



Colchester
Borough Council

Colchester Borough Council
Corporate and Improvement

Income and Debt Policy

November 2022

www.colchester.gov.uk

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1. Introduction

- 1.1 The Council is being increasingly commercial in every aspect and service. We must balance the importance of supporting our vulnerable customers whilst increasing our income and streamlining processes.
- 1.2 This policy covers the collection and procedures for:
- Council Tax
 - Business Rates (NNDR)
 - Housing Benefit Overpayment
 - Sundry Debts (including Commercial Rent)
 - Penalty Charge Notices
 - Mortgages and Shared Ownership Schemes
- 1.3 The policy also covers the procedures for billing/invoicing across all Council services and well as the payment options available.
- 1.4 The Income and Corporate Debt Teams manage services on behalf of other services and organisations. Specific Service Level Agreements will be in place for these services.

2 Policy Aims

- To ensure that the Council bill/invoice, collect and recover all debts in an economic, effective and efficient manner in accordance to legislation and best practice.
- To ensure that all customers will be treated fairly and objectively.
- To provide consistent guidelines and procedures.
- To set out preferred payment options which are cost effective and support prompt payments whilst enabling payments to be made 24 hours a day, 7 days a week.
- Advise and assist customers to avoid debt issues before they arise.
- Make pro-active contact whenever possible, by text, emails or telephone to ensure early intervention and payment.

3. Billing and Invoicing Arrangements

- 3.1 There is a legal duty placed on the Council to bill for Council Tax and Non-Domestic Rates (Business Rates) in accordance with legislation. The processes are automated and managed by the Technical, Control and the Income Teams.
- 3.2 Sundry (Commercial) debts are more varied and can be dealt with by the Income Team in liaison with the individual services.

- 3.3 The below table shows the billing and recovery process in terms of team responsibility for the different types of debt.

	<i>Council Tax</i>	<i>Business Rates</i>	<i>Housing Benefit Overpayments</i>	<i>Sundry Debts</i>
<i>Account administration</i>	Council Tax Team	Business Rates Team	Housing Benefit Team	Individual Service Area
<i>Systems Support</i>	Technical Team	Technical Team	Technical Team	Finance
<i>Billing</i>	Technical Team	Technical Team	Technical Team	Income Team
<i>Payment Processing</i>	Income Team	Income Team	Income Team	Income Team
<i>Debt Recovery</i>	Corporate Debt Team	Business Rates Team	Housing Benefit Team	Income Team

For all types of income the following guidelines must be followed:

- When goods or services are being provided payments should always be made up front of service delivery.
- For charges relating to hire of goods or premises a reasonable deposit should be taken on booking to cover any potential damage and the full cost of hire.
- Services should always consider the risk of non-payment and should actively monitor customer accounts and payment activities to highlight possible accumulation of debts.

4. Methods of payment

- 4.1 The Council will prioritise efficient payment methods which support self-serve. Payment options will be reviewed regularly to ensure we are benefiting from the latest payment technologies.

- 4.2.1 The Council's preferred methods of payments are:

- Direct debit
- BACS (bank transfer)
- Online payments
- Automated telephone line payments

- 4.3 Services should remove any payment options from promotional materials, bills or other correspondence other than the preferred payment methods. For recurring or regular charges, Direct Debit must be promoted as the only payment option. For one-off charges an upfront debit card internet payment should be promoted followed by other self-serve options.

- 4.4 The Council will no longer accept payments by Payment Card or Postal Order. Cheque payments will no longer be accepted unless in exceptional circumstances which prevents the customer from paying in an alternative way.

- 4.5 The Council will support customers to switch to the preferred payment methods including:

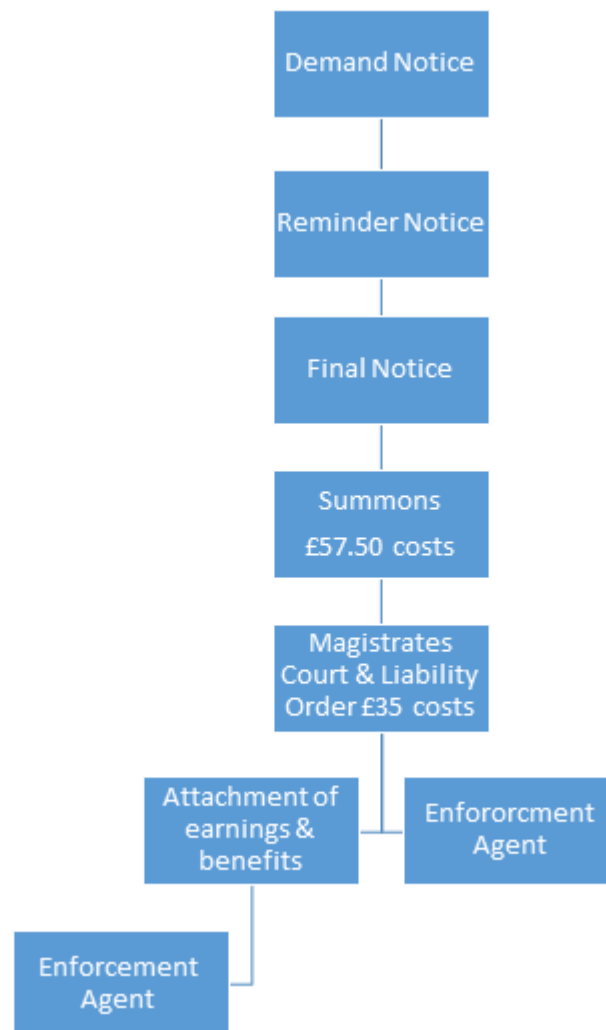
- Proactive customer contact by phone and letter
- Bulk text messages and emails

- Direct Debit promotional campaigns

5. Recovery of unpaid debts

- 5.1 For a variety of reasons, revenue due to the Council will not be paid as requested. The Corporate Debt Team and individual services must undertake recovery action as soon as possible to maximise the probability of debt recovery.
- 5.2 Reminders will use nudge and persuasive techniques that are most likely to attract prompt payment.

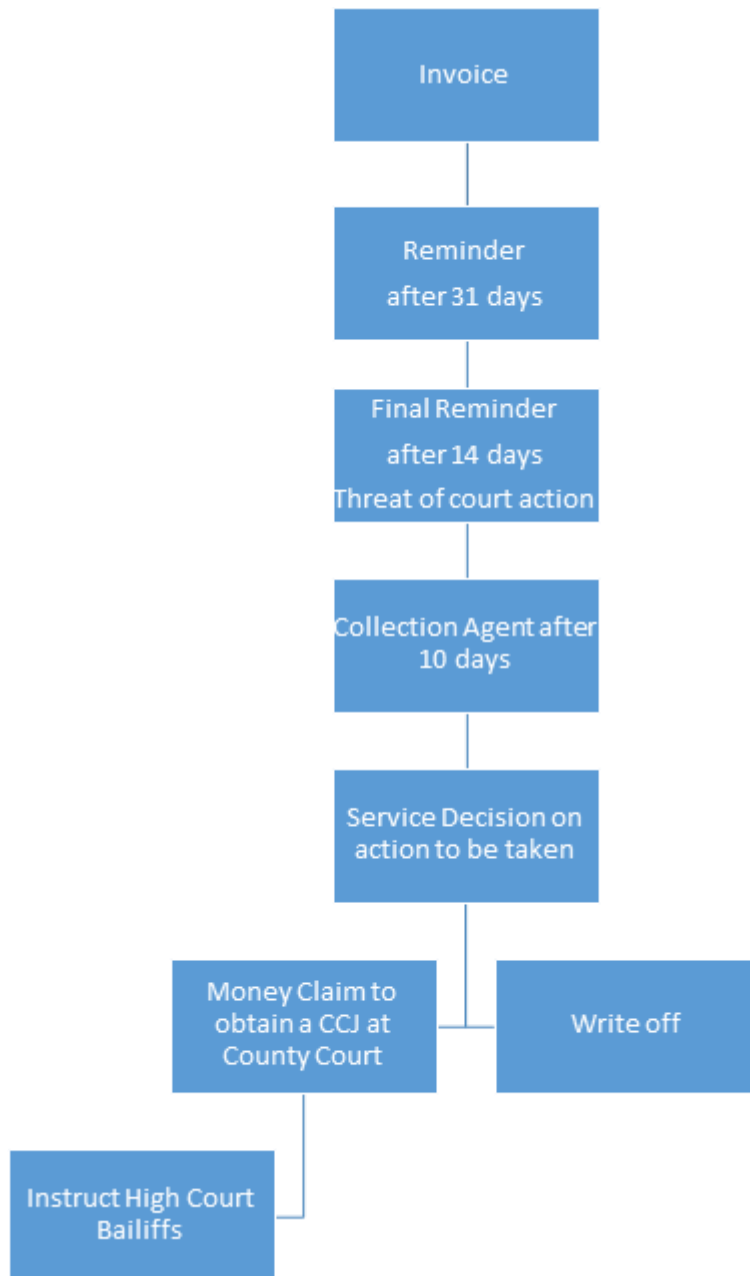
6. Council Tax and Business Rates Process



*A review of summons and liability order fees is being undertaken with proposed new fees to be implemented from April 2023.

7. Sundry Debt Processes

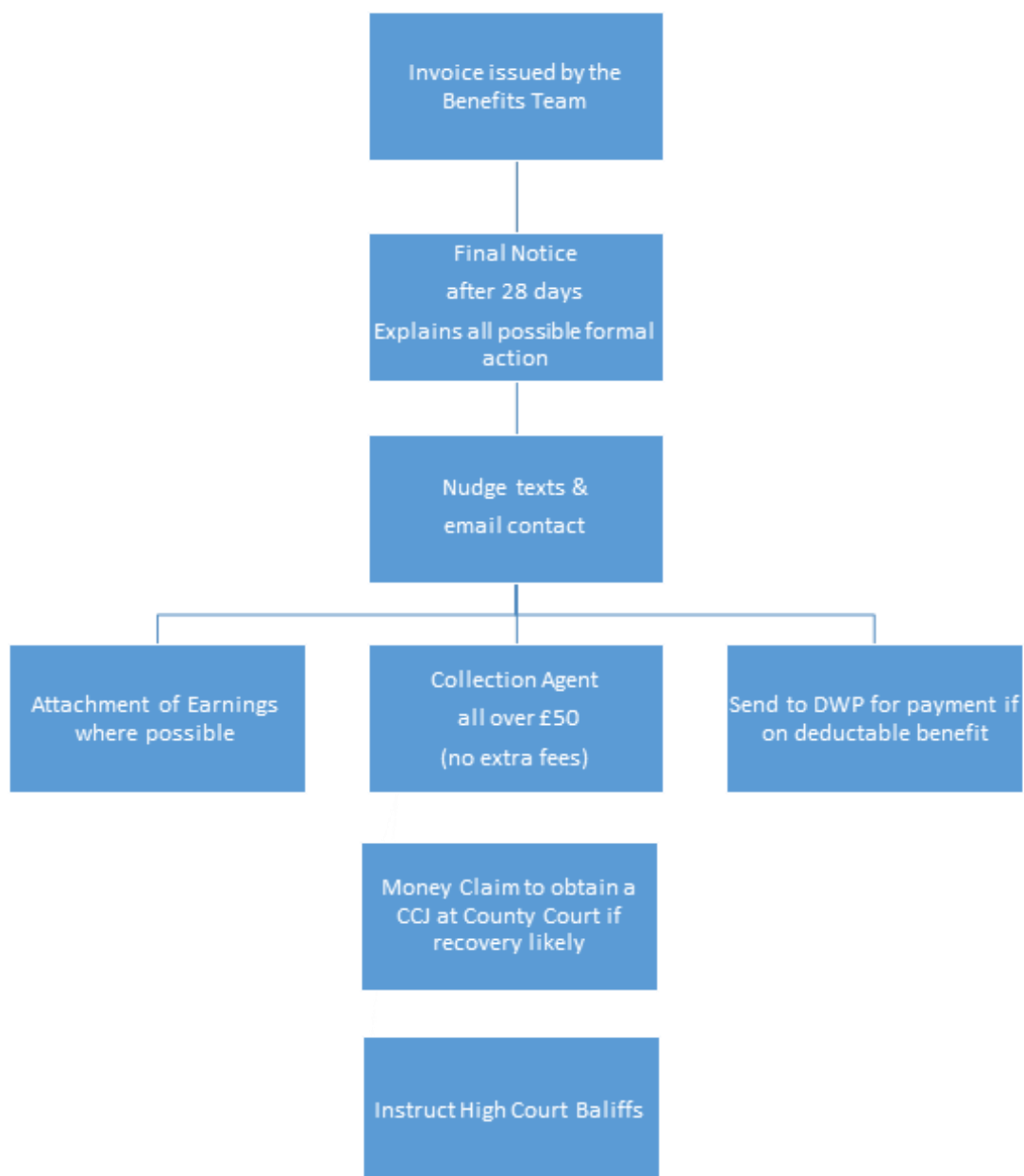
- 7.1 The relevant service manager is responsible for deciding whether enforcement action should be taken for sundry debts in their area. The income team will inform services of any debts owing to them and they should respond to say whether each case should then be enforced.



- 7.2 Forfeiture can also be considered for the recovery of commercial rent. This is where the Council will forfeit a lease due to non-payment of rent. The Council will instruct an Enforcement Agent to carry out the process of securing the property.

8. Housing Benefit Overpayment Process

- 8.1 A Housing Benefit Overpayment is where an individual has been overpaid benefit for a period that they were not entitled.
- 8.2 A deduction from the claimant's weekly Housing Benefit shall be set following Housing Benefit Regulations. The claimant will receive notification that the overpayment will be recovered in this way.
- 8.3 Where recovery is not possible from existing Housing Benefit an invoice is issued to the claimant or landlord depending on who is liable. The Income Management Team will make use of landlord 'blameless tenant' recovery in cases where the debt is a landlord overpayment and that landlord has other tenants receiving Housing Benefit. The landlord will be notified that we are to recover the overpayment from the claimant and vice versa.



9. Enforcement

- 9.1 The Council will use all means at its disposal to ensure that any debts owed are recovered following any relevant statutory or civil process to enforce payment.

When initiating recovery action the officer must also consider whether the debtor is vulnerable and how any action would impact on them.

The following enforcement options will be considered by Council Officers (as well as other options specific to an individual case):

9.2 Enforcement Agents

All Enforcement Agents are regulated and must act in prescribed ways to our customers. They are all fully trained on how to identify vulnerable customers and wear body cameras so all customer contacts are recorded and can be viewed back if required.

There is a clearly defined stage process and Enforcement Agents can only charge fees for each stage when certain trigger actions have been completed.

- Stage 1- Compliance stage £75.00
- Stage 2 – Enforcement Stage £235.00 + 7.5% on the original debt over £1,500
- Stage 3 – Sale Stage £110.00 + 7.5% on the original debt over £1,500

9.3 Attachment of Earnings, Fees or Benefits

Used where the debtor is employed or in receipt of other regular income where payments can be taken directly from this income. Deductions are made at a rate determined by legislation.

9.4 Bankruptcy Proceedings/Liquidation

Used when the debtor is a property owner and it is thought that there will be sufficient equity within the property to support full or partial repayment of the debt.

Cases considered suitable for bankruptcy are selected from cases that have been returned from the bailiff, either unable to gain entry or unable to access or returned no goods.

The following factors must be considered:

- The level of equity available in the liable property and any other associated properties where the debtor has a financial interest must cover the outstanding debt and associated costs.
- Whether the property is up for sale and therefore a charging order would be more appropriate.

9.5 Charging Orders on Property

Used where the debtor owns a property, the Council is able to recover debt when the property is sold in the future. The Council may consider this action where the debtor is on a low income and or is classed as vulnerable or elderly.

9.6 Committal Proceedings

The law allows Councils to apply to the Magistrates Court to have a person sent to prison where there is culpable neglect or wilful refusal to pay debt.

This will be used when bankruptcy or charging orders are not appropriate. It is not generally accepted by the local magistrates' court as appropriate action, but can be used when other remedies have been exhausted.

9.7 Money Claim

This is an efficient and inexpensive way for the Council to commence the County Court Judgement (CCJ) process via the County Court. Customers are contacted in regard to any debt by The County Court and given the option to pay in full, set up an arrangement for payment or dispute the debt.

If the judgement is for more than £600 the Council may be able to ask a High Court Enforcement Officer to try to collect the money or remove goods to sell at auction. A warrant is required for this action.

10. Vulnerable customers and those who are in financial difficulty

- 10.1 The Council is committed to support and assist our vulnerable customers. The Income and Corporate Debt Team work closely with the Customer Support Team and external partners to offer the best solution and advice possible for the vulnerable customer and the Council.
- 10.2 Extenuating circumstances will be taken into account when considering recovery action in order to protect the vulnerable and avoid transference of a problem elsewhere.

Considerations may include:

- Whether there are very young or elderly people in the household
- Chronic or terminal illness
- Recent bereavement of spouse or member of household
- Potential homelessness
- The ability of the individual or household to make a payment
- Is an Exceptional Hardship Payment (EHP) or Discretionary Housing Payment (DHP) appropriate

For business debts considerations may include:

- Potential loss of employment for employees of the business
- Loss of key facilities for the local community
- A payment option is the only choice because the business has no assets
- Consideration to any relief that may be appropriate.

- 10.3 Where it has been identified that a customer is suffering from financial difficulties or other extenuating circumstances the Council is committed to providing advice and support as well as a variety of payment options including:
 - Holding enforcement action once a customer makes contact to inform of a difficulty in making payment.
 - Voluntary payment solutions considered in preference to statutory or civil remedies as a first stage.
 - Past history of payments should be considered when making a decision to proceed with enforcement action.

- Where a payment solution is agreed this should be confirmed in writing by the Council including any action that will be taken should the agreed payments not be made.
- Payment solutions should be made with an agreed up-front payment from the debtor whenever possible.
- Where a payment solution cannot be agreed, the debtor will be advised of the reasons why and that the recovery process will continue should an alternative arrangement not be made.

11. Debt Advice

If a customer has several debts and is struggling to pay them, the Corporate Debt Team will offer a referral for independent advice through the Money and Pension Service.

To be referred the customer must meet eligibility criteria:

- resides in England
- be in arrears/struggling to maintain payments
- not already be in a debt solution
- not be self-employed or a company director

Money and Pension Service offer a range of advice and support to help maximise income, manage debts and apply for statutory debt solutions.

12. Breathing Space

The Council will work with debt advisers to allow eligible debtors to enter 'breathing space' in accordance with Government Guidance - [Debt Respite Scheme \(Breathing Space\) guidance for creditors - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/debt-respite-scheme-breathing-space-guidance-for-creditors).

13. Tracing and Searches

- 13.1 As part of the recovery process a number of traces and searches can be carried out to try and establish further information on a debtor. This is particularly useful when we have no forwarding address for someone who has moved home before settling a debt.
- 13.2 Locating Council Tax Absconders (LOCTA) is a local government tracing tool that provides a suite of information including, forwarding address, DWP information, credit reports and telephone numbers.
- 13.3 If a LOCTA search is unsuccessful the Council may use a Credit Referencing Agency to trace an individual. The Data Protection Act section 29 allows Local Authorities to credit check and search individuals in regard to the collection of Tax.
- 13.5 The use of internet searches and Social Media to access information in the public domain is also very useful, particularly in establishing employment details for attachment of earnings.
- 13.6 We can also use a Customer Information System (CIS) check that allows certain authorised officers to search DWP database. This information can only be used for the recovery of Housing Benefit Overpayments.

- 13.7 If necessary the Council may ask a Revenues Inspector to carry out a visit to establish the status of a property.

14. Bad debts

- 14.1 For the purpose of this policy a bad debt is classified as:

- Money due when there is little or no likelihood of recovery after all methods have been exhausted.
- Money due where it is uneconomical or inefficient to recover the sum due.
- Money due but the debt is too old (aged) to continue recovery.
- Money due where the Council does not wish to pursue recovery because the circumstances of a case would attract well-founded adverse publicity or public reaction, or the concept of natural justice would be compromised

- 14.2 Where it is considered that a debt is a bad debt the Council will ensure that it is written off promptly to preserve and maintain the principle of accurate and up to date information. Decisions will be made based on the circumstances that exist at the time and any unusual circumstances should be referred to the Head of Service or Portfolio Holder.

<i>Debt Value</i>	<i>Process</i>	<i>Authorised Person</i>
Up to £100	Write off on the system with screen notes using write off code	Corporate Debt/Revenues Officer
£101 to £1,000	As above. Income and Corporate Debt Manager to carry out spot checks and record for audit purposes.	Corporate Debt/Revenues Officer Corporate Debt Manager
£1,000 - £10,000	Detailed system checks/searches carried out. If unsuccessful and investigation form is complete and signed. Investigation forms scanned and front schedule to be signed.	Corporate Debt Manager S151 Officer
Over £10,000	A Portfolio Holder report must be complete with details of individual write-offs	Portfolio Holder Addendum see appendix 3

- 14.3 The cumulative total of debts written off will be monitored by the Income and Corporate Debt Manager to ensure that the incidence of bad debt remains consistent with the Councils estimates and projections.

15. Complaints and errors

- 15.1 If an error or mistake is made in the process of recovering debt the account will reviewed and appropriate action taken.

- 15.2 If a customer is unhappy with the service provided or disagrees with the decisions made they are able to complain through the Councils standard complaints procedure. Details of this can be found on the Council website - <http://www.colchester.gov.uk/complaints>.
- 15.3 During the process of enforcing payment of outstanding debts it is possible that evidence or facts emerge after enforcement proceedings have been taken or have been completed.
- 15.4 In these cases the Council will take appropriate action to remedy the situation as far as possible:
- Proceedings will be stopped immediately
 - The debtors account will be noted to reflect the revised situation
 - Where appropriate the Court involved will be advised
- 15.5 Although the Council will make every effort to resolve a misrepresentation of the true situation, some issues can only be resolved by reference to the Courts.

Appendix 1

Standard Enforcement Actions for Mortgages and Shared Ownership Scheme

Individual accounts are monitored on a regular basis to ensure that regular monthly payments are received, and reminders sent. Where all or part of the debt is paid by the Pensions Service or the Benefits Division, the receipt of these sums will also be monitored. Whilst standard reminders are available, a more personal approach will often be required.

If the debtor fails to maintain regular payments the Corporate Debt Team will attempt to discuss options. Should this not prove possible, or if arrangements are not adhered to, then the following action will be taken:

Mortgages

Legal Services will be approached and given sufficient information to allow for the preparation of a possession order to be requested from the District Judge. Whilst Court papers are being prepared, Legal Services will warn the debtor of the implications of non-payment.

If a possession order is obtained, the Income Management Team will monitor the arrangement made. Should payment cease, a Portfolio Holder decision will be required if it becomes necessary to implement the order.

Shared ownership cases

Where a mortgage is held on the property, then the lender will be advised that rent is not being paid and that forfeiture proceedings are being considered. If the lender will not make payment on behalf of the borrower, or if there is no lender, the Council will decide whether to pursue forfeiture or to attempt to obtain a money judgment for the County Court.

Appendix 2

Standard Enforcement Actions for Penalty Charge Notices (North Essex Parking Partnership)

This debt is collected directly by the North Essex Parking Partnership and not Customer Services.

Parking enforcement is carried out in accordance with the provisions and procedures laid out in the Traffic Management Act 2004. A parking Penalty Charge Notice is not a debt until the motorist has exhausted all avenues of appeal.

1. **Penalty Charge Notice** issued.
2. **DVLA enquiry** made if no correspondence received, or payment received within 31 days.
3. **Notice to Owner** sent if full payment is not received within 31 days of issue.
4. **Charge Certificate** sent and charge increased by 50% of full payment, or representation against Notice to Owner, if not received within 31 days.
5. **Debt registered at County Court** and fees added if full payment is not received within 17 days of Charge Certificate being sent.
6. **Notice of Debt Registration** sent.
7. **Apply for a Warrant of Execution and instruct Enforcement Agents (bailiffs)** if full payment or Witness Statement is not received within 21 days of Notice of Debt Registration being sent. A Warrant of Execution has a lifespan of 12 months only and cannot be reissued thereafter. If the Council has been unsuccessful in recovering the penalty charge by means of a Warrant within 12 months and wishes to pursue, the Council must ask the Traffic Enforcement Centre (Northampton County Court) for authorisation to prepare another Warrant. Warrants that have been returned from the Bailiff after a period of 6 months because the debtor could not be traced or there are no funds or goods to seize can be sent to other Bailiff companies for collection.
8. If warrants remain unpaid, the council is now able to recover debt using a different process where a valid warrant is not required.

