

DECISION NOTICE OF AN INDIVIDUAL MEMBER OF GWYNEDD COUNCIL CABINET

DATE OF DECISION 31 October 2024

DATE DECISION PUBLISHED 4 November 2024

DATE DECISION WILL COME INTO FORCE and implemented,
unless the decision is called in, in accordance with section 7.25 of
the Gwynedd Council Constitution **11 November 2024**

Cabinet Member: Councillor Councillor Paul Rowlinson, Cabinet Member for Finance

SUBJECT: Cyngor Gwynedd Recovery Policy

DECISION

Adopt the Recovery Policy.

REASON WHY THE DECISION IS NEEDED

Please see the attached Officer report

DECLARATIONS OF PERSONAL INTEREST AND ANY RELEVANT DISPENSATIONS APPROVED BY THE COUNCIL'S STANDARDS COMMITTEE

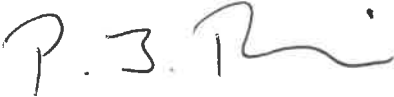
None

ANY CONSULTATIONS UNDERTAKEN PRIOR TO MAKING THE DECISION

Consultation with
Gwynedd Council Statutory Officers

The results of the consultations are reported upon in the attached report

**DECISION NOTICE OF AN INDIVIDUAL MEMBER OF CYNGOR GWYNEDD
CABINET OFFICER REPORT**

Name and title of Cabinet Member(s) :	Councillor Paul Rowlinson Cabinet Member for Finance
Name and title of Report Author :	Dewi Morgan Head of Finance
Date the Decision Was Taken:	31/10/2024
Signature of the Cabinet Member(s) :	

Subject:

Cyngor Gwynedd Recovery Policy

Recommendation for the Decision:

Adopt the Recovery Policy.

Reason for the need for the Decision:

Collecting the money owed to the Council is a core part of the Council's procedures, and no change to these arrangements is recommended. However, the adoption of a comprehensive Recovery Policy, which will be subject to regular review, puts steps in place to formalise these arrangements in writing, so that they are clear to all officers responsible for implementing the procedures, and to all councillors as they undertake their duties.

Reason and justification behind the Decision:

Cyngor Gwynedd is responsible for tracking a range of debts, but the main areas are:

- Taxes (Council Tax and Non-Domestic Rates)
- Overpayments of Benefits and Council Tax Reduction
- Sundry Debts.

Debt recovery arrangements are already in place within the Council, and no change to the arrangements are being proposed. However, the adoption of the Policy will formalise these arrangements to ensure that appropriate governance can be demonstrated and demonstrate that the Council deals with debts systematically and fairly.

An important part of the Policy are the Recovery Principles. These principles encapsulate the way all officers are expected to conduct themselves in recovering the money owed to the Council. A commitment is made in the Recovery Principles that any remedial action will be proportionate, consistent and transparent.

While there is a clear commitment to ensuring that the money owed to the Council is paid, it is also key that as a responsible authority we are aware of the difficulties that some of the debtors have in paying. The Policy sets out its objectives and is careful in trying to balance the Council's need for funding to continue to operate with the requirement to be sympathetic to the circumstances of the people of Gwynedd.

The policy also recognises the Council's responsibility in terms of data protection in dealing with arrears as well as introducing arrangements to prevent fraud.

Risk Assessment

The introduction of this policy is not considered to present a risk to the Council. Adopting a formal policy mitigates the risk of a legal challenge to recovery actions taken.

Equality

The Policy aims to ensure that all actions taken by the Council are fair by ensuring that all debtors are treated proportionately, consistently and transparently.

An Equality Impact Assessment has been completed, which shows that the adoption of the Policy will not have an impact on any cohort with specified characteristics, as the procedures in the Policy have already been practised for several years. It is noted that systematic steps are being used to identify those debts that need to be prioritised. Steps will be taken to identify if the debtors have a situation that makes them vulnerable but there is no basis that the policy would disproportionately affect individuals with any of the specified characteristics.

Any consultations undertaken prior to making the decision:

None

Chief Finance Officer – I have assisted the Cabinet Member in preparing this report.

Monitoring Officer – I welcome this Policy which establishes clear principles for recovering money owed to the Council. It is pragmatic and complies with the prudential duty for public money.

Local Member(s) – not a local matter

Cyngor Gwynedd

Recovery Policy for:

- Council Tax
- Non-Domestic Rates
- Benefit Overpayments
- Sundry Debts



1 INTRODUCTION AND PURPOSE

- 1.1 This document details the Council's policies on billing, collection and recovery of all funds owed to the Council.
- 1.2 Amounts owed to the Council can be a mixture of statutory and non-statutory fees. The methods for billing and recovering the statutory debts are tightly prescribed by statute.
- 1.3 This Policy sets out the general principles and approach to be used in relation to debt management across all services provided by the Council. The approach outlined will significantly benefit all residents and taxpayers of Gwynedd by:
- Encouraging all taxpayers or customers experiencing payment difficulties to contact the Council as soon as possible;
 - Reduce the Council's liabilities wherever possible;
 - Identify potentially vulnerable customers; and
 - Provide a comprehensive range of support.
- 1.4 Full details of individual recovery policies and procedures are available from each of the relevant Council departments, which document the individual processes taken by Council officers when money is owed to the Council or when customers are in arrears.
- 1.5 Income management is a key business area for the Council. The Council collects income from a number of sources; some of this activity is governed by legislation while others are by sound principles of financial management. The key to economic, efficient and effective income management is to create and maintain a clear framework that sets out the approach, goals, principles and strategy in which all activities will take place.
- 1.6 It is essential that all money owed is effectively collected by the Council, and that what is owed to the Council is kept to a minimum. The Council has a legal duty and responsibility to the people of Gwynedd to ensure that the income due is paid on time. The Council may charge late payment interest on debts or seek interest/fees during recovery processes where it is lawful and appropriate to do so.
- 1.7 Effective income management processes are essential to achieving the overall objectives of the Council's services. A more efficient income management process contributes to the availability of resources for wider or deeper service provision.

2 OBJECTIVES

- 2.1 The aim of this policy is to ensure a responsible collection of debts.
- 2.2 The key objectives of the Recovery Policy are:
- Ensuring the Council delivers bills on time and reminds people promptly if they have not paid
 - Offer efficient and flexible payment methods.
 - Encourage early contact to avoid debt accumulation.
 - Informing people of their entitlement to benefits, discounts and exemptions to maximise uptake.
 - Informing people about the general availability of income-related benefits, such as Universal Credit, Pension Credits and the Council Tax Reduction Scheme.
 - Take positive steps to prevent arrears from occurring in the first place.

- Take recovery action against people who deliberately avoid paying their debts or those who delay payment without a valid reason while always working to assist those who cannot pay or are struggling to pay.
- Where people have fallen into arrears or are likely to do so, there is a commitment to work with them and their representatives to determine reasonable and realistic payment levels that they could maintain, ensuring that payment arrangements reflect the ability to pay as well as the level of debt owed.
- Work coherently when multiple debts are owed to the Council, prioritising where appropriate.
- Working in partnership with recognised advice agencies to advise people in need of help and guidance to repay debt where they could receive independent advice to assist with wider financial problems.

3 RECOVERY PRINCIPLES

3.1 Any recovery action taken will be proportionate:

- Proportionality allows for a balance between the potential loss of income due to the Council and compliance costs.

3.2 The approach taken will be consistent:

- Consistency means taking a similar approach in similar circumstances to achieve similar objectives. The Council aims to achieve this in the advice given, the use of its powers and the recovery procedures used. At the same time, the Council recognises the need to treat everyone as individuals and will therefore aim to consider many variables such as the individual's social circumstances, payment history and ability to pay.

3.3 Actions taken will be transparent:

- Transparency is important in maintaining public confidence in the Council. It is about helping people understand what is expected of them, to meet their payment obligations and what they should expect from the Council. It also means clearly explaining the reasons for taking any remedial action and the next steps the Council can take if no payment is made.

3.4 The Council is committed to using the most effective remediation tools available and this policy ensures that the Council complies with relevant legislation, official guidance and best practice in achieving the following objectives:

- All debtors, taxpayers and ratepayers are treated fairly
- Use of best practice adopted
- A coherent approach to debt management is followed
- We will identify appropriate support that may be required and ensure that circumstances are taken into account.

3.5 The action taken is fair and transparent, and no debtor will receive less favourable treatment because of their race, nationality, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation, age or disability.

3.6 Different types of debt attract different collection treatment. All bills and invoices issued must be properly referred to the person liable to pay it.

3.7 Any debt will be billed as soon as practicable taking into account any legislative requirements.

- 3.8 For all funds owed, the Council will use the most appropriate and effective method of debt recovery to maximise cash collection and reduce costs.
- 3.9 Where the potential for a statutory benefit or reduction exists in relation to the debt, efforts will be made to make the debtor aware of such opportunities and they will be assisted and encouraged to apply for these.
- 3.10 The council uses every opportunity to engage with debtors and make 'bespoke' payment arrangements with individual customers based on the circumstances and debt owed. Depending on their overall financial situation, customers may be referred to an independent debt advice service.
- 3.11 The council recognises that prompt recovery action is a key element for managing debt and maximising income and will:
- regular monitoring of debt level and age
 - setting clear targets for debt recovery
 - follow the recovery procedures in this policy
 - setting priorities for specific areas of debt and assessing recovery mechanisms to maximise recovery
 - review non-recoverable and debts over six months old on a monthly basis.
- 3.12 When an external enforcement agency is used to deal with debt recovery, the flow of information between the council and the agency will be in a secure electronic format. Enforcement agents will contact debtors as part of a legal collection process.
- 3.13 When legislation permits, the Council shall seek to charge and recover from the debtor any costs and/or fees lawfully owed by the debtor to the Council or its agents. They will be waived only in exceptional cases, where it would not be in the public interest to pursue costs and/or fees.
- 3.14 The Council's Write-off Policy (Appendix 4) is in line with the Council's Financial Procedure Rules and formalises the procedure for eliminating irreparable debts following completion of the debt recovery processes described in this policy.

4 SCOPE

- 4.1 This policy framework applies to the collection of:
- Council Tax and Non-Domestic Rates (Appendix 1)
 - Housing Benefit and Council Tax Reductions Overpayment (Appendix 2)
 - Sundry Debts (Appendix 3)
- 4.2 There are specific rules and regulations governing the recovery and collection of these types of debt – these are set out in the appropriate appendices.

5 HIERARCHY OF DEBT

- 5.1 Some customers will owe more than one debt to the Council and may be on low incomes or experiencing financial hardship. In such cases, it is necessary to be clear which debts the Council considers a priority.
- 5.2 Priority is given to debts where non-payment could result in the customer losing their home. These relate mainly to Council Tax and Business Rates, which are mostly enforced through the courts in accordance with statutory requirements.
- 5.3 Other debts owed to the Council may, depending on the circumstances, be considered to be a lower priority.

6 PAYMENT METHODS

- 6.1 Invoices for services provided by or on behalf of the Council will be raised before the service is received or as soon as possible thereafter. Where possible, payment will be received before the service is provided. Recurring payment invoices will be issued in a timely manner to enable payment before the due date.
- 6.2 The Council will collect sundry debts in accordance with the terms outlined on the invoice. The standard terms apply to all minor debts raised by the Council and should not be amended unless with the approval of the Head of Finance.
- 6.3 The Corporate Debtors team will withdraw payment terms if a debtor fails to abide by a payment agreement.
- 6.4 Bills and invoices confirm the full range of payment methods available and include information to encourage taxpayers and debtors to contact the Council to discuss payment difficulties.
- 6.5 The Council's preferred payment method is Direct Debit. However, this does not prohibit the receipt of payment by other means. Apart from Direct Debit, the Council accepts a range of payment types as appropriate to the type and size of debt.
- 6.6 These include credit and debit cards, standing orders and online banking arrangements. The Council has an obligation to prevent money laundering as set out in its Anti-Money Laundering Policy.

7 DEBT WRITE-OFF

- 7.1 The Council recognises that prompt and regular debt write-offs are good practice when debts cannot be recovered.
- 7.2 The Council will seek to reduce the cost of write-off to local taxpayers by taking all necessary steps to recover what is owed. All debts will be subject to all collection, recovery and legal procedures as outlined in this policy.
- 7.3 Write-off is appropriate only when the notice or invoice has been raised correctly and properly and there is a justifiable reason why the debt should not be pursued.
- 7.4 It is not possible to list every scenario that could make debt suitable for write-off. However, the following factors may be appropriate depending on the circumstances.
- 7.5 Some of the valid reasons for deletion include:
 - The customer is bankrupt;
 - The customer cannot be traced;
 - The debt is uneconomic to pursue, or to pursue further. This may be based on more than one factor, such as the amount of debt, the customer's financial position and the cost of administrative and officer time in pursuing the debt;
 - The debt is contractual debt over the age of 6. Under the Limitation Act 1980, it is not possible to publish court proceedings in a contractual matter that is over 6 years of age. However, there are exceptions to this rule that may need to be considered;
 - The Council has evidence to establish that recovery action was improper; or
 - The customer has died and there is no money or not enough in the estate to pay the debt.

7.6 Irrevocable debts shall be remitted to the Head of Finance and, where relevant, to the Cabinet Member of Finance, in accordance with the Council's Delegation Plan at a pre-agreed frequency and in a pre-agreed format in accordance with the Council's Financial Procedure Rules.

7.7 The Write-Off Policy is found in Appendix 4.

8 TRAINING

8.1 All overpayments must be properly designated by a Council officer who has been trained to a sufficient standard to enable them to make decisions and ensure that the law is implemented correctly in the decision-making process. The Council is committed to training staff to have the skills necessary to carry out this policy.

8.2 The Council shall seek to adopt or incorporate any training programme that reflects any nationally approved debt recovery pre-action protocol or recognised best practice protocols, particularly in relation to the application of fairness and the recognition of vulnerability and hardship.

8.3 All staff involved in debt collection and recovery are part of a circular training regime that incorporates:

- Debating skills
- Recognise vulnerability and mental health problems;
- Customer service; and
- Equality.

8.4 In addition to the aforementioned training, staff will receive training to support them through the procedural and cultural changes in approach.

9 SCHEME OF DELEGATION

9.1 This Recovery Policy has been approved by the Cabinet Member for Finance in accordance with the Constitution of the Council.

9.2 Council officers administer the policy and the Taxation Manager, Income Manager, Benefits Manager, Assistant Head of Finance and Head of Finance are authorised to make improvements to ensure the policy meets the criteria set by the Council.

10 FRAUD AND EVASION

10.1 Cyngor Gwynedd will not tolerate fraud or financial irregularities, and any cases are taken seriously and investigated. Any individual who falsifies their records or dishonestly provides inaccurate information for financial gain, avoiding a valid payment or otherwise will face prosecution. The Council reserves the right to recover money paid in error, or by fraudulent misuse.

10.2 Illegal avoidance of tax or other costs reduces the financial resources available to the Council and has a direct impact on all residents, businesses and other organisations that rely on the Council's services.

10.3 Illegal evasion or fraud to avoid the payment of a debt will not be tolerated, and when cases of this are recognized, the Council, in addition to taking steps to enforce payment, will seek to impose further penalties or sanctions where available by law. This can include prosecution for such offences.

10.4 When this activity affects other public bodies, such as the Department for Work and Pensions, HM Revenue and Customs and other authorities, the Council will work with those organisations to seek a legal remedy.

10.5 When debts arise by evasion or fraud, the Council shall seek to recover payment in full as soon as the law regarding the nature of the debt allows.

- 10.6 Where appropriate, the Council will refer matters to the Police for criminal investigation. The Council is also committed to fully supporting any investigation initiated by the Police, either in response to a referral or independently.
- 10.7 The personal information the Council collects will be shared with fraud prevention agencies who will use it to prevent fraud and money laundering and to verify identity. Cyngor Gwynedd is taking part in the National Fraud Initiative: [Data matching \(gov.wales\)](#).
- 10.8 Further details of how your information will be used by us and these fraud prevention agencies, with individuals' data protection rights can be found on Cyngor Gwynedd's website, here: [Data protection \(gov.wales\)](#).

11 USE OF DATA

- 11.1 The Council shall collect and store personal data for the purpose of billing, collecting and effectively recovering amounts due. Data stored for this purpose will be processed in accordance with the Data Protection Act 2018 and stored securely at all times.
- 11.2 The Council is fully committed to supporting the use of data matching to identify fraud and potential mistakes. Data will be shared with agents or contractors appointed by the Council for the purpose of billing, collecting and recovering amounts due. Data may also be shared within the Council or with external organisations where the law permits, particularly where it is in the interests of the debtor or will prevent fraud or evasion of illegally due amounts. Further details including privacy statements can be found on Cyngor Gwynedd's website: [Data protection \(gov.wales\)](#).

12 COMPLAINTS AND DISPUTES

- 12.1 Any disputes raised about the use of this policy should, in the first instance, be raised with the relevant service of the Council. If the dispute cannot be resolved, then it will be dealt with in accordance with the Council's Complaints Procedure.
- 12.2 Any dispute regarding an individual debt is dealt with in accordance with the legal requirement of collecting that debt. Any such dispute will only prevent the continuation of the recovery process or legal mechanism if appropriate in the context of the particular legislation.
- 12.3 The aim of Cyngor Gwynedd's Complaints Procedures, is that complaints are resolved informally and if that is not successful a formal complaint should be submitted to the Council by:
- Completing the form on the Council's website: [Formal complaint / Praise \(gov.wales\)](#)
 - Phoning: 01766 771000
 - Writing to: Service Improvement Officer, Corporate Support, Gwynedd Council, Shirehall Street, Caernarfon, Gwynedd, LL55 1SH

1 INTRODUCTION

The policy formulates and explains how the Taxation Service will administer local taxes through the billing, collection of money and recovery process under

- Local Government Finance Act 1988
- Local Government Finance Act 1992.

This Appendix provides details of the billing and recovery process, so that the process is clear and easy to follow. The focus will be on the work path rather than a detailed study of the legislation.

2 THE BILLING PROCESS

2.1 Bill Contents

Sending an accurate and timely bill is an effective method of communicating information to taxpayers about their responsibility for paying Council Tax / Non-Domestic Rates. To this end, the Taxation Service will ensure that correspondence is clear and explicit yet concise, setting out the necessary statutory information, focusing on the main relevant facts and communicating the information in understandable language. On the back of the bill will be information on further relevant details which refers the taxpayer to the Council's web site to seek full details.

Details of how to make contact with the Taxation Service will be clear including phone number, postal address, email address, website, and office address.

There will be a reference on each communication highlighting the Council's website which details

- Exceptions
- Discounts
- Reliefs
- How to submit an appeal (internal and external)
- How to lodge a complaint (internal and external)
- Relevant Data Protection Details
- Annual Council Tax Installment Details / Non-Domestic Tax multiplier details.
- Council Budget
- Invitation to discuss instalments.

Alternatively, the service can post relevant details where requested.

The Council Tax Band or Rateable Value for Non-Domestic Rates is set by the Valuation Office Agency. The Council's website will set out contact details from the Valuer's Office.

Exemptions, Discounts and Reliefs will be reviewed constantly, at least every two years. Where possible, the Council will automate the checking of certain exemptions and discounts by using external agencies to match internal and external data and data sources.

2.2 Updating Information and Administration

It remains the duty of all Council Tax taxpayers to inform the Council, in writing, within 21 days of any material changes that may affect their Council Tax bill.

The Council will employ and train staff to process applications and answer taxpayers' queries. Officers will focus on processing applications but also encouraging taxpayers to seek exemptions, relief and discounts where applicable. If a taxpayer is behind with payments officers will try to reach a reasonable arrangement, ideally to clear any outstanding debt before the end of the financial year. If this is not possible or the taxpayer is in financial difficulty, or in need of advice the officer will refer the person on to the relevant Council service or to an external agency (CAB, Money Helper).

Council Tax and Non-Domestic Rates are payable for a financial year, which is from 1st April to 31st March in the following year. An annual bill is sent 14 days before the first instalment becomes due.

Statutorily, instalments were initially extended over a period of ten months but this right now extends over 12 months. If no request is made by the taxpayer to adjust what is payable instalments will be placed over 10 months with instalments due at the commencement of the month.

As the year goes by the number of months available to allocate instalments will decrease. However, the amount payable is set from the current month to the end of January, or if there is an obvious cause to March. If a payable amount arises after January no instalments will be offered and the whole amount will be payable within a month. This does not prevent a taxpayer from contacting officers to discuss payment options and a reasonable agreement.

Where more than one person is responsible for a Council Tax bill the *joint and several liability* taxation principle is clearly explained. Everyone is responsible for the whole amount and not part of the payment – how the bill to be paid is up to the individuals responsible and the Council rarely intervenes in this. If there is a recovery case action can be taken against everyone named on the bill.

If a taxpayer is dissatisfied with the Council's decision to hold them responsible for the payment of Council Tax then there is a right to place an internal appeal. If we are unable to reach an agreement the taxpayer is further entitled to place an appeal to the Valuation Tribunal Service for Wales.

3 THE RECOVERY PROCESS

3.1 Payment requirements

By sending correspondence on time, to the last address given by the taxpayer, in accordance with Council Tax / Non-Domestic Rates rules the Council has properly served the documents. The Council is not required to show that any letter, bill, reminder or summons has arrived. All correspondence is sent in an envelope displaying a relevant address the Royal Mail can return the envelope to if it is undelivered.

Council Tax and Non-Domestic Rates are statutory taxes so taxpayers should deal appropriately with the relevant amount when arranging their financial affairs.

There are three ways to pay a Council Tax / Non-Domestic Rates bill:

- In full within 28 days of receiving the bill

- In instalments as laid on the bill
- In instalments that clear the debt before the end of the financial year, arranged with the Council before the first instalment becomes due.

If the above is not followed and a month passes without the applicable minimum, namely an instalment, being received then the Council will initiate the recovery process.

The Council will organise a recovery programme for the year, issuing reminders, final notices, summonses and post-order recovery work in time to give taxpayers the longest time to seek an exemption / discount / relief, make a payment arrangement or lodge an appeal. Taxpayers are encouraged to contact the Council as soon as possible if there are difficulties paying.

3.2 Reminders

If payments do not commence in accordance with one of the three available options, the Council will follow the statutory recovery regime.

While legislation allows the Council to send a Reminder Notice once payment has not been received by the due date we will allow 12 days before sending a Reminder Notice after an instalment (or whole amount) has become due.

When an instalment has failed for the first time, a Reminder Notice will be sent setting out the details of the failed instalment, the amount to be paid and by which time the amount must be paid to protect the right to pay in instalments. The Reminder Notice will also highlight what will happen if the tax for the rest of the year is not paid, that the Council can initiate legal action.

If the due amount is not paid then the account moves on to the Final Notice process.

If instalments are kept up-to-date then the statutory right to pay by instalments is retained.

When a further instalment during the year is late then a Second Reminder Notice will be issued. Again, the amount that hasn't been paid – and when it needs to be paid by – will be clearly stated on the Reminder Notice. But unlike the First Reminder, there will be a further statement that this is the last chance for payment to be late and if there is a further default the right to pay in instalments will be lost with the whole amount becoming payable. If payments are not made as required then the account will move on to the Final Notice regime.

In circumstances where statutory instalments cannot be offered as the amount to be paid has not been received then an appropriate Reminder and Final Notice will be used.

3.3 Final Notice

When the taxpayer has not paid what is required, before the Council considers arranging a summons a Final Notice will be served. The Notice shall declare the amount to be paid, the relevant period, that the amount is to be paid immediately, and what will happen if the amount is not paid.

All Reminders and Final Notices will invite the taxpayers to contact the Council to discuss the case and reach a reasonable arrangement. There is also a reference to the Council's website where there is more information on how the amount is calculated and Citizens Advice contact details for independent advice.

The consequences of non-payment or non-contact with the Council will have been laid out, namely that the Council has a statutory right to take legal action to seek a Liability Order from the Magistrates Court and further costs will fall on the taxpayer if further action is required.

3.4 Summons

If payments are not made as required and an amount is over-due then after at least 14 days of issuing any Final Notice the Council will have the option to ask the Magistrates Court to approve the Council's application for a Liability Order.

Once the Clerk of the Magistrates' Court has given written permission for the Council to arrange a hearing the Council will follow the statutory procedure of sending a summons to the taxpayer.

The costs associated with sending a summons are statutory in Wales, at £70. However, when the Council applies for a Liability Order the Council's statement of expenditure will be submitted to the Court supporting the relevant costs associated with the production of the summons and the administration of the case.

All summonses will be sent by Royal Mail in a first class envelope and the Council's address will be on the back of the envelope so that a summons that cannot be issued to the taxpayer can be returned. A summons is not sent through the registered postal procedure because a taxpayer may choose to refuse to receive the summons. As taxpayers have a statutory duty, once a correct bill has been introduced, to provide written information to the Council if there is a change of address a summons has been sent correctly if it is sent to the last address given by the taxpayer and Royal Mail does not return it to the Council.

If the summons has not been received, and the envelope has been returned unopened to the Council offices, the court case cannot continue and the next steps to be taken will have to be considered.

The summons will state that it is a legal summons, and the Court will hold a hearing to hear an application by the Council for a Liability Order regarding the arrears of local taxes. The date, time and place of the Court shall be clearly stated on the summons. Although the Court issues the summons, it is the Council that produces, prints and posts the summons so it is the Council's contact details that are on the summons if a taxpayer wants to make an enquiry.

Also on the front of the summons is the address of the debt, the amount due, period of responsibility and any costs claimed.

The legal costs £70 is claimed for sending the summons, as that is where the pressure of costs for implementing and administering the recovery regime lies. The costs will not be written off if the due tax is paid at this point.

Full contact details and the Council's website address are on the back of the summons as well as Citizens Advice contact details if a taxpayer wishes to seek legal advice but does not have the means to pay a solicitor.

The taxpayers do not have to attend Court, the vast majority choose not to attend.

While the taxpayer is entitled to go before the Court without discussing with the Council, the Court sees the benefit of both sides discussing before holding a hearing.

Council officers will be available ahead of the hearing to discuss with taxpayers to see if the case needs to be continued or if an arrangement can be reached to avoid further action and costs.

Every effort will be made to try to resolve a case before a Court hearing is required.

The evidence that the Council has to prove while is quite substantial. That is, that the tax was correctly set, that press information was shared, that a bill, reminders and summons was sent and the time period between the steps was sufficient, a certificate that the computer was working correctly, an analysis of council costs and a list of the individual cases with the details on the summons updated.

A taxpayer cannot raise any issue which they are entitled to appeal to the Valuation Tribunal as a defence and the sum on the bill is required to be paid in the meantime, even if an appeal is intended to be submitted to the Tribunal. This is not the position with the premium on long-term vacant properties and second homes; in those cases the premium does not have to be paid if an official appeal has been accepted by the Tribunal.

If the taxpayer has no defence then the Magistrate must make a Liability Order, this is not optional.

3.5 Notice of Liability Order and Statutory Application for information.

A Liability Order entitles the Council to take further action against the taxpayer, not only to collect the debt but also to collect information that will help cage the amount.

When a Liability Order has been made by the Magistrates Court the Council will provide the taxpayer with information of the decision. With the notice there will be a statutory request for further information:

- Details of the individual's work and salary
- Details of the benefit of holding
- An opportunity to pay the amount.

3.6 Attachment of Earnings Order

If taxpayer pay details become available the Council will implement an Attachment of Earnings Order. In those cases, a percentage of the taxpayer's income will be collected from the taxpayer's employer and paid over to the Council. This option is not available to the self-employed.

In the case of arrears of Elected Members, the Council may collect the money from its payments to those councillors.

3.7 Benefit Deduction Order

An application must be made to the UK Government's Department for Work and Pensions for a specified amount to be collected from a taxpayer benefit. There is no way to seek this money from all benefits, only from Universal Credit and those benefits associated with seeking work.

3.8 Enforcement Agent (Bailiff)

In accordance with the *Taking Control of Goods Regulations 2013*, if a taxpayer does not pay the due amount or contact the Council then within 28 days the case can be transferred to the Enforcement Agent.

Cyngor Gwynedd uses an external company.

A clear notice will be sent by post to the taxpayer, before the case is transferred for collection, stating that the debt is about to be transferred. The notice will indicate which company will be used and what the costs will be associated with each operational action.

If there is no payment or response then the proceedings will be transferred to the Enforcement Agent in accordance with the Enforcement Agent procedure between the company and the Council.

Compliance Phase – the Enforcement Agent will send a letter at a cost of £75 alerting the taxpayer that a Liability Order has been issued and payment needs to be made or to contact the company to discuss how to pay. The letter will also state what will happen if the amount is not paid, particularly what the further costs will be.

Enforcement Action – If the agent does not receive payment or contact within at least 10 days then an enforcement agent can visit the taxpayer to collect the money. If the Agent has to visit the taxpayer there is one fee of £235 and 7.5% of any overdue amount over £1,500.

While the agent inquires about the taxpayer's circumstances to try to reach an agreement if the amount is not paid in full or the taxpayer refuses to pay the agent, if discovering goods of value, can impose an Controlled Goods Agreement. If the terms of any agreement or relevant date to payment are not retained the collecting agent can return and transfer the goods to a place where the items can be sold to clear the outstanding debt and costs.

Enforcement and Sales Phase – when an agent has to collect goods to clear the back debt there is a cost of £110 and 7.5% on any amount over £1,500.

The Collecting Agent may be of opinion that the goods available are not sufficient to clear the debt or of value at auction and all proceedings arriving at this point will be returned to the Council without payment.

The Council will not pay any Enforcement Agent costs.

3.9 Further Steps

Committal – while committal remains an option for refusing to pay Non-Domestic Rates, the right to jail taxpayers for not paying Council Tax has been removed in Wales.

The remaining options are serious in nature and relate to high costs which should only be used if the taxpayer absolutely refuses to pay and the Council's action is for the purpose of tracking the debt. A case should not be initiated where there is no equity in property or the means to pay nothing from the taxpayer, as the Council would incur substantial costs with no prospect of receiving payment.

While all recoveries are serious it must be noted that the below can have a negative impact on a person's life and the value of maintaining a case must be weighed.

Charge Order ('Charging Order'). If the debt is over £5,000 the Council has the option to apply for the County Court to impose a Charge Order on the taxpayer's property. If the due amount is not paid then a further application will be made to compel the sale of the property to pay the due amount to the Council.

Bankruptcy – If a debt exceeds £5,000 then the Council can apply for the County Court to make a bankruptcy order against a taxpayer.

4. WRITE-OFF

If debt is irrecoverable then the Council recognises that the amount needs to be written off. While some removal actions are statutory (bankruptcies, Debt Relief Orders) others are due to personal circumstances (death, special circumstances) or other relevant factors (“gone away”, irrevocable).

Any write-off must be in accordance with the Council's official write-off policy and authorised as required, most often before the amount is deleted on our records.

More information on the order of deletion can be found in the Debt Write-off Policy in Appendix 4.

1 INTRODUCTION

Housing Benefit overpayments and Council Tax Reduction are established by a change in entitlement to benefits. They are described as an amount of benefit that has been awarded but to which the claimant is not entitled under the regulations.

Accurately and promptly identifying overpayments is important to ensure that the incorrect payment of benefit ends and to maximise the chances of a successful recovery.

The Council recognises the need to lower the loss to public funds, but fair action must be taken in administering Housing Benefit overpayments and Council Tax Reduction.

The Policy reflects best practice in the procedure for dealing with the administration and recovery of Housing Benefit overpayments and Council Tax Reduction.

The policy will be applied in all cases where a benefit overpayment has occurred, that is, any amount of Housing Benefit or Council Tax Reduction that has been paid but was not entitled to whether on an initial decision or on an amended decision.

In undertaking this policy framework, the Council shall:

- Take steps to reduce and prevent overpayments from occurring
- Promptly identify the overpayment
- Preventing the overpayment from continuing
- Correct distribution of the overpayment
- Determine whether the overpayment is recoverable and recoverable
- Deciding by whom to recover
- Determining the most appropriate method of recovery
- Inform the claimant and other affected individuals of the decision.

In most cases overpayments may arise as a result of:

- Late disclosure of change in circumstances
- Errors made by the claimant in completing an application form or review form
- Official mistakes made by the Council or the Department for Work and Pensions
- Deliberate fraud

2 PREVENTION OF OVERPAYMENTS

Overpayments are often difficult and time-consuming to administer. They can cause difficulties for claimants and their families as they try to cope on limited incomes. They should be avoided where possible. This will be achieved by:

- Telling claimants how to avoid overpayments, with letters, in leaflets and during verbal communications
- Encouraging claimants to keep in touch with us

- Processing information quickly and accurately to reduce overpayments

3 IDENTIFYING OVERPAYMENTS

The Council will aim to act on any information received in relation to change of circumstances claimants within seven days of sufficient information to indicate that an overpayment has or will occur.

This action will in the first instance include the suspension of further ongoing payments of wrongful benefit.

The Council will endeavour to identify any change in circumstances that would result in an overpayment that remains outstanding after seven days by carrying out appropriate checks to ensure that the information held by the Council is as up-to-date as possible.

4 DISTRIBUTION OF OVERPAYMENTS

The correct distribution of overpayments is essential because, depending on the type of overpayment, the authority will receive a percentage of the overpayment back from the government through subsidy.

All overpayments must be properly distributed by a Council Officer who has been trained to a sufficient standard to enable them to make decisions, which ensures that the law is implemented correctly in the decision-making process.

5 CALCULATING OVERPAYMENTS

Where an overpayment has occurred, the Council must invite claimants to provide sufficient information so that the Council can establish any fundamental right ("*underlying entitlement*") to benefit for the overpayment period to be assessed.

The full amount of the overpayment should be recovered unless the health or financial circumstances of the person from whom recovery is sought suggest that a smaller amount would be appropriate.

In all cases, the overpayment should be recovered as soon as possible.

6 NOTIFICATION LETTERS

All notification letters must be dated and issued to all affected persons within 14 days after the Council makes the decision.

The notice must include the reasons for the decision, the right to request a further declaration and the time limit for doing so and the claimant's right of appeal and the time limit for doing so.

Copies of the notification letter must be able to be reproduced if an appeal, complaint or case is taken against the Council.

7 DECISIONS ON RECOVERABILITY

In all cases where an overpayment has arisen, the Council should consider if an official error caused or contributed to the overpayment.

Where the Council has identified an overpayment, caused or contributed to by official error, it should decide whether recovery of the overpayment is appropriate under the guidance issued by the Department for Work and Pensions.

Before the recovery steps begin consideration will be given to who is the most appropriate person from whom to recover the overpayment. This may mean in some cases that further information is required from the affected parties.

Then it should be recovered from the most appropriate persons who may be:

- The claimant
- The person to whom the benefit payment was made
- The person who submitted misleading information or failed to disclose a material fact
- The claimant's partner if the partner was living with the claimant at the time of the overpayment and at the time the decision was made to recover

In all cases where the overpayment was due to proven fraud, in the first instance an overpayment should be sought to be recovered from the person who misrepresented or failed to disclose a material fact

8 RECOVERY METHODS

Recoverable Council Tax Reductions overpayments will result in an adjustment to the claimants' Council Tax account for the appropriate year. An amended bill will be published and any unpaid funds will be subject to remedial action under Council Tax regulations (see Appendix 1).

The most appropriate method of recovery for Housing Benefit Overpayments should be considered in all cases, including:

- Ongoing deductions from further payments from Housing Benefit
- Deductions from other DWP benefits
- Debtor invoices
- Recovering from the landlord in appropriate cases
- Referring to the Council's contracted debt collection agency (after all of the above recovery routes have been unsuccessful)
- Apply to the County Court for a County Court Judgment (after all of the above recovery routes have been considered or failed).

A period of at least one calendar month should have elapsed before recovery action was initiated. This will allow the claimant to re-apply for a benefit, who can identify an underlying entitlement or for the claimant to register any appeal.

Where a deduction from a current benefit is sought the maximum amount allowed under legislation should be sought unless the claimant's health or financial circumstances suggest that a more appropriate rate should be used.

9. DEBT WRITE-OFF

The Council recognises that where a debt is deemed irrecoverable, particularly after considering all recovery options and/or, the timely removal of such debts is appropriate and good practice in certain circumstances and in accordance with the policy in Appendix 4.

1 INTRODUCTION

It is the policy of the Council to recover all collectible debt owed to it. Sundry Debts and Miscellaneous Income are debts owed to the Council as either a 'once and for all' debt, repayment or regular ongoing debt for services, licences or other fees.

2 POLICY GOALS

The Council's Sundry Debt Recovery and Miscellaneous Income Policy aims are:

- Ensure whenever possible that the collection of the fee or charge in question takes place before the service is provided so that credit is only given when it is essential to do so;
- Promote a credit management system;
- Ensure invoicing procedures are conducted correctly and in a timely manner;
- Requires that evidence in support of the invoice exist in the form of an official purchase order or other written agreement;
- Encourage debtors to pay on time; and
- Where appropriate, recover debts through the County Court.

Any fee or charge imposed by the Council must be fair in relation to the goods and/or services provided and consistent with the principles set out in the Fees and Charges Strategy.

The charge must reflect the principles outlined in the Council's appropriate charging policy. The charge, depending on legislation, should cover the cost of providing goods or a service and collection costs, unless the Council has made a policy decision to subsidise the service.

The fee should be received wherever possible before the goods and/or services are provided. The charge must be collected and robust supporting documents must be available with timely access.

Fees and charges will be reviewed at least annually as part of the budget setting process.

There will be a clear and prompt billing and collection process. There will be a clear and consistent council-wide approach to credit and debt collection guided by this policy.

3 AUTHENTICATION AND INVOICING

The Service responsible for raising the invoice must ensure that the evidence of the service provided is fully verified and that the invoice is accurate and contains sufficient details for billing and recovery purposes.

All invoices must be charged to a properly named legal entity. In case of non-payment, legal action cannot be taken against a non-legal entity.

4 PAYMENT METHODS AND TERMS

Invoices can be paid by any of the methods received by the Council, as set out on the invoice (where an invoice is raised). The Council shall collect money due to it in full and promptly.

Payment terms may be considered only when the customer is unable to settle the debt in full in a single payment. After receiving an invoice, a customer can request that arrangements be made to clear the remaining amount through monthly instalments. Payment should be made by direct debit wherever possible.

5 ACCOUNTING ARRANGEMENTS

The relevant service will receive the credit in their accounts for the amount when an invoice is raised. Where debts cannot be recovered, the original credit will be debited from the service budget.

6 RECOVERY AND LEGAL ACTION

The recovery of any debt will be initiated by serving reminder notices for all outstanding invoices.

In all other cases where arrears remain, a decision will be made as to whether to remit the debt to a collection agency, which will actively try to track the debt while keeping a portion of any amounts collected as a fee for the work.

If a collection agency is unsuccessful the Council can decide to pursue the debt in the County Court through a County Court (CCJ) judgment. Where there is a CCJ, the Council will seek to pursue recovery through all legal means available to it through the court such as Payment and Insolvency Orders.

7 PROCEDURES

The Council maintains full detailed Sundry Debt and Miscellaneous Income procedures apart from this policy in the Financial Procedure Rules.

1 PURPOSE OF THE WRITE-OFF POLICY

Cyngor Gwynedd aims to collect all income due but in some circumstances this will not be achievable because it is uneconomic or it is not in the best interests of the council or debtor to take steps to recover the debt.

This policy details the circumstances in which debts can be written off and the procedures that must be followed to comply with the Financial Procedure Rules and to accurately record the write-off.

When officers have identified debts requiring write-off it will be necessary to review all debts held by the relevant debtor and prepare a write-off schedule for authorisation covering all relevant debts.

2 FINANCIAL REGULATIONS

The authority to write off debt is also outlined in the Council's Financial Procedure Rules.

3 COUNCIL TAXES, BUSINESS RATES AND MINOR DEBTS

Debts will be directed for write-off in the following situations:

Small debts

Debts that are so small (a few pennies or pounds) where it would be completely impractical to track the debt. In most of these cases, a large proportion of the debt would have been paid.

Bankruptcy and/or liquidation

Upon receipt of official notice, Council officers must submit a claim to the recipient for the amounts due on the date of bankruptcy and/or liquidation. All or part of the debt may be recovered if the recipient subsequently recovers any money.

Individual Voluntary Arrangements, Administration Orders and Debt Relief Orders

Where debts are included in a County Court decision, the full debt will be transferred for write-off. The debt (or part of it) will be restored if any money is recovered or the Orders are later revoked.

Abandoned

In cases where debtors move leaving debt, comprehensive checks will be carried out including the use of third party organisations and local sources. When these checks fail to find the debtor's current location the debt will be written off. If the debtor reappears then the write-off will be reversed and the debt restored.

Costs

In all cases where a summons is issued, court costs are added, to the amount due. If the costs exceed the amount of the debt staff have the discretion to reduce the amount of costs to the court element of the charge, only provided the summons debt is paid in full before the court hearing date.

Vulnerable debtors

In exceptional cases, there are vulnerable debtors such as older people, individuals who are vulnerable for the time being due to exceptional circumstances, disabled people and the terminally ill. These debts should be considered if there is evidence of reduced mental capacity or inability to deal with their own financial affairs, and no one is capable or appointed to act on their behalf.

Extreme hardship

Where a debtor pays the maximum amount they can afford based on an assessment of their income and expenditure, and substantial arrears remain, some of the hardship basis arrears may be considered for being written off. (Note: Any entitlement to a benefit must have been investigated prior to deletion).

The debtor is asked to complete an income and expenditure enquiry form annually and if its circumstances remain largely the same a full report will be prepared with a view to extinguishing all or part of the debt.

Old debts

Debts over six years of age, where no payments were received for 12 months, will be reviewed and can be written off provided a liability order has been issued and all recovery options have been exhausted.

4 ACCOUNTS IN CREDIT

Credit balances with no forward direction, will generally arise where an account is closed and a credit balance remains. If the sending address is unknown and the credit cannot be refunded through BACS directly into the taxpayer's bank account, the credit balance will be written back.

Equality Impact Assessment

For help to complete this form see the *How to Undertake an Equality Impact Assessment* leaflet. You are also welcome to contact Delyth Gadlys Williams, Policy and Equality Officer on ext. 32708 or DelythGadlysWilliams@gwynedd.llyw.cymru for further assistance.

The Council's is required (under the Equality Act 2010) to consider the effect any change in policy or procedure (or the creation of a new policy or procedure), has on people with protected equality characteristics. The Council also has a general duty to ensure fairness and foster good relations. A timely Equality Impact Assessment must be undertaken before making any decision on any relevant change (i.e. which has an effect on people with protected characteristics).

I Details

I.1. What is the name of the policy / service in question?

Recovery Policy

I.2 What is the purpose of the policy / service that is being created or amended? What changes are being considered?

Formalising the procedures already in place for debt collection and recovering arrears.

I.3 Who is responsible for this assessment?

Dewi Morgan, Head of Finance

I.4 When did you commence the assessment? Which version is this?

February 2024, when it became apparent that a written policy needed to be drawn up before being able to proceed to act.

2) Action

2.1 Who are the partners you need to work with to undertake this assessment?

The Policy notes in writing what is already occurring in the Finance Department.

2.2 What measures have you taken to engage with people with equality characteristics?

As this is a written formalisation of what is already happening, there has been no contact with any particular cohorts.

2.3 What was the result of the engagement?

2.4 On the basis of what other evidence are you operating?

Other local authorities that have operated without a written policy have been accused of maladministration by the Ombudsman for taking drastic action without specifying anywhere what the operating order would be.

There is a risk of judicial review without a properly approved written policy.

2.5 Are there any gaps in the evidence that needs to be collected?

No

3) Identifying the Impact

3.1 The Council has to give due regard to the effect any changes will have on people with the equality characteristics noted below. What impact will the new policy/service or the proposed changes in the policy or service have on people with these characteristics? You are welcome to any other characteristics if you wish.

Characteristics	What type of impact?*	In what way? What is the evidence?
Race (including nationality)	None	The Policy will be implemented based on the prevailing debt. Systematic steps are being used to identify those debts that need to be prioritised. Steps will be taken to identify if the debtors have a situation that makes them vulnerable but there is no basis that the policy would disproportionately affect individuals with these characteristics.
The Welsh language	None	See above
Disability	None	See above
Sex	None	See above
Age	None	See above
Sexual orientation	None	See above
Religion or belief (or non-belief)	None	See above
Gender reassignment	None	See above
Pregnancy and maternity	None	See above
Marriage and civil partnership	None	See above

3.2 The Council has a duty under the 2010 Equality Act to contribute positively to a fairer society by promoting equality and good relations in its activities regarding the following characteristics – age, gender, sexual orientation, religion, race, gender reassignment, disability and pregnancy and maternity. The Council must give due attention to the way any change affects these duties.

General Duties of the Equality Act	Does it have an impact?*	In what way? What is the evidence?
Abolishing illegal discrimination, harassment and victimisation	No	The policy is intended to formalise in writing what is already happening. There is no evidence that over years of collecting tax and other debts, that debts or recovery actions, occurred as a result of unlawful discrimination. There is a commitment in the Policy to conduct training for staff on a range of relevant issues, and there is a commitment to non-discrimination.
Promoting equal opportunities	No	The Policy relates to debt collection, so no equal opportunities issues apply.
Encouraging good relationships	Yes	It could be argued that having an objective, systematic order to collect debts demonstrates a commitment to demonstrating that no faction is gaining favour from us.

4) Analysing the results

4.1 Is the policy therefore likely to have a significant, positive impact on any of the equality characteristics or the General Duty and what is the reason for this?

No.

4.1 Is the policy therefore likely to have a significant, negative impact on any of the equality characteristics or the General Duty and what is the reason for this?

No.

4.3 What should be done?

Choose one of the following:

Continue with the policy / service as it is robust	✓
Adapt the policy to delete any barriers	
Suspend and delete the policy as the detrimental impacts are too big	
Continue with the policy as any detrimental impact can be justified	

4.4 What steps will you take to reduce or mitigate any negative impacts?

Not applicable

4.5 If you are not taking any further action to delete or reduce the negative impacts, explain why here.

5) Monitoring

5.1 What steps will you take to monitor the impact and effectiveness of the policy or service (action plan)?

As there will be no changes in procedures it will not require specific attention beyond routine managerial work to monitor performance and complaints.