Council informs the Justices that the debt is paid and that no further action is required. There is no need for attendance at court if the debt is paid in advance of the Court date.

36. If nothing has been paid, or if a part of the debt has been paid, or even if the full debt is paid excluding the costs, the Court case will go ahead. The Council representative usually makes applications for the Courts to deal with several hundred cases to be dealt with at the same time.

37. Unless there are legitimate grounds for non-payment, for example the person named on the bill is not liable for Council Tax or Business Rates at the relevant property, the Justices will grant a Liability Order to the Council. The Court is also entitled to grant a Liability Order in cases where the taxpayer has submitted an application form to claim benefit. Case law states that the Justices role is not to determine entitlement to Benefit, it is only to consider whether the amount in question has become payable and whether it has been paid.
38. Liability Orders will generally be granted even if the only amount outstanding is the Summons costs. It may seem odd that the Council is given permission to send Bailiffs to recover costs (£85 for Council Tax and £100 for Business Rates) that have not been paid. However, it is recognised by law and the Courts that the Council is entitled to recover the costs in addition to the full amount of Council Tax or Business Rates.

### **Appearance at the Magistrates Court**

39. Any person has the right to appear at the Liability Order Hearing and we do not discourage anyone from attending. There are very few valid defences available against the issue of a Liability Order. Mostly the customer is not disputing liability, but merely wants to make some sort of arrangement to pay the debt. This can be achieved by the customer contacting us on receipt of the Summons rather than appearing at Court.
40. Council Officers are available at the Magistrates court on the day of the Hearing to answer any queries and to make arrangements to pay. Due to the limited facilities available to us in the Court building it is not often possible to deal fully with some of the enquiries. For example, we do not have access to our computer records at Court and we may need to consult these before we can fully answer account enquires. In view of this we have Officers available at our Offices at 1 Grove Road to deal with enquires on the day of the Hearing who have full access to customer records. We will ensure that we deal with any outstanding enquiries promptly on our return to the office and get back to the customer with our response.
41. In some cases it may be necessary for us to adjourn a case to a later date because there is a need to resolve a query, which may affect liability. When this happens we will notify the customer, in writing, of the date, time and place of the next Hearing.

42. We have specialist Officers who represent the Council at Magistrate Court Hearings. They are experienced and work continuously with the Court staff and officials over a period of time to ensure that the proceedings run as smoothly as possible and that they conform to the legislative requirements.

### **After the Court Hearing**

43. Once a Liability Order has been granted we can use several different methods to collect the arrears. We do not issue any further letters to Business Rates payers and will proceed to the Bailiff stage immediately once we have been granted a Liability Order.

### **Council Tax only**

44. Shortly after the Hearing we issue a notice advising the taxpayer that a Liability Order has been granted and ask them to contact us. An Information Request Form is also enclosed. This form allows us to assess the customer's financial circumstances so that we can decide the most appropriate and effective recovery action.
45. Completion of the Information Request Form often provides the Council with information that may mean that we will not use our full powers. For example, if the customer provides evidence that they are in poor health, or that they are in receipt of Benefits, we may agree to an extended payment arrangement.

### **Payment Arrangements**

46. By law, the right to instalments has been lost and the full debt, including costs, is payable in full. Extended payment arrangements may be agreed in certain circumstances. For example, if a customer can provide evidence of hardship, low income or poor health, we may decide to allow the customer to pay by instalments over a maximum period of 4 months or 31<sup>st</sup> March next, whichever is sooner.
47. In all cases, the Summons and Liability Order costs will be included in the instalments.
48. Wherever possible, we will make an Attachment to Earnings or Benefit or Job Seekers Allowance. The amount deducted by Attachment to Earnings or Benefit or Job Seekers Allowance is a figure prescribed by law. An Attachment to Earnings is our preferred choice, if we have the relevant information, as we

## **Failure to respond to requests for information**

49. If an Information Request Form is not completed and returned to us, or if the information supplied is false, we may take further action (under the Criminal Justice Act 1982), which may result in the customer being fined. The account itself will automatically be passed to a Bailiff for collection, which means that additional costs will be incurred.

## **Attachments**

50. The powers granted to us when we are granted a Liability Order allow us to make deductions from a person's salary, Income Support or Job Seekers Allowance in respect of non payment of Council Tax.

51. Employers are legally required to comply with the order. Scales of deductions are set by Central Government and copies of the appropriate regulations are sent to the employer and employee (debtor).

52. The employer is permitted to make an additional deduction of £1 to cover administration fees each time a deduction is made from the employee.

53. We will use this method to collect arrears wherever possible.

## **Bailiffs**

54. In cases where we have been unable to come to a satisfactory arrangement, or a special payment arrangement has been broken, we will issue the Liability Order to our contracted Bailiff for enforcement. At all times the Bailiff will work within our guidelines and follow a Code of Conduct. The Bailiff will report anything, that they decide needs to be followed up or where there are any queries, for example, if there is severe hardship, or it appears that some Benefit or Relief has not been granted.

55. We will treat all complaints received about the Bailiff very seriously, investigating each one and determining whether the Bailiff has acted properly or not in the given circumstances.

56. We will ensure that, as far as possible, the information the Bailiff holds about an account is accurate and up to date. In order to assist with this we have an on-line direct access facility to the Bailiff Company's computer system. We are in regular contact via telephone and hold regular liaison meetings with the Bailiff Company.
57. The use of Bailiffs is usually the last resort. Bailiffs are able to seize goods in order to sell them at auction so that debts can be repaid. This is known as Distress.
58. Distress will not usually be used where there is a Benefit claim pending or it is known that the customer is on Income Support or other benefits (e.g. invalidity benefit), or where regular payments on an extended payment arrangement are being made.
59. The Bailiff has the authority to remove goods wherever appropriate and we will support any removal carried out under the correct circumstances. The Bailiff also has instructions to accept reasonable payment arrangements (up to 4 monthly instalments).
60. Please note that the use of Bailiffs can be expensive. Bailiffs will charge the defaulter for visits that they make and any other fees associated with levying distress. In addition, goods seized and sold at auction may only achieve a fraction of their worth to the customer.
61. We do not like using Bailiffs, as it often seems like a drastic step to take. However, the Council will not hesitate to use Bailiffs as a last resort where the defaulter has left us with no option.
62. Distress Action must be attempted before the Council can proceed with Committal Proceedings in the case of non-payment.

### **Committal Proceedings**

63. If the Bailiff returns a case to the Council with a certificate of "Nulla Bona" (which means that the Bailiff has been unable to use distress or no goods are available) we will write to the taxpayer again. If the debtor fails to make contact we will take Committal action against them, which will require that they attend the Magistrates Court. At Court a detailed examination of the individual's financial circumstances will be conducted, which is known as a 'means inquiry'.

64. A Committal Summons to appear at Court is issued. If the customer fails to attend Court on the day of the hearing we are empowered to apply to the Court for a Warrant of Arrest (with or without bail). If a Warrant of Arrest not backed by bail is issued by the Court the Warrant will be passed to the Police for execution.
65. At the hearing, the Magistrates will ask the debtor to provide evidence that will allow them to make a judgement as to whether they are genuinely unable to pay, or whether the person has wilfully refused or neglected to pay the debt. This is known as "wilful refusal or culpable neglect"
66. The Justices will always take the most reasonable course of action and will generally give the customer a final opportunity to make an arrangement with the Council to pay the amount due. The Magistrates may issue a suspended prison sentence, which will not be enforced unless the taxpayer breaks the terms of the arrangement agreed or imposed.
67. As a last resort, the Justices may imprison a defaulter for non-payment of Council Tax or Business Rates for a maximum of 90 days.
68. The Council has no provisions under Council Tax law to write off a debt, due to poverty or hardship, but in some cases we may recommend that the Justices give consideration to remitting the debt at a Means Enquiry Hearing.

### **Charging Orders**

69. If the Council is unable to obtain payment by other means, and the defaulter owns a property, which meets satisfactory criteria, the Council may apply for a Charge to be placed on the property. There are several areas where this method will be the appropriate solution such as in cases where a customer has no funds and has no prospect of being able to clear the arrears that have built up over a period of time. In some cases a sale of the property to recover the sums due can be ordered by the Court immediately.

### **Bankruptcy and Liquidation**

70. The Council will not hesitate to use the process of initiating proceedings where this is deemed to be the only way of obtaining the sums due. This action can be taken against individuals and companies who owe debts in excess of £750. A

## **Absconders**

71. Where a customer leaves a property in Eastbourne, owing money, without giving us their new address, we have procedures in place to trace them. We will use professional agencies, such as tracing agencies or Bailiffs, Council records, Land Registry information and any source available to track down absconders and the recover the amounts due.

## **Costs**

72. After a Summons has been issued, and as the recovery stages progress, additional costs will be incurred at each and every stage. The more action that is required the higher the costs will be. Once a Summons is issued the costs must be paid. Any payments made on the account will be posted to clear the costs outstanding first.

73. Summons costs will only be waived:

- If payment can be proven/shown to have crossed with the issue of the summons
- Where the Summons was issued incorrectly
- Where the customer has written to us with a relevant enquiry or complaint and we have not yet dealt with the matter

74. There may be some limited instances where we will use our discretion to waive costs in full or in part. However, this would only be applicable in cases of extreme hardship or where the particular circumstances of the customer would make it inequitable or wrong not to do so.

75. Once an account has been passed to the Bailiff the customer will be liable to pay whatever costs the Bailiff is properly entitled to charge. If a complaint is made about the levels of costs the Bailiff is charging then we will fully investigate.

## **Debt Write Off**

76. The Council has extremely limited powers for writing off debts in respect of Council Tax and Business Rates which are legally due and payable. There is no power to write off, for instance, on the grounds that the customer cannot afford to pay. In practice the Council is therefore able only to write off under the following exceptional circumstances:

- The debt is uneconomic to pursue any further
- The debtor has absconded
- A term of imprisonment has been served (no further recourse to recover the outstanding amount)
- The debtor has gone into bankruptcy or liquidation and there are no funds available to creditors

77. The Magistrates have the power of remission (write off) in respect of Council Tax and Business Rates at Committal proceedings, once a full means enquiry has been conducted and provided they do not fix a term of imprisonment.

## **Recovery**

78. We have a full continuous recovery programme, which runs throughout the year. Staff are aware of this programme before the financial year begins and we ensure we have the maximum number of telephone lines open as is practicable. We acknowledge that, when we send out notices, we will be very busy on the telephone and we ensure maximum staff coverage at these times. We encourage our customers to contact us if they have any queries about any of the notices they receive or if they wish to discuss payment.

79. Any recovery action that we take is administered at the relevant times and in accordance with Council Tax or Business Rate Legislation. Staff follow the procedures that we have set in place and are kept well informed of any changes.

## **Conclusion**

80. None of the action we take is meant to punish the individual, but to try and secure payment of a debt in the fairest and quickest way possible. The action we take is usually the only course left open to us and in all cases we will take every care to ensure that any action taken is relevant to the circumstances.

81. In addition we will continue to work towards striking a balance between the Council's need to improve collection, our obligations towards our customers and satisfaction of the Council's policies and objectives.