
SCRUTINY COMMITTEE REPORT

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| Date Written | 8 th July 2021 |
| Report Author | Mike Parry |
| Service Area | Finance |
| Committee Date | 20 th July 2021 |

To: Chair, Ladies and Gentlemen

Tackling Poverty

1.0 SUMMARY OF THE REPORT

- 1.1 The report considers the Councils debt collection process, specifically relating to the collection of Council Tax & Business Rates and also its impact on citizens.
- 1.2 The report has been compiled as a consequence of discussions held with the Citizen's Advice Bureau in 2019/20. It considers current and historical issues around debt management within the Council.
- 1.3 The report also outlines how the Council approaches its responsibility towards its citizens of maximising income from local tax collection while having appropriate regard to the welfare and financial hardship of those who have to pay.

2.0 RECOMMENDATION(S)

- 2.1 The content of this report is discussed and noted.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 Scrutiny Committee has requested this report to consider the Councils debt collection processes and debt management in relation to Council Tax and Business Rates arrears. It also considers the impact these policies and processes have on its citizens.
- 3.2 The report will cover the following:
 - The legislative background

- The debt recovery processes and timetable
- The use of Enforcement Agents
- Fee structure
- Other post Liability Order remedies
- Impact of Covid Pandemic
- Benefit & Hardship safety nets.
- Vulnerability

3.3 Legislation

The primary legislation relating to the Recovery of outstanding Council Tax are contained within The Council Tax (Administration and Enforcement) Regulations 1992 (as amended). Also the Tribunals Courts and Enforcement Act 2007 (introduced by Government in 2014). This legislation replaced Bailiffs with Enforcement Agents and provided new and revised legislative powers for those Agents.

The primary legislation relating to the recovery of Business Rates is contained within the Local Government Finance Act 1988 (as amended).

Both functions are now devolved to Welsh Government and numerous amendments have since been made to the primary legislation. However, the basic principles and processes relating to debt recovery remain as per the primary legislation.

3.4 Debt recovery processes and timetable

Council Tax and Business Rates arrears are collected in accordance with both the legislation outlined in 3.3 and the Councils own internal recovery processes and policy. A copy of the policy in this regard is attached at Appendix 1.

The sequence of recovery notices is as follows;

- **Initial demand notice** – The Council issues demands as early as possible after notification of a change of circumstances from the customer or during the annual billing process.
- **Reminders** – Issued within 20 working days of an instalment being missed.
- **Final Notice** – If the account is not brought up to date in accordance with the reminder, a Final Notice will be issued after the elapse of a further 7 days. The effect of this notice is to render the whole outstanding balance due for the rest of the year immediately payable.
- **Summons** – A summons to the Local Magistrates Court will be issued if the Final Notice is not paid. The cost to the customer of issuing this notice is £50.

- **Liability Order** – If the Court is satisfied that the charge is legally payable and remains outstanding, then the Magistrates are required to issue a Liability Order. The cost to the Charge payers in this instance is £20. Following the granting of a Liability Order, a notice is forwarded to the Charge payer advising them that they have 14 days to pay in full or contact the Council to make an arrangement. Failure to do this results in the instigation of post liability recovery. See Appendix 1 (5.4 – 6.5). The method of recovery is decided by officers investigating each case individually and reaching a decision based on any previous recovery information available on the charge payers account.

3.5 The use of Enforcement Agents

The Council has its own internal certificated Enforcement Agents. Retaining the service in house helps to ensure control of the debt recovery process. It fully considers the customers financial situation and acts appropriately having regard to ability to pay and any vulnerability issues. It also serves to ensure that costs are applied fairly and consistently and in accordance with the legislation. The Council also has its own internal code of conduct which is attached at Appendix 2

3.6 Fee Structure

The fees that can be applied to defaulting Council Tax and Business Rates accounts are statutory and are listed below;

- Issue of summons - £50
- Issue of Liability Order - £20
- Notice of compliance - £75
- Visit by Agent - £235

3.7 Other Post Liability Remedies

Attachment of earnings

Where the Council is made aware that a charge payer is in employment, then it may apply directly to the Employer to have any arrears deducted directly from the charge payers salary.

Attachment of Benefit

Where the Charge payer is in receipt of an attachable benefit (eg Universal Credit), the Council may approach the DWP and have any arrears deducted directly from their benefit payments. (£20.49 per month).

Other remedies

Under certain circumstances the Council may also apply any of the following remedies;

- Bankruptcy

- Charging Orders
- Insolvency

3.8 Impact of Covid Pandemic

The Council, along with all other Welsh Authorities, suspended the recovery of Council Tax and Business Rates during the early part of the pandemic in financial year 2020/21. The purpose of this suspension was to alleviate the financial pressures that some of the Authorities most vulnerable customers and businesses were experiencing.

Recovery processes recommenced in January 2021 and have continued thereafter, the first Court action having taken place on the 10th February 2021.

The suspension of recovery resulted in a fall in Council Tax collection of 1.5%, (95.5 in 2019/20, 94.0% in 2020/21). However, additional funding has been received from Welsh government to offset against these shortfalls.

The impact on Business Rates collection is difficult to quantify as the Business Rates grant schemes have made reliable comparisons with previous years of questionable value and accuracy.

3.9 Benefit and Hardship Safety Nets

Council Tax Reduction

A means tested reduction calculated with reference to the customers liability, household circumstances and income. The award can be a maximum of 100% of liability.

Housing Benefit

A means tested benefit which assists customers in rented accommodation to make their rental payments. As per the Council Tax Reduction scheme, the award is made with reference to the tenants rental liability, household income and make up. The award can be a maximum of 100% of rental liability.

Discretionary Housing payments

Where tenants are experiencing financial hardship or other difficulties which impacts on their ability to pay their rent, they may apply for a Discretionary Housing Payment.

Hardship Relief – (S13A relief).

The Council may consider requests from customers to apply hardship relief in relation to Council Tax liabilities. (Eg flooding of premises and Care leavers relief).

The Councils Policy document in this regard is attached at Appendix 3.

3.10 Vulnerability

Underpinning all of the aforementioned recovery and benefit processes and policies is the consideration of client vulnerability. This has become even more topical and of greater importance due to the impact of the pandemic. Many of our customers are experiencing financial and emotional and mental health issues which have to be carefully and compassionately considered before taking any course of action. How to deal with vulnerable people is addressed in both the Recovery Policy at Appendix 1 & the Code of Conduct at Appendix 2.

4.0 WHERE WE WERE

4.1 Council Tax

Prior to the pandemic, collection rates for Council had been static for a number of years at around 95.5%. This placed the Council in the bottom quartile of Welsh Authorities in regard to this indicator. This can be explained by the high level of Council Tax within the County Borough, the higher deprivation levels and relatively lower income levels of our Council Tax payers. The high Council Tax demonstrates the fact that a high proportion of the properties in the County Borough are in the lower bands, (A & B) which makes an already widely acknowledged regressive tax system even more so for our constituents.

In 2019/20, Council Tax collection was 95.5%. This fell to 94.0% in 2020/21 as a direct consequence of the suspension of recovery coupled with peoples inability to pay due to the financial pressures placed on many by the pandemic.

Business Rates

Prior to the pandemic and historically, the Council has performed exceptionally well in respect of Business Rates collection, consistently achieving collection rates of 98 -99%. This placed the Council in the top quartile of Welsh Authorities in regards to this measure.

Benefits

Historically, the full suite of Benefits administered by the Council have been processed in a timely and accurate manner. The processing times being consistent with other Welsh and English Authorities. DWP subsidy claims have been presented on time and certified as accurate and the Council has not been subjected to any error clawback from the DWP.

An underspend of the Discretionary Housing fund occurred in 2019,20. This resulted in the introduction of a more robust monitoring system to ensure this was not repeated.

The introduction of Generic working between the Benefit and Financial Assessment

team in 2019 has proven successful. The whole team is now able to process all benefit application regardless of type. This has built in resilience to the service and has assisted in 'smoothing' the workload peaks and troughs. Eg during annual billing.

5.0 WHERE WE ARE NOW

5.1 Council Tax

Collection rates for financial year 2021/22, (thus far), have recovered to pre pandemic levels. They are monitored on a monthly basis and reported to senior management.

Generic working for the recovery teams has been introduced effective from April 2021. This should result in improved performance and resilience.

As additional member of staff was appointed in April 2021 for a fixed term with the specific task of contacting customers at an earlier stage in the recovery process. Thereby giving customers more time to pay and avoiding any unnecessary court action and associated costs.

Business Rates

A suite of Welsh Government Grants have helped to ensure the viability of many businesses throughout the pandemic. Grants totalling £37 million have been made in 2020/21, 2021.22. The speed, accuracy and efficiency of the Councils response has been noted by Welsh Government.

Benefits

Processing times and claim accuracy continue to be monitored and reported on a monthly basis. Performance within the section is comparable with other Welsh Authorities.

6.0 WHERE WE WANT TO BE

6.1 Council Tax

Improving or more realistically maintaining current collection levels. This is a pragmatic approach given the high levels of Council Tax. In line with the digital transformation agenda, Improving and expanding our digital offering.

Business Rates

Returning to pre -pandemic collection levels whilst continuing to support businesses in conjunction with the Regeneration department. Continue to develop and further

enhance working practices and relationships with other internal departments dealing with businesses.

Benefits

Continue to process claims in a timely and accurate manner. Ensure compliance with new initiative and legislative changes.
In line with the digital transformation agenda, Improving and expanding our digital offering

7.0 WHAT WE NEED TO DO NEXT

7.1 Council Tax

Continue expansion of digital offering, monitoring and report on impact of pro- active recovery agenda.

Business Rates

Work closely with other teams regeneration etc. grants teams meetings have proven highly successful as with Council Tax, expand and improve digital offering

Benefits

Continue to ensure claims are processed accurately and in a timely manner. as with Council Tax, expand and improve digital offering

8.0 CONTRIBUTION TO WELLBEING OBJECTIVES

8.1 The Council's wellbeing objectives are supported since the proposals are critical in ensuring the financial sustainability of the Council thus enabling the continued delivery of essential Council services for the community.:

**CHIEF EXECUTIVE'S/OFFICER'S NAME
TITLE**

**COUNCILLOR'S NAME
CABINET MEMBER FOR**

| BACKGROUND PAPERS | | |
|--|-------------------------|--------------------------|
| Title of Document(s) | Document(s) Date | Document Location |
| | | |
| Does the report contain any issue that may impact the Council's Constitution? | | |

Appendix 1



**MERTHYR TYDFIL COUNTY
BOROUGH COUNCIL**

**COUNCIL TAX AND BUSINESS RATES
RECOVERY POLICY**

SECTIONS

1.0 Policy Intentions

2.0 The Council's Guiding Principles

3.0 The Revenues Service – Code of Conduct

4.0 Payment Arrangements

5.0 The Council's Recovery Processes

6.0 Further recovery options available to the Council

7.0 Absconders

8.0 Working with others

Vulnerability Criteria

1.0 Policy Intentions

1.1 The aims of this policy are to:

- Help minimise debts to the Authority and improve the Council's income levels through the efficient and effective collection of Council Tax and Business Rates;
- Effectively pursue all amounts due to the Council so that all taxpayers and ratepayers who have the ability to pay do so;
- Ensure that the debtor's circumstances (where known) are taken into account when deciding the most appropriate form of recovery action to take;
- Treat individuals consistently and fairly, regardless of age, sex, gender, disability, race and sexual orientation, and;
- Protect individual rights under Data Protection and Human Rights legislation.

1.2 A prime intention of the Council is to operate sensitive debt recovery procedures which do not place the individual in hardship and where possible do not affect a businesses financial viability. This will be achieved by having realistic, flexible methods of payment that can be adapted to the circumstances of the taxpayer or ratepayer.

1.3 Prevention is the first essential step in the effective recovery of debt. There are a number of measures that can be taken to minimise indebtedness at an early stage which reduces the necessity for costly enforcement action. This not only reduces cost but also works towards avoiding potential hardship

for taxpayers and ratepayers.

1.4 To achieve this we believe it is essential that we promote early contact with taxpayers and ratepayers, establish the correct amount that is payable and make mutually acceptable arrangements to pay.

1.5 At all stages of billing, collection and recovery of Council Tax and Business Rates, the Council will give customers the opportunity to make individual arrangements to pay. Where a customer defaults on the arrangement on more than two occasions, this facility will be withdrawn and only re-instated with the express permission of the Senior Recovery Officer.

1.6 The Council will promote the take-up of all available reductions for Council Tax and Business Rates to reduce our customers' liability where circumstances allow.

1.7 The Council when discharging the functions to which this policy relates will comply with the relevant legislation and have regard to relevant government guidance and policy.

2.0 The Council's Guiding Principles

2.1 This policy reflects the Council's Guiding Principles by:

- Treating taxpayers and ratepayers as individuals 'where everyone matters' by focusing on the needs of individual customers when recovering debt
- Ensuring everyone has equal opportunity to pay by providing a high quality customer focused service
- Delivering an open and transparent service which can demonstrate the efficient and effective collection of Council Tax and Business Rates whilst helping people to maximise their income through the promotion of exemptions, reliefs, discounts and benefits
- Ensuring value for money by maximising the income to the Council through efficient and effective recovery processes.

2.2 It is recognised and accepted that the Voluntary Sector advice agencies, debt support organisations that operate in the County Borough have a key role to play in both the prevention of debt and the debt recovery process.

As such the Council will continue to support and work in partnership with such organisations.

3.0 The Revenues Service – Code of Conduct

3.1 The Revenues Service will;

- Provide help and advice to taxpayers and ratepayers in a clear,

- accurate and understandable way
- Maintain contact details to ensure quick and easy contact can be made where the need arises
 - Ensure bills, reminders and other notices are issued in a timely manner, meeting all legal requirements.
 - Encourage taxpayers and ratepayers or their representatives to make contact as soon as possible where they will have difficulty in making or maintaining their payments
 - Treat taxpayers and ratepayers as individuals taking account, wherever possible, of known personal circumstances to determine the most appropriate action to be taken
 - Keep the taxpayer and ratepayer informed of the action being taken and other types of action that may be taken
 - Communicate in Plain English without using jargon or unnecessary technical or legal content
 - Provide support for vulnerable taxpayers and ratepayers through home visits as required
 - Provide and maintain, upon request, recovery documentation in Welsh and will make appropriate translation services available to taxpayers and ratepayers
 - Promote and work in partnership with local debt advice agencies to ensure those in financial difficulty get good quality debt advice
 - Liaise with the Council's Benefits Service to identify accounts where outstanding benefit issues need resolving
 - Support Businesses who are suffering financial difficulty by giving advice regarding relief, including mandatory and discretionary relief and small business rate relief
 - Deal with complaints in line with the Council's Corporate Complaints Policy
 - Work with others to check the information given to the Council by taxpayers and ratepayers and to improve the Council's services. The Council may give information to other organisations as the law allows, for example to safeguard against crime.

4.0 Payment Arrangements

4.1 Taxpayers and ratepayers who are experiencing personal and financial difficulties and struggling to pay their Council Tax and Business Rates will be encouraged to undertake an income and expenditure analysis with the Council to ascertain the best method and rate of recovery.

4.2 Taxpayers and ratepayers will also be advised of other organisations that can help with debt advice.

4.3 An individual's financial and personal circumstances will be assessed before any arrangement is made.

4.4 When agreeing an arrangement to pay with a taxpayer or ratepayer, Recovery Officers will refer to the Council's Guidance on Vulnerability

(Attached Appendix 1 – Vulnerability Criteria).

4.5 The Council will make arrangements with the taxpayer, ratepayer or bona fide representative, including, but not limited to, husband/wife, partner, debt advisor, executor or solicitor. Arrangements will only be made with representatives, where there is written or express authority for the representative to act on behalf of the taxpayer or ratepayer whose name appears on the bill.

4.6 When making arrangements to pay the Council will seek to clear debts within the financial year of the liability. Where this is not possible, the Council will seek to reach an agreement that allows, as a minimum, the payment of the continuing liability plus an affordable amount off any arrears. Arrangements will be assessed based upon the affordability and sustainability for payment and seek to ensure that the debt is paid off within a reasonable period.

4.7 The Council will do everything it can to help residents to make the most of their incomes and reduce their debts before they become a problem. By agreeing reasonable arrangements, the Council will seek to avoid, where possible, additional court costs, collection agent fees and administration fees being added to the debt.

4.8 Any taxpayer or ratepayer who wishes to dispute the level of payment under an arrangement will have their case reviewed by the Senior Recovery Officer.

4.9 Where a taxpayer or ratepayer makes an arrangement to pay but fails to keep to that arrangement, the Council will take reasonable steps to establish the cause of non-payment and subject to Section 1.5 of this policy; the Council may continue with the same arrangements, amend the arrangements or take other recovery action.

4.10 Whether the arrangement is made by telephone or by personal contact, the Council will confirm the arrangement in writing, clearly detailing the arrangement and the consequences of not meeting the payments.

5.0 The Council's Recovery Processes

5.1 Bills

5.1.1 The Council will issue bills, revised bills and, where necessary, substitute bills as early as possible taking into account the circumstances of our customers.

5.1.2 Direct Debit will be promoted to customers as this is the easiest, most cost effective method of payment.

5.2 Reminder Letters

5.2.1 Reminders will be issued within 20 working days of an instalment being missed. The reminder will inform taxpayers and ratepayers of the amount in arrears and that payment is required within 7 days and that failure to pay will result in further recovery action being taken for the full year's charge.

5.2.2 Following a reminder, if instalments are brought up to date or an agreement between the taxpayer or ratepayer and the Council is made, no further action will be taken providing future payments are made correctly.

5.2.3 A final reminder may be issued before any further recovery action is taken.

5.3 Summons – The Application for a Liability Order

5.3.1 Where taxpayers or ratepayers fail to respond to a reminder or final reminder notice or default on an arrangement to pay, the Council may apply to the Magistrates Court for a Liability Order to be issued.

5.3.2 If the court is satisfied that the charge is legally payable and remains unpaid, the Magistrates are required to issue a Liability Order. Taxpayers/ ratepayers who do not attend Court are usually dealt with in their absence.

5.3.3 The Liability Order provides the Council with a number of options which they can use to recover the amount due plus any costs involved.

5.4 Liability Orders

5.4.1 A Liability Order may be made against one or more joint taxpayers/ ratepayers in respect of an amount for which they are jointly and severally liable. The recovery procedures may be applied to one or more than one of the joint taxpayers/ ratepayers.

5.4.2 A notice will be sent to taxpayers/ ratepayers when a Liability Order is granted by the Magistrates Court. This notice includes a statutory request for information regarding the tax or rate payer's financial circumstances and employment details.

5.5 Requests for Information

5.5.1 The Council may request certain relevant information from a debtor, in relation to his or her employment, particularly the name and address of any employer and level of earnings and deductions. Taxpayers and ratepayers are under a legal obligation to provide this information.

5.6 Attachment of Earnings

5.6.1 Where the Council is aware of a Council Taxpayer's employment details they will, in most cases, issue an order to the taxpayer's employers to make deductions from their earnings. Employers are legally required to comply with the order and may deduct a nominal charge which is defined in law for each deduction made towards the costs of administering the order.

5.6.2 The amount being received under the order will be reviewed on a regular basis and where it is felt that this is insufficient to clear the debt outstanding within a reasonable time, the Council may either request a further attachment to earnings order to be made (maximum of 2) or cancel the attachment and take alternative action to recover the amount due.

5.6.3 In cases where a taxpayer will suffer hardship because of an attachment order, the circumstances of individual cases will be considered with a view to taking alternative action. This will usually be an arrangement to pay a lower amount than that prescribed under an attachment order which is acceptable to the Council.

An attachment to earnings will only be cancelled in exceptional circumstances where suitable alternative action can be agreed.

5.7 Deductions from State Benefits

5.7.1 In Council Tax cases, the Council may apply to the Department for Work and Pension (DWP) for deductions to be made from State Benefits. The DWP regulations specify the fixed weekly amount deductible.

5.8 Bailiff Action

5.8.1 Following the granting of a Liability Order, where a taxpayer or ratepayers fails to make contact with the Council or fails to make or maintain a payment arrangement (including orders under attachments to earnings or deductions from benefit) the Council may issue instructions for a Bailiff to visit the property.

5.8.2 At all times the Bailiff will work to an agreed Bailiffs Code of Conduct (Appendix 2), Council Guidelines and the Council's Vulnerability Criteria (Appendix 1).

5.8.3 Fees and charges associated with bailiff action will be charged in accordance with levels set out in the legislation. All charges associated with recovery will be kept regularly under review to ensure they are reasonable.

5.8.4 The Bailiff may make an acceptable arrangement with the debtor to repay the sums due or levy distress on goods owned by the debtor to satisfy the amount outstanding. Levying distress on goods is where the bailiff secures the debt against assets owned by the taxpayer or ratepayer.

5.8.5 Actual removal and sale of goods will only take place in exceptional circumstances following approval from a Council Officer. All efforts will be taken in order to make an arrangement to pay including the obtaining of

employment or benefit information that may lead to an order being made under an attachment to earnings or deduction from benefit.

6.0 Further recovery options available to the Council

6.1 Where the forms of action detailed in Section 5 of this policy have either been unsuccessful, are not considered to be appropriate, or the taxpayer or ratepayer has failed to make contact with the Council, the Council may pursue other recovery options that may have more serious implications for the taxpayer and ratepayer.

6.2 These actions are:

- Committal Proceedings
- Charging Orders
- Bankruptcy
- Winding Up Procedures

6.3 Any action to recover amounts by these methods will be considered on its merits on an individual case by case basis, having regard to the 'Recovery Checklist' completed by the Council's Recovery Officers. This will include the following;

- A record why other methods of recovery are not appropriate, and:
- Where little or no personal contact has been made details of at least one visit to the property, and:
- A record of information gathered and the reasons for the proposed action.

6.4 In addition, the Council will have regard to the Vulnerability Criteria in Appendix 1 to assist in making decisions at all stages of recovery and in particular where an option referred to in Section 6.2 of this policy is being considered such as bankruptcy.

6.5 Documentation issued to ratepayers will include:

- Clear written warnings listing the consequences of failing to respond to the letter or notice,
- A date by which they must respond, and;
- Recommendations that tax/ratepayers suffering financial difficulty contact their local Citizens Advice, Business Support Agency or Debt Advice Agency for debt advice.

6.6 Committal Proceedings (Former)

6.6.1 Committal proceedings have recently been removed as a method of recovery for non-payment.

6.7 Charging Orders

6.7.1 Non payment of Council Tax

6.7.2 The Council may make an application to the County Court for a charging order to be registered against a taxpayers' property, where the amount of council tax outstanding is over £1,000. The costs associated with this type of action are high, and may be added to the amount of the order.

6.7.3 Following the granting of a charging order, if the debt is not paid the Council may apply to the County Court for an order for sale, which may result in the property being sold and the amount subject to the charging order, including costs, being paid from the proceeds of sale.

6.7.4 Non Payment of Business Rates

6.7.5 The Charging order option is not available under the 1989 Regulations in respect of business rates. However if a ratepayer(s) owns their business premises and are intending to sell the property, the Council may seek their agreement to registering a charge against their interest in the property. This means that they agree that the Council will be paid any rates due from the proceeds of the sale of the property. The Council will not attempt to recover any amount due which is covered by the agreement for a specified period. This period cannot be more than three years. Any amounts covered by the agreement may be subject to interest charges.

6.8 Bankruptcy

6.8.1 This option is only available where the taxpayer or ratepayer is an individual. This course of action is not only administratively costly for all parties but can also have considerable impact both on the taxpayer and members of the taxpayers' household. Consequently, this will only be considered where:

- There has been repeated default in other types of recovery action.
- Other forms of recovery action are not appropriate.
- The taxpayer or ratepayer owns the property which is the subject of the Council Tax or Business Rates or a second property and where the equity is likely (so far as the Council can assess) to be sufficient to cover both the amount of the debt and the costs of the bankruptcy and sale.
- The debt outstanding is above £1000.

6.8.2 No bankruptcy proceedings will take place without attempting to contact the taxpayer or representative.

6.8.3 A statutory demand will be served on the taxpayer setting out the debt outstanding, and the options available to them to prevent further action, the time scales in which they need to respond (21 days), and direct contact details of officers dealing with the case. A guide to the potential bankruptcy costs is included with the statutory demand. No additional costs are incurred

at this stage, and the Council may agree a payment arrangement with the taxpayer.

6.8.4 Where, after 21 days, the tax/ratepayer has not responded to the statutory demand or the Council is unable to agree arrangements that will discharge the debt, the Council will consider whether a petition for the taxpayer to be made bankrupt should be issued.

6.8.5 Before a petition is issued, the Council will make all reasonable attempts to find out what the tax/ratepayer's personal and financial circumstances are to determine whether they or other members of the household may fall within the Council's Vulnerability Criteria as described in Appendix 1.

6.8.6 Where, from information provided by the tax/ratepayer or their representative, or other sources there is evidence to suggest that the taxpayer or other members of the household fall within the Council's Vulnerability Criteria the case will be reviewed by a Senior Officer to confirm that bankruptcy is appropriate.

6.8.7 Where the Council considers that bankruptcy action should continue, a petition will be served on the tax/ratepayer, advising them of the date and time of the bankruptcy hearing. The serving of a bankruptcy petition will result in significant costs being incurred.

6.8.8 It is essential that the taxpayer or ratepayer attends this or any adjourned hearing to make representation to the judge as to why the order should not be made. Where the taxpayer or ratepayer fails to attend, the Court will determine whether the issue of a bankruptcy petition should be made. Once the order has been made the matter will be referred to the Official Receiver for Trustees to be appointed.

6.9 Winding Up Procedures

6.9.1 Where the ratepayer is a limited company the same criteria as for determining whether bankruptcy action is appropriate will be undertaken.

6.9.2 In appropriate cases, a formal request for payment will be sent to the ratepayer advising them of the impending action and the consequences of this action being successful.

6.9.3 No additional costs are incurred at this stage, and the Council may agree a payment arrangement with the ratepayer.

6.9.4 Where, after 14 days, the ratepayer has not responded to the formal request or the Council is unable to agree arrangements that will discharge the debt, the Council will consider whether a petition for the winding up of the company should be issued.

6.9.5 Where a petition is served on the ratepayer this will notify them of a date and time of the hearing in the High Court. The serving of a petition will result

in significant costs being incurred.

6.9.6 It is essential that the ratepayer attends this hearing or any adjourned hearing to make representation to the judge as to why the winding up order should not be made.

6.9.7 Where the ratepayer fails to attend this will generally result in the company being wound up.

6.9.8 Once the company has been wound up the matter will be referred to the Official Receiver for a Liquidator to be appointed.

7.0 Absconders

7.1 Where a taxpayer or ratepayer leaves a property without notifying the Council of their forwarding address the Council will make every effort to trace their current whereabouts and to collect the amount outstanding.

7.2 This will include, where permitted by law, the sharing of information between other Council departments and using external tracing agencies.

8.0 Working with others

8.1 We will endeavour to consult and engage with stakeholders in order to identify customers who may be entitled to an exemption, discount, disregard, benefit or relief, thereby, contributing to residents' prosperity, health and wellbeing.

8.2 The Revenues Service will endeavour to develop liaison arrangements with the following agencies when reviewing its' procedures in order to improve the Council's service: Citizens Advice Bureaux, Local Advice Centres, Social Services, Registered Social Landlords.

Vulnerability Criteria.

The Council recognises that some taxpayers and ratepayers will, due to their individual personal and financial circumstances, have extreme difficulty in paying their Council Tax and Business Rates, and punitive recovery action may not be appropriate where these suggest the taxpayer, ratepayer or other household members may be vulnerable in some way.

The Council will ensure processes are in place to ensure that due regard is given to this group of taxpayers' and ratepayers.

A person may be considered vulnerable in the following circumstances. The list is not exhaustive and each case will be decided on its own merits:

- The person is elderly
- The person is seriously ill or mentally or physically disabled

- The person has communication or learning difficulties
- The person has young children and where there is severe deprivation
- The person has recently been bereaved or made unemployed
- The person has difficulty in understanding written or spoken English.

Falling into one of these categories does not automatically mean that recovery action is not appropriate. The Council will make individual decisions based upon the individual circumstances of the taxpayer or ratepayer to identify if recovery action is appropriate and, if so, what action to take.

Different recovery proceedings cannot be applied simultaneously to one customer, but can be applied subsequently if a debt remains outstanding. The choice of recovery action is made at the discretion of the Council's Recovery Officers and will take into account the taxpayers and ratepayers circumstances on a case by case basis and the guidance within this Policy.

The Revenues Service may become aware of vulnerable ratepayers and taxpayers following contact from the taxpayer, ratepayer or their representative or once recovery action is instigated. Alternatively, this information may become available from other internal systems used by the Council, from other service lines or from other support agencies.

Where the bailiff on visiting the taxpayer or ratepayer has vulnerability concerns, he is required to return the Liability Order instruction to the Council in order for the Council to decide upon the most appropriate recovery action.

Appendix 2

Internal Bailiff - Code of Conduct

1. The Bailiff will either write to you or visit within 5 working days of the debt being referred to him/her.
2. The bailiff will visit you to enforce liability orders or to seize your goods at any time between 7.00am and 9.00pm unless your circumstances are exceptional.
3. The bailiff will collect the debt within three months of the debt being referred unless they have agreed a longer repayment period.
4. Any bailiff who seizes goods must be approved by the County Court.
5. If a bailiff seizes goods, he or she must introduce themselves with identification, which will include a photograph and also give reasons for his or her visit.
6. The bailiff should dress smartly and be polite in all circumstances.
7. The bailiff must carry written authority from us and show it to you if you ask.
8. Bailiffs should give you the chance to:
 9. i) Question the amount you owe.
 10. ii) Provide evidence of any payment we have not taken into account; and;
 11. iii) Make payment in full, and the bailiff should explain that this payment will stop further proceedings.
12. The bailiff must not enter your home if there is no person over the age of 18 there.
13. The bailiff must not threaten you with other ways of enforcing the liability order but may advise you that imprisonment may be an action the Council could take.
14. If you or your partner are not in when the bailiff visits, the bailiff may not discuss the visit with any other person.
15. If a bailiff wants to get information about where you are, he or she should do so discreetly without giving the reason for their visit.
16. If you pay the bailiff in full, he or she must tell us and take no further action until we give them further instructions.
17. The bailiff should wait to receive instruction from us before going ahead where there is evidence of vulnerability. (See vulnerability policy).
18. If your second language is English and is limited, you should ask someone you know to interpret.
19. Bailiffs should advise you of the complaints and appeals procedures if you ask for this information.
20. Bailiffs should make sure they do everything possible to contact you personally.
21. If we find out that you are receiving an attachable benefit, we may, if appropriate, stop action against you and issue an Attachment of Benefit Order.
22. Bailiffs should know about the rules of entering your home.
23. If a bailiff comes to seize your goods, he or she must clearly tell you what they cannot take legally.
24. If a 'walking possession' has been entered into, the bailiff will give you a list of the goods they can take. This means you can keep the listed goods at your home while you pay off the debt, but they will be sold if you do not.
25. If a bailiff removes your goods, he or she must make sure your goods are handled with care and attention and kept safe.

26. The bailiff must make sure that the goods are insured and safely stored before they are sold.
27. If you make a complaint about the bailiff, the Authority will investigate the complaint and provide a full written response in accordance with the Authorities complaints procedures.
28. The bailiff must provide you with a full breakdown of costs if requested.

Vulnerable situations

Enforcement officer must withdraw if the only person on domestic premises is or appears to be under 18, but can enquire when the debtor will return. If person appears to be under 12 then the enforcement officer shall withdraw without making any enquiries.

Wherever possible, enforcement agents should have arrangements in place for rapidly accessing translation services when these are needed, and provide on request information in large print or in Braille for debtors with impaired sight

If a debtor appears to be potentially vulnerable then the enforcement officer shall use his discretion as to whether enforcement action is immediately appropriate and refer to his supervisor/manager.

Those who might be potentially vulnerable include;

Elderly persons

Physically or mentally disabled persons

Persons suffering from a serious or long term illness

Recently bereaved persons

Removal of goods should be approved by the bailiff's line manager.

Persons who have problems understanding, speaking or reading English

Businesses where the removal of goods might make a significant number of people unemployed or where the loss of a vital service to the area might be incurred

Appendix 3

Council Tax Discretionary Relief Policy

Version: 2.0 (April 2018)

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1) Introduction

This discretionary relief policy has been created by the Council to assist all persons liable for Council Tax who may be experiencing financial hardship or distress. This policy is also intended to provide further financial assistance where an applicant is in receipt of a Council Tax Reduction award, where it does not meet their full Council Tax liability.

The discretionary relief policy will be administered by Merthyr Tydfil County Borough Council and will be made available to any council tax payer specified in Sections 4 and 5 of this policy. The purpose of this discretionary relief policy is to provide temporary assistance to Council Tax payers to help reduce their Council Tax liability. The operation of the policy is at the discretion of the Council.

2) Legislative Powers

Section 13A(1)(c) of the Local Government Finance Act 1992 (as inserted by Section 76 of the Local Government Act 2003), provides the Council with the discretion to reduce liability for council tax in relation to individual cases or class(es) of cases that it may determine and where national discounts and exemptions cannot be applied.

A summary of Section 13A(1)(c) is set out below :

- Where a person is liable to pay council tax in respect of any chargeable dwelling, the Council for the area in which the dwelling is situated may reduce the amount to such extent as it thinks appropriate.
- The power under subsection 1) includes the power to reduce an amount to nil.
- The power under subsection 1) may be exercised in relation to particular cases or by determining a class of case in which liability is to be reduced to an extent provided by the determination.

There are financial implications to awarding any discretionary reliefs other than those currently available under the statutory legislation and the financial burden of Section 13A discretionary relief is borne directly by the Council as a loss of council tax revenue.

3) Statement of Objectives

The purpose of this policy is to specify how the Council will operate this discretionary power and to set out the factors that will be considered when making a decision on whether to award council tax discretionary relief (or not).

Principally, the objective of council tax discretionary relief is to offer short term financial assistance to council tax payers who are experiencing exceptional circumstances. Each application for discretionary relief will be treated strictly on its own merits and all council tax payers will be treated fairly and equally. The Council will seek through the operation of this policy to:

- Alleviate social injustice
- Prevent homelessness
- Keep families together
- Support the vulnerable in their homes in the community
- Support those applicants who are unable to work due to a disability, who have been assessed as such by the Department for Work and Pensions
- Help customers through personal crises and difficult events
- Provide advice on long term possible solutions to meet their housing costs
- Improve financial capability by referral to an independent advisor e.g. Money Advice Service.

The list is not exhaustive and we will consider all factors or exceptional circumstances that may apply.

Council Tax discretionary relief through this policy is intended as a short term emergency measure and is not intended to cover the shortfall between Council Tax and entitlement to Council Tax Reduction Scheme support or any other reduction on a long term basis.

4) Care Leavers' Class

Care leavers are specified as a class of cases in which liability can be reduced to nil. Cases falling within this class will be awarded discretionary relief automatically and no written application will be required.

For the purposes of this policy, care leavers will be defined as residents for whom Merthyr Tydfil County Borough Council (or another local authority), held corporate parenting responsibility at the point at which the young person left care. Corporate parenting is a statutory function of the council and in Wales, Councils retain corporate parenting responsibilities for young people who left care up to the age of 21 or up to the age of 25 if they are pursuing education or training.

The principles of awarding discretionary relief to care leavers are as follows:

- The young person is a 'care leaver' and is between the ages of 18 and 25 and is not exempt from Council Tax liability on any other basis.
- Where a Merthyr Tydfil CBC 'care leaver;' moves out of the Councils area, the discretionary relief will be apportioned to the date that they move.

The Care Leavers Class will operate as follows:

- The young person is a 'care leaver' and is between the ages of 18 and 25 and is not exempt on any other basis.
- The discretionary relief will apply to residents for whom Merthyr Tydfil CBC or another local authority, held parenting responsibility at the point at which the young person left care.
- The care leaver resides and is liable, or jointly liable, to pay Council tax within Merthyr Tydfil County Borough.
- The level of reduction applied will be 100% of residual Council Tax liability, after taking into account any other discounts, disregards, exemptions or Council Tax Reduction (CTR) to which the care leaver may be entitled.
- The relief will be awarded against any Council tax liability arising from 1st April 2018 and the Council will have discretion to backdate future awards to the 1st April 2018 but no earlier.
- The relief will not be means-tested if the care leaver is between the ages of 18 and 25.
- The date of the day before the care leavers 25th birthday determines the last day of the period of the discretionary relief.

5) Claiming Discretionary Relief

With the exception of the Care Leavers' specified class where no application is needed, the Council will treat all applications on their individual merits. Council will only consider using its powers to reduce council tax liability for a council tax payer or class of payer in exceptional circumstances, because the full cost of awarding relief has to be borne by the Council.

Examples of circumstances where a council tax payer may experience financial hardship can include, but is not limited to the following:

- A sudden change in circumstances, such as loss of employment
- A reduction in income due to illness suffered by the liable person
- Loss of income incurred by the liable person to enable them to care for a dependant
- Sudden increase in other expenses, for example, due to a family member's illness or incapacity.

General hardship can also be incurred from living on a very low income. It is difficult to determine when a person on a low income will qualify for additional support through this policy. However, the following are factors that the Council may take into account:

- Inability to make payments for basic utilities such as water, electricity and heating
- Court proceedings for outstanding debts
- Consistently exceeding overdraft limits without evidence of spending on anything other than necessities such as utilities, food and accommodation
- The threat of homelessness
- Inability to pay for food.

Who can apply?

Those persons liable to pay Council Tax to Merthyr Tydfil County Borough Council who can apply are:-

- Owner occupiers
- Tenants

- Liable residents (but not formally a 'tenant')
- Persons acting on behalf of a liable person i.e. an appointee, solicitor or someone with power of attorney.
- Where a care leaver is between the ages of 18 and 25 and resides in a household but is not liable for council tax purposes, the council tax liable person(s) will be able to apply for discretionary relief if the presence of the care leaver results in an increase in the council tax payable. The relief will be equivalent to the amount by which the council tax has increased.

Who cannot apply?

Any person not liable to pay Council to Merthyr Tydfil County Borough Council, but also specifically:-

- Landlords of properties where the tenant is liable
- Landlords, if liable
- Estate agents/managing agents on behalf of a landlord
- Friends/relatives of the liable person (unless acting as an appointee or under a power of attorney)
- Lodgers or other residents who are not liable to pay Council Tax
- Support agencies (unless acting as an appointee or under a power of attorney)
- Banks or other holders of a mortgage or other legal charge on a property
- Owners of empty properties.

The Council will treat all applications on their individual merits, however some or all of the following criteria must be met for each case:

- There must be evidence of financial hardship or personal circumstances that justifies a reduction in council tax liability
- The applicant must satisfy the Council that all reasonable steps have been taken to resolve the situation prior to application
- The applicant has applied for council tax support (the Welsh Government's national Council Tax Reduction Scheme exists to ensure that those on low incomes receive financial assistance with their council tax)
- All other appropriate council tax discounts/reliefs have already been awarded

- The applicant does not have access to other assets that could be used to pay council tax
- All other legitimate means of resolving the situation have been investigated and exhausted by the applicant.
- The situation and reason for the application must be outside of the applicant's control
- The amount outstanding must not be the result of deliberate non-payment or failure to make payments as required through neglect.

Requests for reductions in council tax liability will be required in writing from the council tax payer or a recognised third party appointed to act on their behalf.

The application should relate to the current council tax year, unless the applicant has received a bill following a delayed council tax valuation for a previous year(s) or a late determination as to liability to the council tax (provided the late determination is not the fault of the applicant).

The Council reserves the right to request any additional evidence in support of the discretionary relief application, and will act consistently and reasonably in doing so. Where the applicant is unable to, or does not supply the required evidence, the Council will still consider the application and will take into account any other evidence available, including documentation held on the housing benefit/council tax reduction case file.

The Council will consider the household's overall financial capability when determining an award for discretionary relief.

6) Decision Making

Whilst the discretionary relief policy is by definition 'discretionary', the Council has a duty to make decisions in accordance with recognised principles about good decision-making, i.e. administrative law, and in particular, to act fairly, reasonably and consistently.

The Revenues and Benefits Manager will determine all Section 13A applications in consultation with the Chief Finance Officer and the decision will then be referred to the Director of Customer Services for authorisation.

In deciding whether to award discretionary relief, the Council will take into account the following:

- The shortfall between income and expenditure

- Any steps taken by the applicant to reduce their rental or council tax liability
- The household, financial and medical circumstances of the applicant, their partner and any other persons in the household
- Any savings or capital held by the applicant's household
- The applicant's level of debt
- Any special reasons which make it necessary or particularly desirable for the applicant(s) to occupy the dwelling in respect of which the liability arises
- The possible consequences of council tax arrears for the applicant or family members, especially if any of them are vulnerable by reason of age, sickness or disability
- Whether the applicant can change their spending pattern on non-essential items
- The possible impact of not making a payment i.e. the pressure on priority homeless accommodation
- The actions being taken by the applicant to improve or change their domestic, financial or personal situation to reduce or limit the amount of support that they will require in the future i.e. helping those that are trying to help themselves
- Any other special circumstances brought to the attention of the Council.

Any successful application will be granted for the remainder of the financial year in which the application is made, but will cease at the end of that financial year and a re-application will be required for consideration of any ongoing assistance.

Awards will generally be made from the date that the Council received the application form, but the Council may backdate awards under this policy, if it is considered reasonable.

7) Notification of Decision

The Council will notify an applicant in writing within 14 days of receiving sufficient information to make a decision or within a reasonable period afterwards.

Where an application for discretionary relief is successful the applicant (and any other affected party) will receive notification of:

- The amount of the award
- The circumstances of the award, any steps that the applicant should

- take and any conditionality attached to the award
- The start and end date of the award
- Their duty to report any change of circumstances that may affect the award
- The recoverability of any award
- The procedure to follow should the applicant disagree with the decision.

8) **Review of Decision**

Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept an applicant's written request for a further review of its decision, if it is made within one month of the date of notification of the decision.

The request for review will be considered by a person other than the person who made the original decision. He/she will consider whether the applicant has provided any additional information against the required criteria that will justify a change to the original decision.

If the review concludes not to revise the original decision, this decision is final and may only be challenged by way of an appeal to the Valuation Tribunal for Wales, judicial review or by a complaint to the Local Government Ombudsman, (where there is an allegation of maladministration).

9) **Fraudulent Claims and Overpayments**

The Council reserves the right to recover any overpayment of discretionary relief where the award was made as a result of misrepresentation or failure to disclose a material fact, fraudulently (or otherwise), or due to an administrative error by the Council (where it is reasonable to assume that the taxpayer would have been aware).

The Council is committed to tackling fraud and abuse of public funds in all forms. Where there is suspicion that a fraud may have occurred, the matter will be investigated and this may lead to criminal proceedings being initiated. The Council will consider prosecuting any applicant who makes a false statement or provides fraudulent evidence in support of an application.

An application for a discretionary relief will not be considered to offset any council taxes that have become payable as a result of the taxpayer being prosecuted and convicted for Housing & Council Tax Benefit/Council Tax

Reduction Scheme fraud, or in cases where an Administrative Penalty or a sanction has been given in the last 6 years.