

WIRRAL BOROUGH COUNCIL

CORPORATE DEBT POLICY

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1. Introduction

- 1.1 Wirral Council has a legal duty and responsibility to ensure cost effective billing, collection, and prompt recovery of all sums due to the Council. This is important to enable the Council to continue providing services.
- 1.2 Cost effective debt management is crucial to the success of any organisation. This policy will help the Council to support the maximisation of debt collection in an efficient, consistent, cost-effective, and sensitive manner. The Council must align their collection processes with the relevant legislation (Annex C)
- 1.3 This document sets out the general principles the Council will apply to debt management across all services other than Merseyside Pension Fund.

2. Policy Aims

2.1 The key aims of this policy are as follows:

- To ensure a professional and timely approach to recovery action.
- To maximise the levels of unpaid income collected by the Council.
- To consider fully the debtor's circumstances and ability to pay and so attempt to distinguish between the debtor who will not pay and the debtor who genuinely can't pay.
- To treat individuals consistently and fairly regardless of age, gender, disability, and sexual orientation.
- To promote a coordinated approach towards sharing debtor information within the Council and managing multiple debts owed to the Council.
- To balance the potential loss of unpaid income to the Council against the costs of recovery.
- To apply best practice to debt collection, identifying where appropriate any relevant support that may be required to those in debt to the council.
- Promote early personal contact across all debt streams, recognising the need to prevent debts escalating.
- Recognise that the recovery of debts from those who are receiving care and support is a sensitive issue given the potentially vulnerable nature of the client group and the Council's ultimate statutory duty to meet care needs.

3. Debts this Policy applies to

- 3.1 This policy applies to the following categories of debt owed to Wirral Council:
- Council Tax
 - Business Rates
 - Housing Benefit Overpayments
 - Adult Social Care charges
 - Corporate Sundry Debts
 - Parking Charges (Appendix A)
 - Accommodation Charges
 - Rent Management
 - Civil Penalty Notices from Renters Rights Act
- 3.2 Council Tax is a tax levied on all eligible domestic dwellings as laid down by the Local Government Finance Act 1992. The amount of Council Tax levied is dependent on the Council Tax band that the property falls into.
- 3.3 Business Rates are a tax levied on eligible business properties. The amount of non-domestic rates is dependent on the ratable value of the property and the nationally set rating multiplier(s).
- 3.4 Housing benefit is a regular Council payment to help people pay their rent when they are on a low income or claiming benefits. This is a DWP (Department of Working Pensions) benefit that the Council delivers and collects on behalf of the DWP. It helps to pay rent and some service charges. It does not help with water charges, care costs, or most heating charges. If a resident receives more housing benefit than they are entitled to, either due to a change in circumstances or an error in the information provided an overpayment can occur.
- 3.5 Wirral Council issues invoices through its Accounts Receivable system for a wide range of services. This includes charges for services such as Adult Social Care which covers residential, non-residential charges and top ups. Top-up payments are extra costs when a care home is more expensive than the council's rate, which could be paid by a third party, not the person receiving care. Therefore, the third-party liable person remains liable even after the resident's death. All other corporate sundry debts are recorded through the Accounts Receivable function.

4. Approach to Raising invoices

- 4.1 To aid recovery the following should always occur when raising a debt.
- 4.2 Where possible the Council will ensure that services and goods are paid for before delivery to remove the potential for debt to occur.
- 4.3 However, there may be legislative and practical restrictions that may prevent this from happening. Service providers must endeavor to obtain

payment in advance or at the time-of-service delivery wherever permissible and must ensure that they have adequate controls in place to limit the amount of debt that arises.

- 4.4 Debtor invoices should only be raised where payment in advance for a service is inappropriate. All Council bills and invoices will be raised as soon as possible, ideally no later than 5 working days from the delivery of the goods supplied or the services provided.
- 4.5 Wirral Council recognises that prompt invoicing and billing is important in reducing the burden of debt and securing cash flow.
- 4.6 To enable this, every invoice or bill will be correctly addressed to the liable person.
- 4.7 The name on the invoice will be that of a person or body possessing “legal personality” as far as possible based on the information available. Full names/company, contact, addresses, email address, and telephone numbers will be established wherever possible prior to a service provision or billing.
- 4.8 When dealing with companies, local authorities etc. it is important to obtain contact details of the person and department who will be arranging payment of the invoice.
- 4.9 Legal proceedings cannot be issued on ‘care of’ addresses and should be avoided wherever possible unless there are exceptional circumstances which must be agreed by an Assistant Service Manager or equivalent.
- 4.10 Wirral Council will always attempt to use the most appropriate and effective method of debt recovery to maximise income.
- 4.11 All invoices, reminders and final notices shall be issued electronically in the first instance within appropriate time frames and only via post where necessary or legislation requires.
- 4.12 Officers will be able to intervene in the recovery cycle in appropriate circumstances to deal with hardship or dispute situations or where they are dealing with a vulnerable person (see Annex C).
- 4.13 Where the potential for a statutory benefit or discount exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities, and they will be encouraged to apply for these. Other means of support will also be signposted and detailed within Annex D and online [Benefits and money | wirral.gov.uk](https://www.wirral.gov.uk/benefits-and-money).
- 4.14 Prompt recovery action is key in managing debt and maximising income. Wirral Council therefore aims to:

- Regularly monitor the level and age of debt.
 - Have clear written recovery procedures.
 - Assess recovery methods to ensure maximum recovery.
 - Regularly review irrecoverable debts, and those where recovery is not economic, and recommend for write-off.
- 4.15 Wirral Council welcomes the involvement of welfare agencies in connection with debts due to the Council and recognises the benefits that these organisations can offer both the debtor and the Council in prioritising repayments to creditors and in maximising the income available to the debtor.
- 4.16 Where legislation permits, the Council will seek to levy and recover from the debtor all costs and fees that are legitimately due from the debtor to the Council or its agents.
- 4.17 Only in exceptional cases, where it would not be in the public interest to pursue costs or fees will they be waived (Annexe A).
- 4.18 Any problems and invoice discrepancies will be resolved or responded to within 10 working days of receiving the dispute to prevent unnecessary delays in payment.
- 4.19 Occasionally, sundry debtor invoices may be disputed. In such instances when this occurs, the matter shall be referred to the originating department for resolution.
- 4.20 Where outstanding accounts relate to the supply of goods/services, no further goods/services should be supplied until the overdue account is cleared. Raising departments should monitor debt outstanding in their area to ensure this works in practice, except for the provision of care.
- 4.21 All accounts approved for write-off shall be processed using a designated write-off code, unless it is agreed or deemed appropriate to allocate the charge to the relevant service area.
- 4.22 If an alternative form of communication due to individual circumstances is required, this should be identified as early as possible to accommodate such changes and promote a fair and reasonable approach to recovery. This may include offering invoices in alternative formats such as Braille or large print.
- 4.23 What a customer should expect on a bill/invoice
- (a) The Bill/invoice will include clear, relevant, and full information as to
- What the invoice is for
 - When payment is due
 - How to pay

- How to contact us if there is a query in relation to the invoice or in relation to making a payment.
- 4.24 Debtors will be encouraged to make prompt contact if they disagree with an invoice or have difficulty in making payment. Contact can be made by:
- Telephone
 - Letter
 - Email
 - In person at designated Council Locations when booking a One Stop Shop appointment by calling 0151 606 2005, Monday to Friday 9am to 5pm

5 Issue of Reminder/Final Notice

- 5.1 Each type of debt follows a distinct recovery process, which may involve issuing reminders or final notices at different intervals, and in some cases, referring enforcement to different courts depending on the debt category (Annex B).
- 5.2 Wirral Council is committed to working with customers to resolve their debts by reaching and maintaining a suitable arrangement. At every stage of the recovery process, we encourage customers to contact us to discuss their situation and agree on a suitable payment arrangement. Early engagement helps avoid further recovery actions, such as referrals to Enforcement Agents, which may result in additional costs. We clearly inform customers from the outset that failure to make and maintain a payment arrangement could lead to these consequences.

6 Methods of Payment

- 6.1 To promote prompt payment, the Council is committed to providing a variety of flexible and accessible payment options that reflect individual circumstances.
- 6.2 Where appropriate, payment may be requested in advance of delivering goods or services, helping to minimise the risk of debt arising.
- 6.3 When services are provided over a period, the Council will implement periodic invoices where possible upon setting up the sale of goods/services, for example, weekly, fortnightly, monthly, biannually and annually. Adult Social Care will be billed monthly for the care provided in arrears.
- 6.4 Direct Debit is the Council's preferred method of payment, as it offers the most cost-effective and efficient means of administration. It will be actively promoted to customers wherever appropriate.

- 6.5** Where Direct Debit is not suitable, such as businesses or ad hoc invoices, alternative payment methods will be made available to ensure flexibility and accessibility for all payees.

These include:

- Debit or credit card transactions can be paid online at [Make a payment | wirral.gov.uk](https://www.wirral.gov.uk)
- Through the automated telephone line; 0151 606 2345, 24 hours a day, 7 days a week
- Cash or card at Post Office's using the invoice's barcode when applicable
- Payments can also be made at one-stop shops.

7 Collection and Recovery

- 7.1** Once a debt is identified, customers are actively encouraged to get in touch to discuss their circumstances and explore available payment options.
- 7.2** Recovery and enforcement actions are treated as a last resort, and every effort is made to provide customers with the opportunity to engage with the Council and resolve their debt through open communication.
- 7.3** Customers will be supported through the completion of income and expenditure forms, which help assess their financial situation.
- 7.4** Where appropriate, they will also receive advice on debt management and benefit maximisation.
- 7.5** These forms are designed to ensure that any proposed repayment arrangement is both affordable and sustainable.
- 7.6** Payment arrangements extending beyond six months should be supported by clear, reasonable justification and documented in the officer's decision-making process.

8 Principles of Enforcement (all debts)

8.1 Wirral Council will follow the principles outlined below.

- Action will be proportional in so far as it will allow for a balance to be struck between the potential loss to the Council, the cost of compliance and the circumstances of the debtor.
- Our approach will be consistent in relation to the advice it gives, and the

recovery procedures used in cases of similar circumstances. In addition, Officers will take account of the circumstances of the debtor and their payment history.

- Any actions will be transparent to ensure that people understand what is expected from them and what they should expect from the Council.
- All action taken by the Council's Enforcement Agents will comply with the National Code of Practice for Enforcement Agents and can be scrutinised by the Enforcement Conduct Board.
- The Council will also review any complaints brought to their attention by reviewing calls and bodycam footage when necessary.

9 Payment Arrangements

- 9.1 In normal circumstances, all payment arrangements should ensure that the debt is cleared within the current financial year or within 6 months.
- 9.2 The objective of any arrangement is to recover the debt in the shortest reasonable timeframe, considering the debtor's individual circumstances.
- 9.3 If the debt cannot be cleared within the financial year, the debtor will be required to complete and return a financial statement to support the arrangement.
- 9.4 All agreed arrangements will be confirmed with the debtor.
- 9.5 If an arrangement is broken, the debtor will be contacted and given the opportunity to bring the arrangement up to date to prevent cancellation.
- 9.6 When the debt has been passed to the Enforcement Agent all discussions will then be direct between the debtor and Enforcement Agent. The Council will only intervene in exceptional circumstances.
- 9.7 The Council adheres to the principles of the local Fair Debt Policy. In doing so, if the debtor has more than one debt with the Council but is unable to repay all debts at the same time, a fair debt arrangement may be offered. This means one payment arrangement will be set up to repay the total amount owed. If payments are maintained and the current years Council Tax bill is kept up to date, no further recovery action will be taken.

10 Enforcement Action

- a) Court proceedings may take place in either the Magistrates' Court or County Court, depending on the type of debt.

10.1 Magistrates' Court

This is specifically relating to Council Tax and Business Rates

10.2 Issue of Summons

- (a) If the debt remains unpaid a satisfactory arrangement is not made, then summons is issued to the taxpayer advising them of an application to the Magistrates' Court for a liability order. A court hearing date is given when the liability order will be applied for at the Magistrates' Court. The issue of the summons incurs additional costs, and these are determined by the Council in agreement with the Magistrates' court annually.
- (b) Taxpayers are encouraged to contact the Council to make arrangements to repay the amount owed. An arrangement to be made by the end of the financial year is offered on the Summons documentation, requesting the liable party to make contact to confirm that they wish to accept the arrangement offered prior to the Court Hearing Date.
- (c) The summons will always be issued with a minimum clear fourteen days between issue and the court hearing date

10.3 Granting Liability Order

- (a) If full payment is not received prior to the court hearing the Council will continue to apply to the Magistrates' to issue a Liability Order.
- (b) The Liability Order will include the outstanding amount plus costs which are agreed between the Council and the Magistrates' Court annually.
- (c) At the court hearing, the Magistrates' must be satisfied that we have followed the correct procedures. These are: sending a bill; reminder; and summons to your property, or your last known address. We must also confirm that the Council Taxpayer is liable to pay Council Tax and that the debt is outstanding. If the Magistrates' Court is satisfied with the evidence we present, they grant a liability order. Following this, we can then continue with the necessary enforcement actions.
- (d) Once issued, summonses and liability orders will normally only be withdrawn as follows –
 - If issued in error
 - If crossed with a payment
 - Authorised by an appropriate Manager or equivalent.
 - If debtor agrees to pay by Direct Debit and agree a payment plan

10.4 County Court

(a) Can be used for Housing Benefit Overpayments and Accounts Receivable debtors or Council Tax post Liability Order.

(b) Enforcement Action in County Court

- If the debt remains unpaid, if it considers it appropriate, the Council may make a claim in County Court Money Claims Centre to Issue Proceedings against the debtor.

10.5 Prioritising Enforcement options –

(a) When prioritising debt recovery, the most effective method is determined by the quickest likelihood of return.

(b) For individuals receiving benefits, debt such as Council Tax or Housing Benefits, recovery through deductions or attachment of benefits is typically the highest priority, as it provides a direct and often immediate avenue for repayment. However, this is not available for all types of debts such as Accounts Receivable.

(c) If benefits are not an option, the next priority shifts to attachment of earnings for those employed, as this also guarantees a reliable method of recovering the debt.

(d) If these options are exhausted, a charge on the property can be considered, though this is often a slower process unless an enforcement of sale is initiated.

(e) Finally, an enforced sale, bankruptcy or committal may be considered as a last resort for significant debts where other recovery methods have failed and the debtor has assets.

(f) If the debtor is not in employment and has no assets, then a recommendation may be made to write off the debt.

10.6 Attachment of Benefit

10.6.1 Council Tax

(a) Where a liability order has been obtained and a debtor receives Income Support / Job Seekers Allowance / Pension Credit or Employment & Support Allowance/ Universal Credit the Council may apply to the Secretary of State for deductions to be made to secure payment.

(b) Deductions are requested for the whole amount outstanding including costs incurred in obtaining the Liability Order.

10.6.2 Housing Benefit

- (a) If the debtor is still in receipt of Housing Benefit payments, the Overpayment will be recovered direct from Housing Benefit by making weekly deductions direct from ongoing entitlement.
- (b) If the debtor is in receipt of relevant benefits, then a request can be made to the Department of Works and Pensions for weekly deductions.
- (c) Landlord or agent debt may be recovered from Housing Benefit paid to their other tenants and taken from the payment schedule.

10.7 Attachment of Members Allowances

- (a) The Council can apply for an attachment to a member's allowance to recover Council Tax. The order shall remain in force until the debt is discharged.

10.8 Deduction or Attachment of Earnings

- (a) If the debtor is in employment, then deductions will be made by an application for deduction from their salary by their employer to collect Housing Benefit Overpayment.
- (b) For other debts outstanding, action may be taken by means of an Attachment of Earnings where the debtor is in employment after receiving a liability order or County Court Judgment.
- (c) A copy of the order or judgment is sent to the debtor and their employer who must comply with the order by making deductions in accordance with the percentages laid down in tables within the schedule to the regulations that it is dictated by.
- (d) Where a deduction is made, the employer may deduct an additional £1 per deduction in respect of an administration fee this will be met from the debtor's wages/salary.
- (e) If the employer does not co-operate with the deduction, then they could have a penalty imposed upon them.

10.9 Enforcement Agents (EA)

- (a) EAs are used at different stages across the recovery path. For purposes of Council Tax, after the Liability Court hearing if a suitable arrangement has not been entered into then the debt will be passed to the Councils appointed EA. The EA will add additional costs as defined in legislation. For purposes of other debt, an EA could be used as a debt collection agent prior to court action or as an EA post court action.
- (b) If an enforcement agent is being used purely as a debt collection agent, their main aim is to be an extension of the Council and seek to only contact the

customer and visit their property, but to not undertake any role as an enforcement agent, that can only be done once making the necessary applications to Court.

- (c) On receipt of the case the EA will issue a letter giving the liable party 14 days to contact them.
- (d) All contact regarding the debt should now be directly between the liable party and the EA.
- (e) Where a liable party contacts the council within the 14-day period, there is discretion to accept payment in full including all costs incurred and to recall from the EA.
- (f) **On contact with the customer the EA can arrange to:**
 - Receive payment in full
 - Receive payment in full within 3 months, backed by a Walking Possession (WP) agreement
 - Receive payment in full within the existing financial year, backed by a WP agreement
 - In cases where there are extenuating circumstances to make payment over an extended period at the Company's discretion (backed by a WP agreement).
- (g) After the 14 days have elapsed, and no payments have been received or an arrangement made, the EA will conduct a visit.
- (h) The Enforcement Agent is then able to levy distress, which is the seizure of goods of the debtor to settle outstanding debt plus costs incurred which are nationally set.
- (i) For Enforcement Agents in relation to Council Tax, further information can be found at [Council Tax information about Enforcement Agents](#).

10.10 Returns from the Enforcement Agent (EA)

- (a) If the EA has been unsuccessful in pursuing the debt the case will be returned to the Council marked certificated.
- (b) If the EA has been unsuccessful in pursuing the debt the case will be returned to the Council marked certificated.
- (c) At this point, the Collection and Recovery section will make an assessment as

to the likelihood of any further recovery action being profitable, including the success of any trace exercise.

- (d) It will conduct an assessment to ascertain the likelihood of success in any future recovery action, including the success of:
- Any trace exercise.
 - County Court action.
 - the appropriateness of offering the debtor to apply to Land Registry for a Restriction to be applied to the property prior to Issuing Proceedings in County Court.
- (e) If it is deemed that this is unlikely then the case will be recommended for write off in line with Wirral write off procedure (Annex A).

10.11 High Court Enforcement

- (a) If a debt has not been able to be recovered via usual means and a County Court Judgment has been made, then there is an option to refer it to a High Court Enforcement Officer (HCEO) if the debt is over £600.00. A HCEO is type of enforcement agent who will visit your property and remove goods to sell at auction if an arrangement is not made to pay what is owed.

10.12 Charging orders

- (a) In certain circumstances where other methods of recovery are considered inappropriate or have failed, the Council may consider applying for a Charging Order as a means of recovery of a debt. Such action would only be taken where it is a fair and proportionate course of action to recover from a particular debtor. In such cases this will be authorised by an Appropriate Manager or equivalent.

10.13 Third Party Debt Order

- (a) In circumstances where there is no property, however this is thought to be assets held in a bank account, the Council may consider applying for a Third Party Debt Order as a means of recovery of a debt. This would involve making an application to the court to freeze a bank account held by the debtor. Such action would only be taken where it is a fair and proportionate course of action to recover from a particular debtor. In such cases this will be authorised by an Appropriate Manager.

10.14 Enforced Sales

- (a) In circumstances where other methods of recovery are considered inappropriate or have failed and the Council have obtained a charge over the property by Charging Order, the Council may consider applying to enforce its power of sale of a property as a means of recovery of a debt. Wirral Council would have to make an application to the Court for them to arrange a hearing

to consider the matter. If an Order for Sale is made in favor of the Council, the Council will take possession of the property and make arrangements to sell it to recover the monies owed and pay any other monies secured on the property, e.g. a mortgage or secured loan.

- (b) Such action would only be taken where it is a fair and proportionate course of action to recover from a particular debtor. In such cases this will be authorised by a Service Manager or equivalent following receipt of advice from the Council's Legal Services.

10.15 Bankruptcy

- (a) In circumstances where other methods of recovery are considered inappropriate or have failed, the Council may consider bankruptcy as the only alternative to recovering a debt. Such action would only be taken where it appears to be a fair and proportionate course of action to recover from a particular debtor. In such cases this will be authorised by an Assistant Service Manager or equivalent.

10.16 Committal

- (a) In certain circumstances within Council Tax and Business Rates where other methods of recovery are considered inappropriate or have failed, the Council may consider applying to the Magistrates' Court for a warrant of committal.
- (b) Such action would only be used as a very last resort. Due to the potential for imprisonment, every other method of recovery will have been exhausted, and the debtor's individual personal circumstances will have been considered prior to authorisation by an Assistant Service Manager or equivalent.
- (c) A pre committal letter will be sent to the Debtor who will be encouraged to contact the Council to come to an arrangement for payment prior to committal proceedings.
- (d) If no contact is received from the customer, a decision will be made by an Assistant Service Manager or equivalent regarding which cases should be referred to for committal.
- (e) A review at each stage will be undertaken to ensure that this avenue is appropriate for the debt and individual in question.
- (f) Wirral Council will adhere to the decision of the Magistrate which may include:
- commit the debtor to prison for a maximum of 90 days
 - commit the debtor to prison for a maximum of 90 days and suspend the sentence for them to pay an amount as determined by the Magistrates'
 - dismiss the case and allow the debtor to make arrangements to pay directly with the Council
 - determine that the arrears should not be paid
 - adjourn the case

10.17 Costs

- (a) The costs applied are fixed and non-negotiable. They will only be removed in exceptional circumstances, and solely with the approval of a designated officer.
- (b) Fees, costs, and interest may be added at various stages of the recovery process, depending on the nature of the debt.
- (c) Any court fees and associated costs incurred as a result of referring the matter to court will be fully recoverable from the customer and added to the outstanding debt.
- (d) Certain debts will begin to accrue interest from the point they are raised.

11 Offsetting of credits against Council debt

11.1 Wirral Council will adopt a corporate approach to refunding credits in that wherever possible, checks will be made for other outstanding debts due to the Council, prior to a refund or payment being made.

11.2 Consultation and advice will be sought from legal services before any offset is invoked.

12 Vulnerability

12.1 The DWP defines a vulnerable customer as “those with difficulty in dealing with the demands of our processes at the time when they need to access a service. Vulnerability is not a static state associated with a particular circumstance or situation.”

12.2 Wirral Council recognises that some customers may be vulnerable due to their personal circumstances and may need additional support when managing their financial or personal affairs.

12.3 This vulnerability may be temporary or long-term and can arise from a wide range of factors, including changes in health, life events, or financial hardship.

12.4 These challenges can be made more difficult when individuals are faced with urgent or complex issues.

12.5 We are committed to identifying and supporting vulnerable customers with empathy, respect, and appropriate assistance tailored to their needs.

12.6 Careful consideration will be given to customers who are vulnerable or temporarily vulnerable referring to situations where the customer has had a sudden change of circumstances that is not expected to become permanent, and this will be dealt with on a case-by-case basis.

- 12.7 Generally, a person could be considered vulnerable if it would be unreasonable to expect them to manage a situation independently or to be able to protect themselves from harm or exploitation due to certain circumstances. Due care and attention will be given to assess each situation on a case-by-case basis. It is important to note that although an individual may be physically vulnerable, they may not necessarily be financially vulnerable.
- 12.8 Employees need thorough training and support to accurately identify the needs of individuals, including those who may be vulnerable. It is crucial for staff to understand that not everyone exhibiting certain characteristics will be vulnerable in every situation.
- 12.9 Wirral Council will be committed to following the Government's Debt Management Vulnerability Toolkit both for frontline staff or service and policy managers.
- 12.10 Wirral Council is aware of the impact economic changes have on customers and therefore will endeavor to ensure all financial assistant options have been considered under a benefit maximisation initiative. This will aim to look at the following options:
- Housing Benefit
 - Local Council Tax Reduction Scheme (LCTR)
 - Universal Credit
 - The availability of discounts, exemptions, reliefs, and disregards
 - Discretionary Housing Payments
 - Council Tax and Business Rates Hardship Reliefs
 - Local and national money, debt and welfare benefits advice agencies for free, independent debt and money advice
 - Local food banks
 - Mental health and wellbeing initiatives, organisations, and charities
 - Other charitable and support organisations can be found in Annex D
- 12.11 Wirral Council understands that some members of the community may be more vulnerable and, therefore, may require additional support in dealing with their financial affairs. Vulnerability does not mean that a person will not be required to pay amounts they are legally obliged to pay.
- 12.12 However, where a person is recognised as vulnerable, consideration will be given to:
- Allow longer to pay.
 - Delaying enforcement action.
 - Referring the person to sources of independent advice.
 - Providing information in an accessible format.
 - A temporary payment arrangement with lower repayment than would normally be agreed.

- Informing Wirral Council’s Adult Care Directorate of any concerns regarding the debtor’s safety or welfare.

12.13 Income and Expenditure forms will be completed with the debtor, when possible, to ensure any arrangement is affordable and realistic. When possible, there may be a consolidation of debt such as a Fair Debt Policy.

12.14 How else can the Council help?

- In certain circumstances under Section 13A(1)(c) of the Local Government Finance Act 1992 (as amended), the Council has the discretionary power to reduce Council Tax liability for individual cases or classes of cases it determines. Please refer to the Council’s 13A Policy for this.
- If you’re struggling to make payments, you may be able to apply for a Hardship discretionary payment or fair debt, more information can be found here - [Problems paying your Council Tax and other debts | wirral.gov.uk](https://www.wirral.gov.uk/problems-paying-your-council-tax-and-other-debts)

13 Economic Abuse

13.1 “Economic abuse is any behaviour used against someone (aged 16 or older) by their partner, ex-partner or family member to control their access to money and/or economic resources. This can include controlling their access to a bank account, housing, credit, employment, benefits or transportation. Economic abuse is defined as a form of domestic abuse in the Domestic Abuse Act 2021.”

13.2 The Domestic Abuse Act 2021 defines domestic abuse as any of the following behaviours, perpetrated by someone with whom the victim survivor (aged 16 or older) is personally connected:

- Physical or sexual abuse.
- Violent or threatening behaviour.
- Controlling or coercive behaviour.
- Economic abuse.
- Psychological or emotional abuse.

13.3 Wirral Council will ensure that employees are given the necessary tools to be able to identify possible economic abuse and will aim to signpost where possible. Individuals could find themselves indebted to the Council who are victims of economic abuse, therefore it is essential to assist them as best we can.

13.4 Employees will familiarise themselves with the Public Sector Economic Abuse Toolkit.

13.5 The Council will pause enforcement similarly to a Breathing Space moratorium to enable the victim to have time to get their affairs in order which is detailed in the section below.

- 13.6 Support will be provided and victims will be signposted to various contacts internally and externally. This will be in tandem with Wirral's Domestic Abuse Strategy 2020-25, more details can be found online [Domestic abuse | wirral.gov.uk](https://www.wirral.gov.uk/domestic-abuse).

14 Breathing Space

- 14.1 The Government introduced new legislation on 4 May 2021 called The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020. The fundamental principle of breathing space is to provide temporary protection from creditor action, by:
- Suspending enforcement action
 - Ceasing contact with the debtor
 - Freezing of additional interest and charges
- 14.2 Breathing Space allows the individual to seek professional debt advice for a particular length of time depending on the type of breathing space invoked.
- 14.3 There are two types of breathing space: a standard and a mental health crisis breathing space.
- (a) A standard breathing space is available to anyone with problem debt and provides the customer with legal protection from creditor action for up to 60 days.
- (b) A mental health crisis breathing space is only available to an individual who has problem debt and is receiving mental health crisis treatment. If an Approved Mental Health Professional certifies a customer is in mental health crisis treatment, the customer or someone else can ask for a mental health crisis breathing space on the customer's behalf. The mental health crisis breathing space has some stronger protections than the standard breathing space. It lasts for the duration of the customer's mental health crisis treatment, plus 30 days.
- 14.4 The full legislation and guidance can be found using the following links:

[Debt Respite Scheme \(Breathing Space\) guidance for creditors](#)
[Options for dealing with your debts: Breathing Space \(Debt Respite Scheme\)](#)
[Debt respite scheme \(breathing space\): Guidance on mental health crisis breathing space](#)

15 Review of Policy

- 15.1 This Policy will be reviewed considering any legislative changes, trends or other factors that may impact upon the effectiveness of the policy annually.
- 15.2 Minor amendments that do not affect the overall intention of the policy

may be authorised following agreement between the statutory officer (S151 Officer) and Policy & Resources Committee.

16 Data Sharing and Privacy Statement

16.1 Please visit our website at the following link for additional information:

[Principal Privacy Notice](#)

17 Complaints

- a. At Wirral Council, we want to give you the best possible service. The following link, however, gives information about our complaints process.

[Complain or give a compliment to Wirral Council](#)

Annex A Write off Procedure

- 1.1 Wirral Council recognises that where a debt is irrecoverable, prompt, and regular write off of such debts is good practice.
- 1.2 Wirral Council will seek to minimise the cost of write-offs to the local Council Taxpayers by having adequate controls in place to limit the amount of debt that arises and taking all necessary action to recover sums that become due. All debts will be subject to the full recovery, collection and legal procedures as outlined in this policy.
- 1.3 Irrecoverable debts will be referred to the Councils Section 151 Officer on a quarterly basis.
- 1.4 Wirral Council will resurrect the debt if circumstances that resulted in write off alter.
- 1.5 Debts may be referred to the Section 151 Officer for write-off in the following circumstances:
 - Debt remitted by a Magistrate or Judge
 - The Council is unable to trace the debtor
 - The debt is not cost-effective to pursue due to small balance
 - The debt is not cost-effective to pursue due to the likelihood of payment balanced against the cost of proceedings
 - The claimant has died and there are insufficient funds in the estate to settle the debt
 - The claimant is subject to formal insolvency proceedings and there is little likelihood of a dividend
 - The debt is statute barred
- 1.6 It is crucial that older debts are treated with priority so they do not block the system of debt recovery and therefore regular reviewing of debts must be carried out.
- 1.7 The procedure for writing off debts for each category is as follows, outlining the recommendations and final authorisation path. Regular write offs of up to £10,000 should be reviewed and submitted monthly. Debt over £10,000 should be reviewed and submitted annually to Policy & Resources Committee.

WIRRAL COUNCIL CORPORATE DEBT POLICY

Category	Value	Recommend Level 1	Recommend Level 2	Recommend Level 3	Authorised by	Frequency
All debt	Up to £10,000	Manager	Head of Service	Head of Finance	Section 151 Officer	Monthly
All debt	Over £10,000	Manager	Head of Service	Head of Finance & Section 151 Officer	Policy & Resources Committee	Annually

Annex B - Collection and Recovery Timetable – this is an indicative table

	Notification	First Reminder	Second Reminder	Final Demand	Court	Recovery Options
Council Tax	Bill	10 days	Not applicable	31 days Removes the ability to pay by instalments	Magistrates' & County Court	<ul style="list-style-type: none"> • Attachment of Earnings • Attachment of Benefit • Attachment of Members Allowances • Charging Order • Enforcement Agent • Third Party Debt Order • Bankruptcy • Enforced Sale • Commitment to Prison
Business Rates	Bill	10 days	Not applicable	31 days	Magistrates' & County Court	<ul style="list-style-type: none"> • Collection agent • Attachment of Earnings • Charging Order • Third Party Debt Order • Enforcement Agent • High Court Enforcement • Bankruptcy • Enforced Sale • Commitment to Prison
Housing Benefit Overpayments	Bill	28 days	42 days	49 days	County Court	<ul style="list-style-type: none"> • Deductions from Housing Benefits • Deduction of Benefits • Attachment of Earnings • Collection agent • Charging Order • Third Party Debt Order • Enforcement Agent • High Court Enforcement • Bankruptcy • Enforced Sale
Sundry Debts	Invoice	14 days	21 days	56 days Letter before action	County Court	<ul style="list-style-type: none"> • Withdrawal of service • Land Charge • Collection Agent • Attachment of Earnings • Charging Order • Third Party Debt Order • Enforcement Agent • High Court Enforcement • Bankruptcy • Enforced Sale
Adult Social Care	Invoice	28 days	35 days	Letter before action	County Court	<ul style="list-style-type: none"> • Collection Agent • Attachment of Earnings • Charging Order • Enforcement Agent • Third Party Debt Order • High Court Enforcement • Bankruptcy • Enforced Sale

Annex C - Applicable Legislation and Standards

The Council has a duty to ensure that all debt collection processes that are relevant to this policy comply with relevant legislation and regulatory guidance. This includes, but is not limited to:

- Administration of Estates Act 1925
- Care Act 2014
- Care and Support Statutory Guidance (Annex D)
- Charging Orders Act 1979
- Civil Procedure Act 1997
- County Courts Act 1984
- Housing Act 1985
- Housing Grants, Construction and Regeneration Act 1996
- Insolvency Act 1986
- Landlord and Tenant Act 1954
- Landlord and Tenant Act 1985
- Late Payment of Commercial Debts (Interest) Act 1998
- Local Government Act 2003
- Local Government Finance Act 1988 (as amended) 18
- Local Government Finance Act 1992 (as amended)
- Magistrates' Court Act 1980
- Renters Rights Act 2025
- Social Security Administration Act 1992
- Taking Control of Goods (National Standards) 2014
- Taking Control of Goods Regulations 2013
- The Business Improvement Districts (England) Regulations 2004
- The Civil Procedure Rules 1998
- The Council Tax (Administration and Enforcement) Regulations 1992
- The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020
- The Equality Act 2010
- The Late Payment of Commercial Debts Regulations 2013
- The Leasehold and Commonhold Reform Act 2002
- The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989
- The Taking Control of Goods (Fees) Regulations 2014
- The Tribunals, Court and Enforcement Act 2007

These frameworks ensure that recovery actions are lawful, proportionate, and considerate of individual circumstances. The Council is committed to fair treatment, transparency, and supporting residents in financial difficulty. In respect of Accounts Receivable, the individual Service will be responsible for ensuring compliance with the relevant legislation. Therefore, due to the wide range of services provided it is not possible to list all relevant legislation or national standards in this policy.

Annex D - Support Contact Details

1. With online assistance to check your You can use an independent benefits calculator on [Benefits calculators - GOV.UK](#) to find out if you are entitled to any benefits or see how starting work would affect your benefits.
2. You can apply for a [fair debt arrangement](#) if you are struggling to pay more than one council debt
3. [Wirral foodbank](#) is a local charity that helps provide food for people who are in crisis
4. If you are struggling to feed yourself or your family you can visit any [One Stop Shop](#) or [Children's Centre](#) to apply for a food bank voucher
5. If you are in financial difficulty or need advice to help you work out whether you owe the debt, or how you might pay the debt, contact a debt advisor.

The following organisations offer free, impartial and non-judgmental advice:

Citizens Advice Wirral	0808 278 7848	www.citizensadvicewirral.org.uk
Civil Legal Advice	0345 345 4345	www.gov.uk/civil-legal-advice
StepChange Debt Charity	0800 138 1111 (Freephone)	www.stepchange.org
National Debtline	0808 808 4000 (Freephone)	www.nationaldebtline.org
AdviceUK	0300 777 0107	www.adviceuk.org.uk
Christians Against Poverty	0800 328 0006 (Freephone)	www.capuk.org
Business Debt Line	0800 197 6026 (Freephone)	www.businessdebtline.org
Money Advisor Network	0800 138 7777 (Freephone)	www.moneyhelper.org.uk
Surviving Economic Abuse	0808 196 8845 (Freephone)	www.survivingeconomicabuse.org
National Domestic Violence	0808 2000 247 (Freephone)	www.nationaldahelpline.org.uk
Wirral Credit Union	0151 638 4332 (Poulton Road) 0151 201 1051 (Laird Street)	www.wirralcu.org.uk

Many websites offer advice to people struggling with debt, but some charge. Check whether the information on the websites above can help you first.

APPENDIX A - PARKING ENFORCEMENT POLICY

1.0 PARKING ENFORCEMENT POLICY

1.1 Parking Enforcement is undertaken to assist in:

- Delivery of an efficient and accessible transport system for all,
- Management of parking, traffic levels and tackling congestion and causes of disruption on the highway network through effective parking controls to make Wirral a safer place to live, work in and enjoy.
- Supporting and improving the effectiveness of measures introduced to prevent or reduce accidents.
- Improving public transport accessibility and reliability,
- Meeting the needs of disabled people by improving access to and availability of dedicated parking space.
- Reducing unnecessary parking and traffic in residential and other environmentally sensitive areas.
- The economic sustainability of shops and businesses by encouraging a turnover of use of parking space, and hence maximising the available use of existing parking space.
- Ensuring that designated areas are kept clear for specific road users, i.e. loading, blue badge holders, goods vehicles, taxis etc.
- Ensuring that access for emergency vehicles, delivery and service vehicles is maintained.
- Allowing pedestrians and cyclists on route to work, school, or leisure safe travel unimpeded by illegally parked vehicles.

1.2 The policies and procedures in this document will be regularly reviewed to ensure:

- a) Changes in legislation, statutory and non-guidance, national and local policy are properly considered.
- b) That the service continues to support corporate and departmental aims and objectives.
- c) That the service continues to support and meets the needs of Wirral businesses, residents, and partner agencies.

1.3 It is not practical or feasible to enforce all types and areas of restrictions in all parts of the Borough, all of the time. Therefore, an outline enforcement regime as indicated below was adopted by the Council in 2012 and remains supportive to the service aims and objectives outlined above:

- Waiting, parking, and loading restrictions on principal or primary routes, will be enforced daily.
- Waiting, parking, and loading restrictions within the Birkenhead Controlled Parking Zone, will be enforced daily.
- Waiting, parking, and loading restrictions centred around outer Birkenhead, Liscard, Heswall and West Kirby shopping centres, will be enforced on a regular basis, no less than 3 times per week.
- Waiting, parking, and loading restrictions centred around the secondary shopping centres including Bromborough, Bebington, Upton, Hoylake, etc will be enforced on a regular basis, no less than once per week.

- Waiting, parking, and loading restrictions in and adjacent to public service and amenity facilities, industrial and business areas, will be enforced on a regular basis, and subject to demand.
- Residents parking zones in Liscard and Birkenhead, will be enforced daily
- Residents parking zones in other areas will be enforced on a regular basis, no less than once per week.
- Residents parking zones in Tranmere will be enforced on all match days
- School Keep Clear markings, yellow lines and dropped kerbs around schools throughout the Borough will be enforced daily during term time.
- Waiting, parking, and loading restrictions within other environmentally sensitive areas, will be enforced subject to demand.
- Waiting, parking, and loading restrictions in areas of seasonal demand will be enforced subject to demand.
- Waiting, parking, and loading restrictions in areas not covered in any of the above, will be enforced in response to identified problems and requests
- Temporary or permanent restrictions for special events will be enforced, as necessary.

1.4 To ensure an efficient and effective operation the exact location, frequency and times of patrols are left to the relevant Service Director and his appointed contractor to determine. Except that safety around schools shall be given daily priority during term time and at morning and afternoon peaks. These frequencies and times will be reviewed regularly.

2.0 THE FOLLOWING SECTIONS SET OUT THE GENERAL PRINCIPLES AND PROCESSES THROUGH WHICH PARKING ENFORCEMENT IS UNDERTAKEN IN WIRRAL.

2.1 Civil Enforcement Officers:

2.2 Civil Enforcement Officers (CEO's) are the public face of parking enforcement. Within Wirral this part of the service is contracted out to an external parking enforcement service provider under a term contract. The contract is for 5 years commencing on 1st October 2018 and includes a 5-year extension subject to satisfactory performance. The current contract is with NSL Services Limited. CEO's are deployed to enforce parking restrictions both on-street and off-street within Council car parks. When undertaking enforcement, they must wear a uniform identifying them as CEO's.

2.3 The hours and days of operation and patrols are determined through the contract but may be varied to address local parking issues and demands. Regular reviews and meeting take place to ensure that the service continues to meet these demands.

2.4 In addition to planned patrols and beats the Council will endeavour to respond to individual requests for enforcement in response to issues highlighted by partner agencies, MPs, Councillors, and members of the public. Priority will be given to requests received from the Police to address particular traffic management or road safety issues.

3.0 Use of Discretion by CEO's:

3.1 A CEO should only issue a PCN when there is sufficient evidence to show that a parking contravention has occurred. To prevent CEO's being left open to

claims of inconsistency, favouritism, or bribery, it is not normally appropriate for them to be able to exercise discretion. The only exception to this is on occasion where a driver returns to the vehicle before the CEO has recorded details of the contravention. In this situation, advice or a warning may be more appropriate.

4.0 Observation Period:

4.1 The observation period begins when the vehicle's details are entered onto the hand-held computer by the civil enforcement officer. The Penalty Charge Notice cannot be issued until the observation period has elapsed.

4.2 The first observed time is printed on the face of the PCN and recorded in the HHC.

4.3 Observation periods range in time, dependent upon each specific contravention, from 'nil' or instant issue ticket for loading bans or parking on school or pedestrian crossing zigzag markings to 10 minutes for exceeding the allowed time in a limited waiting bay. There is a three-minute period for most yellow line contraventions.

4.4 Appendix B attached to his report shows the observation periods for each of the contravention types enforced in Wirral.

5.0 Penalty Charge Notice Amounts:

5.1 Since March 2008 two levels of penalty charge amounts have applied in addition to the early payment discounts. PCN's are now issued with a higher or lower penalty amount depending upon the type of contravention, as determined by the legalisation. A full list of parking contraventions together with the appropriate current penalty charge amount is shown in Appendix B to this report.

5.2 For both higher and lower rate penalties a discount of 50% still applies if the penalty is paid within 14 days of issue, or 21 days for postal PCN's.

6.0 Penalty Charge Notice (PCN) Content:

6.1 Legislation requires that PCN's must contain certain minimum information, this includes;

- The date on which the notice is served.
- The name of the enforcement authority.
- The registration mark of the vehicle involved in the alleged contravention.
- The date and time of the alleged contravention.
- The grounds upon which the CEO serving the notice believes that the penalty charge is payable.
- The amount of the penalty charge.

The notice must also include information relating to the payment period and discount payment rate and period, the methods of payment available and information relating to the service of a Notice to Owner, appeals, challenges and the adjudication service

6.2 The CEO records this and all other relevant details onto the HHC including tax disc number and tyre valve positions if appropriate. The CEO will also record photographs of the contravention typically including images of the vehicle registration number, the parking contravention and the PCN attached to the

vehicle.

6.3 Service of a Penalty Charge Notice by post:

6.4 Although in most circumstances PCN's are served on a vehicle or to the driver there are three circumstances in which a PCN may be served by post:

i) Where the contravention has been detected on the basis of evidence from an approved device (i.e. a camera);

ii) If the CEO has been prevented by threat or violence from serving the PCN conventionally to the vehicle or to the person who appears to be in charge of that vehicle;

iii) If the CEO had started to issue the PCN but did not have enough time to serve it before the vehicle was driven away and would otherwise have to write off or cancel the PCN.

6.5 In any of these circumstances a PCN may be served by post on the owner following a DVLA enquiry. The Postal PCN also acts as the Notice to Owner (NtO). Postal PCN's must be sent within 28 days of the contravention occurring, and in accordance with good practice the Council aim to send Postal PCN's within 14 days.

7.0 Enforcement by Approved Devices (Cameras)

7.1 The TMA 2004 gives authorities the powers to issue PCN's for contraventions detected with a camera and associated recording equipment. Prior to using such equipment, the Council must apply to the Secretary of State for the device and its associated processes and systems to be certified. The mobile CCTV car used within Wirral has been through this process and certified as an approved device for parking enforcement.

7.2 The discount payment period for a PCN issued on the basis of evidence from an approved device is increased from 14 to 21 days. This is because the postal

PCN also serves as the NtO and hence motorists only have one opportunity to make a formal representation, as the informal challenge stage only occurs when a PCN is placed on a vehicle.

7.3 The Council's mobile CCTV vehicle is deployed to places where enforcement is difficult or sensitive such as outside school entrances or locations with a high turnover of persistent, but generally short term parking, which creates traffic problems but is difficult to enforce by conventional means.

8.0 Prevention of Service of the PCN

8.1 The TMA 2004 gives authorities the power to serve a PCN by post if the CEO is prevented from issuing the PCN conventionally to either the vehicle or the driver.

- 9.0 Prevention of Service by threat or violence.
- 9.1 A PCN may be served by post if the CEO attempts to serve it but is prevented from doing so by some person. This includes situations where the person who appears to be in charge of the vehicle is abusive or prevents service indirectly through intimidation or directly through threats or actual physical force.
- 9.2 In such circumstances, the PCN printed by the CEO will be cancelled and a Postal PCN, containing further information, will be served following a DVLA enquiry to obtain keeper details. This will only be done after checks to ensure there is sufficient primary and supporting evidence to deal with any subsequent representations or appeals. In these circumstances a 14-day discount payment period will apply.
- 10.0 Prevention of service by “drive away”
- 10.1 A PCN may also be served by post if the CEO had begun to issue it, but the vehicle was driven away before the CEO had finished issuing the PCN or been able to serve it. ‘Begun to issue’ is defined as having completed all observations and entered sufficient data such that the PCN would otherwise have to be cancelled.
- 10.2 In such circumstances, the PCN printed by the CEO will be cancelled and a Postal PCN, containing further information, will be served following a DVLA enquiry to obtain keeper details. This will only be done after checks to ensure there is sufficient primary and supporting evidence to deal with any subsequent representations or appeals. It is recommended that the CEO records the excise license number of the vehicle and if possible, informs the motorist of the contravention before they drive away. The Council shall keep a record of which CEO’s ask for a Regulation 10 PCN to be issued and will consider whether there is anything in the manner in which the officer is working that has contributed to this. In these circumstances a 14-day discount payment period will apply.
- 10.3 A PCN may not be served by post if the motorist returns to the vehicle before the CEO has started to issue the PCN. Jotting down details is not classed as starting to issue the PCN.
- 11.0 Exemptions to contraventions:
- 11.1 There are a number of vehicle types and circumstances for which exemptions from waiting restrictions may apply, depending upon the provisions contained within the relevant Traffic Regulation Order (TRO), typically these are:

- Vehicles used for Police, Fire Brigade and Ambulance purposes.
- Vehicles carrying out statutory authorised powers and duties if they cannot be used for such purposes in any other road.
- Vehicles involved in contracted highway maintenance, improvement, or reconstruction where there is a need for them to be parked adjacent to the work site.
- Vehicles involved in building, industrial or demolition operations.
- Post Office and other vehicles engaged in the delivery of postal packets and bearing a livery used by a universal service provider within the meaning ascribed by the Postal Services Act 2000. This does not include private vehicles used by postmen/women whilst carrying out letter deliveries.
- Electricity Board, Gas Board, Water Authority, British Telecom, or other telecommunications (and/or their appointed contractors), whilst actively laying, altering, or undertaking repairs to pipes, cables, or other apparatus.
- Vehicles used in the connection of the loading or unloading of goods.
- Vehicles displaying a valid disabled person's badge (blue badge) and a parking disc on which the driver or the person in charge of the vehicle at the time it was parked has marked the time at which the period of waiting began, and where permitted by the prevailing parking restrictions.
- Vehicles used as an official vehicle for the purpose of a wedding or funeral at a church or place of worship.
- Vehicles used in connection with the posting, or removal, of any advertising material in poster form, or is being used for cleaning windows or chimneys in, or on, premises adjacent to that parking space.
- Any vehicle (typically bullion vehicles or specially adapted Security vans) involved in the delivery or collection of cash and other high value goods at a bank or other premises.

11.2 PCN's will not normally be issued to vehicles falling within the above categories, however, if a PCN is issued it will only be cancelled on appeal if sufficient evidence is provided to prove that an exemption applies.

12.0 PENALTY CHARGE NOTICE APPEAL PROCESS AND FLOWCHART

12.1 Councils must review and publish their policies on how they deal with appeals, challenges, and representations against PCN's. The following details outline the main stages of penalty notice processing from initial issue through to debt recovery.

12.2 The flow chart included in Appendix C shows the various stages of progression and appeal for conventionally served PCN's and in Appendix D for postal PCN's.

12.3 PCN stage – Following the issue of a PCN, the notice can either be: paid, challenged, or cancelled. If payment is made then a discount of 50% is applied if paid within 14 days (21 days if the PCN was served by post), beginning with the date on which the PCN was served.

12.4 Informal Challenge stage - an informal challenge is an appeal made in the period of 28 days between the issue of a PCN and the issue of an NtO.

- 12.5 Notice to Owner (NtO) stage - If a PCN is not paid within a period of 28 days, beginning with the date on which the PCN was served, or it is not successfully challenged within that period, the Council may serve a NtO on the owner of the vehicle, requiring payment of the PCN.
- 12.6 Formal Representation stage - Following the issue of an NtO the vehicle owner may make formal representation to the Council within a period of 28 days.
- 12.7 Appeal stage – If a formal representation is rejected, a vehicle owner may further appeal through the Traffic Penalty Tribunal Service (TPT) to have the appeal heard by an independent parking adjudicator.
- 12.8 Charge Certificate stage - Charge Certificates are issued in circumstances where no payment has been received to either PCN or the subsequent NtO, or where an appeal has been rejected and no payment received before the end of the period of 28 days, beginning with the date of the notice of rejection. A charge certificate increases the standard PCN charge by 50%.
- 12.9 Debt Registration stage - If a Charge Certificate is not paid within 14 days the authority may apply to the Traffic Enforcement Centre at Northampton County Court to register the debt as a debt recoverable by Bailiffs. Within Wirral an additional stage, the pre-debt registration letter, has been introduced to give motorists a further opportunity to make payment. The process of registering a debt attracts a small charge, levied by the Court, which is subsequently added to the overall total debt. Once a debt is registered the debtor is sent an Order for Recovery and Witness Statement allowing a further 21-day period to either pay the debt or file a Witness Statement.

A witness statement may be filed on one of four grounds.

1. The Notice to Owner was not received.
2. A formal representation was made to the local authority, but the rejection notice was not received.
3. An appeal was made to the Parking/Traffic Adjudicator, but no response has been received.
4. The penalty charge has been paid in full.

A witness statement can be rejected by the court and the Council has the right to challenge the truthfulness of the ground on which the statement has been filed.

- 12.10 Warrant Registration stage – Following debt registration, failure to either pay the debt in full or complete a valid Witness Statement will result in the authority applying for a Warrant of Execution from Northampton County Court, Traffic Enforcement Centre. Once a Warrant of Execution has been obtained an instruction will be given to the Councils Bailiff Service provider for certificated bailiffs to collect the outstanding debt.

13.0 Challenges, Representations and Appeals

- 13.1 This section contains information on the process and decision making when

considering appeals. This is framework for guidance; however, each case will be considered on its own merits.

- 13.2 The Council has discretion to cancel a PCN at any point in the process even if it is established that a contravention did occur. Where a decision has been made not to cancel a penalty; a written explanation will always be provided together with information on how to challenge the penalty further, if such a stage is available.
- 13.3 When a PCN is issued it contains advice on how the motorist may appeal if they wish to do so. In the first instance, this is termed an informal challenge.
- 13.4 It is important to note that given the quasi-judicial role of the statutory appeals process, elected members and unauthorised officers should not play a part in deciding the outcome of individual challenges or representations.

13.5 Challenge (informal):

- 13.6 An informal written challenge may be made to a PCN at any time prior to the issue of an NtO. The challenge should state the grounds on which it is being made together with any mitigating circumstances and supporting evidence. The Council will give full and proper consideration to such representations in accordance with the following paragraphs and respond in a timely manner. If a challenge is received within 14 days of the PCN being served, and if the Council subsequently reject the challenge, a further 14 days discount period will normally be allowed. If a challenge is rejected the Council will provide reasons as to why.
- 13.7 Making an informal challenge does not affect the right of the vehicle keeper to make a subsequent formal representation against the issue of a PCN.

13.8 Representations (formal challenge):

- 13.9 A formal challenge or representation can only be made after the NtO has been sent to the registered keeper. There are a number of statutory and nonstatutory grounds on which a representation can be made. These are also the same grounds on which a Parking Adjudicator may consider an appeal against the Council's rejection of these initial representations.

13.10 The statutory grounds for representation against a PCN are as follows;

- (a) that the recipient —
 - (i) was never the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
- (b) that the alleged contravention did not occur;
- (c) that the vehicle had been permitted to remain at rest in the parking place by a person who was in control of the vehicle without the consent of the owner;

- (d) that the relevant designation order is invalid;
 - (e) that the recipient is a vehicle-hire firm and —
 - (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN fixed to the vehicle during the currency of the hiring agreement.
 - (f) that the penalty charge exceeded the amount applicable in the circumstances of the case.
 - (g) that there has been a procedural impropriety on behalf of the authority.
 - (h) In the case where a PCN was served by post on the basis that a CEO was prevented by someone from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle that the CEO had not been so prevented; or
 - (i) The NtO should not have been served because the PCN had already been paid.
- 13.11 In addition to the statutory grounds for appeal the Council is also obliged to consider any non-statutory or mitigating circumstances. The owner/keeper is required to give full details and supporting evidence of any such circumstances.
- 13.12 If a representation is rejected the Council will issue a formal Notice of Rejection (NoR), this will also detail the reasons for the decision. The Council will also state the amount outstanding and allow a further period of 28 days in which to pay. Guidance and an application form detailing how to further appeal to the Traffic Penalty Tribunal are sent out with the NoR.
- 13.13 Further details on grounds for appeal are given in section 4.27 below. Representations made outside the period of 28 days beginning with the date on which the PCN is served, may be disregarded; however, the Council will make allowance in exceptional circumstances.
- 14.0 Appeals to the Traffic Penalty Tribunal
- 14.1 The Traffic Penalty Tribunal (TPT) is the independent tribunal set up to consider appeals by motorists and vehicle owners whose vehicles have been issued with a PCN, and whose representations have been refused by the Council. It is free for motorists to use the TPT and cases are considered by Parking Adjudicators, who are specialist impartial lawyers appointed by the tribunal service.

- 14.2 When the TPT receives a Notice of Appeal they will notify the Council to submit its evidence to the adjudicator within a period of 21 days. The appellant can choose to have the appeal considered in a number of different manners.
- 14.3 Postal Hearings - The Adjudicator will consider the appeal based solely on the written evidence the appellant and the Council have supplied. A written decision will be sent to both parties, normally within a week of the case being decided.
- 14.4 Personal Hearings- An appellant may choose to attend in person and have their appeal heard in any of a number of locations listed on the Notice of Appeal form. Typically, Wirral hearings are held in Liverpool.
- 14.5 Although a formal process, personal hearings are undertaken in a relatively informal manner to put the appellant at ease. Those attending normally include the Adjudicator, the appellant, and the Council representative. The appellant will have the opportunity to put his case to the Adjudicator and to clarify or answer any questions put to them. Although those attending are not required to give their evidence under oath, all parties are reminded of their duty to tell the truth.
- 14.6 The Adjudicator will normally give their decision at the end of the hearing, which will be confirmed in writing to both the appellant and the Council. In all cases the adjudicator's decision is binding on both the appellant and the Council.
- 14.7 In exceptional circumstances, the adjudicator may refer a case back to the Council for reconsideration. These cases are directed to the Chief Executive and must not be dealt with by the team who considered the original representations. If the Council does not accept an adjudicator's recommendation it must notify the adjudicator and the appellant of the reasons for its decision before issuing a charge certificate.
- 14.8 If the Council accepts the recommendation of the adjudicator it must cancel the NtO and refund any sums already paid.
- 14.9 Although a Parking Adjudicator has powers to award costs against either party, this is unusual. Costs will only be awarded if in the opinion of the Parking Adjudicator either party has behaved in a frivolous, vexatious, or wholly unreasonable manner. Costs are normally limited to out of pocket expenses such as postage and stationary costs.
- 14.10 Telephone Hearings
- 14.11 Telephone hearings follow a similar process as personal hearing except that they take place by telephone using a conference call facility. They

have the benefit that the appellant can make a personal representation without the need to travel to and from a hearing venue.

14.12 Appeal grounds and decisions

14.13 This following section covers the grounds for appeal and the framework for decision making when considering these. It provides advice on dealing with mitigating circumstances for a range of scenarios. It also recognises that each case is different and that sometimes situations are beyond the control of the motorist. The list cannot provide guidance on every possible scenario and is therefore not exhaustive.

14.14 It is the responsibility of the person making the representation to support their claim. The Council will not normally engage in evidence gathering on behalf of the person who is appealing.

15.0 Statutory Grounds for Appeal:

15.1 There are a number of statutory grounds on which a motorist can appeal. If proved the appeal should be allowed and the PCN cancelled. Such grounds include:

15.2 Claims that the contravention did not occur:

15.3 If proved this would mean that the PCN was issued incorrectly because no parking contravention took place. Examples could include:

- a) The motorist was loading or unloading at a time when it is allowed but the CEO did not notice this.

Representations should be accepted if it can be shown that the goods being delivered were heavy, bulky, or so numerous that it would be impractical to legally park elsewhere. Loading should be taking place close to the premises concerned and be timely, i.e. not spread out over an unreasonably long period of time. However, where the Traffic Regulation Order specifically prohibits loading, such as taxi ranks and bus stop clearways or in car parks where a valid ticket has not been purchased, then the PCN is unlikely to be cancelled.

- b) The motorist had a permit or ticket, but the CEO did not see it.

If a valid permit or P&D ticket is produced and the CEO confirms that a permit or ticket was in evidence but could not be clearly seen; for example, details obscured by wiper blade; then representations would normally be accepted. However, appellants should note that this reason will only be accepted if it is the first such representation on these grounds from that person. Repeat claims for subsequent PCN's for the same contravention are unlikely to be cancelled.

- c) The motorist had a disabled badge on display, but the CEO did not see it.

As with P&D parking tickets, it is the motorist's duty to ensure that disabled badges are clearly displayed so that the expiry date and serial number are clearly visible. However, if a valid disabled persons badge is provided and it is a first occasion for that contravention then representations would normally be accepted even if the disabled badge was not correctly displayed at the time the PCN was issued. Repeat claims for subsequent PCN's for failing to display or correctly display a disabled persons badge are unlikely to be cancelled.

- d) Claims the signs / markings were not in the correct position or had been damaged or were not visible.

If, following investigation, a significant or material error is found with the signs, lines, or the traffic regulation then representations would normally be accepted. In such cases action will also be taken to prevent further PCN's being issued in those circumstances and to rectify the error. Partially worn lines, utility gaps or minor departures such as missing end bars will be considered on a case by case basis but will not normally be accepted if the purpose and intent of the lines is obvious to a motorist acting in a reasonable manner.

- e) The date or registration number on the PCN is incorrect.

If it can be shown that the date or registration number is incorrect the appeal will be allowed.

- f) A PCN was never served on the vehicle.

Occasionally a PCN may be removed from a vehicle either by a third party or by adverse weather conditions. If the CEO has photographic evidence to show the PCN was originally served correctly and/or where evidence supports the claim that the PCN was removed, the motorist will normally be given a further opportunity to pay the PCN at the discounted rate. Similar repeat claims for subsequent PCN's are unlikely to result in the discount being re-offered.

- g) Claims that the adjacent pay and display machine was not working.

Claims of this nature will be checked against service records for the relevant machine and any complaints or enquires received. If validated the appeal will be allowed, however, if there is another nearby ticket machine which could have been used then the representation may not be allowed.

- h) The motorist was carrying out building works nearby and had a valid dispensation.

As with other tickets and disabled badges, proof of a valid dispensation that matches the details of the vehicle is likely to result in the representations being accepted for a first offence for this contravention. Repeat claims for subsequent PCN's for the same contravention are unlikely to be cancelled.

15.4 Vehicle Ownership:

- a) The recipient has never been the owner of the vehicle in question

Representations will be accepted if the DVLA confirms that the motorist was not the registered keeper at the time of the contravention.

- b) The recipient had ceased to be the owner before the date of the contravention

Representations will be accepted if the registered keeper is able to provide proof that the vehicle was sold or otherwise disposed of before the date of the contravention. Accepted documentation could include a bill of sale, registration or insurance documents or a letter from the DVLA. The registered keeper would be expected to provide details of the new owner, to whom a new NtO may be sent.

- c) The recipient had become the owner after the date of the contravention

Similarly, representations are likely to be accepted if the current registered keeper can provide proof that the vehicle was purchased after the date of the contravention. Such documentation could include an invoice, registration or insurance documents or a letter from the DVLA. The new owner should be able to provide details of the previous owner to whom, a new NtO may be sent.

15.5 Vehicle Taken Without Consent:

Claims that the vehicle had been left by a person who was in control of the vehicle without the consent of the owner

Representations on these grounds should be accompanied with a valid police crime report reference number and will normally be accepted. It is the vehicle keeper's responsibility to control use of a vehicle and claims that an unknown family member or friend had left the vehicle will not normally be accepted unless there is evidence to supporting the matter being reported to the police at the time of the incident.

15.6 Recipient is a Vehicle-Hire Firm and;

- (i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and

- (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN fixed to the vehicle during the currency of the hiring agreement;

Representations will be accepted if the hire company can provide proof that the vehicle was hired at the time of the contravention and the company can provide the full name and address of the person who hired the vehicle. In these instances, a new NtO will be sent to the person named by the hire company.

15.7 The Traffic Regulation Order was Invalid

Claims made on these grounds are infrequent and are usually concerned

with the correct legal procedure for the making of the TRO. Representations will be allowed if it can be proven that the process for making the traffic order or the content of the order was flawed in some way.

15.8 Non-Statutory Grounds for appeal – Mitigation and Discretion

There are no statutory grounds for appeal where the recipient acknowledges that a contravention has occurred but argues that extenuating circumstances apply, however, best practice and guidance indicates that Councils should still consider such appeals.

- 15.9 A schedule of the more common circumstances encountered by motorists and/or raised in appeals, together with information and guidance on how the Council will consider each, is contained within Appendix E to the report.