

**FALKIRK COUNCIL**  
**COUNCIL TAX COLLECTION POLICY**

**1. GENERAL STATEMENT**

- 1.1 Council Tax and Water & Sewerage Charges are borne by all households, save for a small number of exemptions, to pay for services enjoyed by all households and it is the duty of each liable citizen to pay the amount due.
- 1.2 Falkirk Council has a statutory responsibility to bill and collect Water & Sewerage charges along with Council Tax. Both Council Tax and Water & Sewerage Charges are treated as one charge for the purpose of the Council's Council Tax Collection Policy.
- 1.2 Falkirk Council is fully committed to ensuring that all aspects of the billing, collection and enforcement processes are delivered in the most efficient and effective ways, to the highest standards of customer care and having regard to the individual needs of customers and the interests of Council Taxpayers in the Falkirk Council area as a whole.

**2. STAFFING / SYSTEMS**

To support this commitment, Falkirk Council will :-

- 2.1 ensure that the appropriate level of resources are employed in the collection and recovery of Council Tax and that arrangements are in accordance with best practice.
- 2.2 ensure that staff are fully trained in the various aspects of the administration and recovery of Council Tax.
- 2.3 embrace new information technology and seek ongoing enhancement / upgrades to systems and computer hardware to support continuous improvements in the delivery of the Council Tax service and collection levels.

**3. ARRANGEMENTS**

- 3.1 The key features to meeting this commitment are to ensure that liability for Council Tax is accurately calculated, (including the award of any reductions), bills are issued promptly and early action is taken for recovery where payment is not made. To meet this commitment Falkirk Council will:-
- 3.2 Carry out checks to ensure that bills are correctly calculated and all persons liable to Council Tax receive a bill.
- 3.3 Ensure that taxpayers who have an underlying entitlement to Council Tax Benefit, second adult rebate, single persons' discount and any exemptions receive these reductions and that they are regularly reviewed.
- 3.4 Issue bills and appropriate payment documentation within 14 days of receipt of notification of changes affecting Council Tax liability.
- 3.5 Provide cost effective payment facilities that are convenient for customers. This includes initiatives to maximise the take-up of payments by Direct Debit and may include financial incentives, i.e. discounts for prompt payment.

- 3.6 Pursue council tax arrears in accordance with statutory procedures and best practice.
- 3.7 Issue first reminders, final notices and applications for Summary Warrant timeously.
- 3.8 Make application for direct deductions from Income Support and J.S.A. where appropriate.
- 3.9 Within 5 working days of Summary Warrant being granted, instruct the Sheriff Officers to pursue recovery.
- 3.10 Data match legally founded Council Tax debts with Falkirk Council employee payroll records.
- 3.11 Not consider the allocation, transfer or mutual exchange of a Council tenancy to any applicant with Council Tax arrears due to Falkirk Council. Variations to this policy may be considered by the Director of Housing and Social Work Services in exceptional circumstances.
- 3.12 Where appropriate, enter into special payment arrangements, which will assist the repayment of Council Tax due within a reasonable period. Repayment arrangements will take into consideration the financial circumstances of the liable person(s) and the repayment of any other debts that they may owe Falkirk Council.
- 3.13 Offer special arrangements that encourage debtors to pay their ongoing liability for the current financial year.
- 3.14 Provide customers with advice on all Council Tax matters and where to obtain independent debt counselling services including Money Advice, where appropriate.

#### **4. ENFORCEMENT PROCESS**

##### **4.1 Summary Warrant**

The legal system in Scotland enables Councils to submit an application for Summary Warrant to the Sheriff Court in respect of Council Tax defaulters listed in the application. In each case the defaulters must have been issued with the statutory reminders/final notices. The Summary Warrant remains the quickest, most efficient and cost effective means for Falkirk Council to obtain recovery powers to enforce the payment of local taxes.

##### **4.2 Court Action for Payment**

Councils also have the option of obtaining a decree for payment of outstanding Council Tax on an individual basis against each defaulter. In certain circumstances Falkirk Council will use this action in individual cases where it is considered to be appropriate, more effective and cost efficient.

#### **5. STATUTORY SURCHARGE / DILIGENCE**

- 5.1 Once a Summary Warrant is granted, it affords the Council the power to recover the amount due and unpaid by each person specified in the application, along with a

surcharge of 10% of that amount by various forms of diligence. Diligence is the legal process by which a creditor attaches property of the debtor with the object of forcing him to pay the debt due in terms of either a summary warrant or decree for payment.

5.2 Falkirk Council is committed to using all the legal remedies that are available to it which are considered to be effective, are reasonable and will not create undue hardship for any individual. In each case the action to be taken will be considered in the light of the individual circumstances and their ability to pay Council Tax.

5.3 In the case of most of these remedies, they must be executed by a Sheriff Officer and are regulated by statute. The remedies that are available to Falkirk Council are:-

5.3.1 Deductions from Income Support

In those cases where a debtor is on Income Support, the Council may apply to the Benefits Agency for an attachment of Income Support or Job Seekers Allowance. The amount that is to be deducted is decided by the Department of Social Security and is updated each year.

5.3.2 Charge for Payment

This is a Notice served by the Sheriff Officer on the basis of a decree for payment demanding settlement of the debt within 14 days. This must be served as a prerequisite to the diligences of poinding, warrant sale and sequestration of the debtor. A prior charge is not required for diligences proceeding on the basis of a summary warrant.

5.3.3 Earnings Arrestment

In those cases where a debtor is in paid work, the Sheriff Officer can serve a notice on an employer for regular payments to be made from a debtor's wages or salary.

5.3.4 Arrestment of Bank/Building Society Accounts

Where a debtor has a bank account the Sheriff Officer can make an arrestment of their bank or building society accounts, which may attach sufficient funds to pay the debt.

5.3.5 Action of Furthcoming

Where a debtor and / or the person in whose hands the goods / funds were arrested refuses or unreasonably delays handing them over, an Action for Furthcoming may be raised to have goods / funds released to the Council.

5.3.6 Poinding

Poinding is the diligence whereby the moveable property of the debtor, which is not exempt from being poinded, is attached and preserved for the benefit of the creditor and brought within the protection and control of the court until they can be realised at a warrant sale. A poinding must also be carried out before the Council petitions for sequestration of a debtor.

5.3.7 Warrant Sale

The Scottish Executive is currently seeking an alternative remedy to replace warrant sales which are to be abolished from 31 December 2002. The Sheriff Officer arranges a sale by public auction in which the poided goods belonging to the debtor are realised. There are wide restrictions in those goods that can be poided and the value of the goods must be sufficient to cover the debt and expenses. However, there remains concern that Warrant Sales can cause undue hardship and should only be considered where the debtor clearly has the means to pay the amount due and all other methods of recovery have been exhausted.

#### 5.3.8 Inhibition

This is a diligence, which prevents a person who has an interest in heritable property from disposing of that interest to the prejudice of their creditors. Application is made to the Court of Session for Letters of Inhibition, which are registered in the Register of Inhibitions and Adjudications, which is a public record. They last for five years and should obstruct any future sale of the property. This diligence can only be used in relation to actions for payment. The legislation governing Summary Warrants does not permit the diligence of inhibition. The inhibition does not operate to transfer the property to the inhibitor and would have to be followed by an Action of Adjudication to achieve this. Although rare, the use of this diligence may be considered by the Director of Finance in exceptional circumstances.

#### 5.3.9 Sequestration

The Council may petition for sequestration proceedings against a debtor once the level of debt exceeds £1,500. Sequestration is the process whereby all a debtor's assets, both moveable and heritable, are set aside for the use of creditors under the supervision of a trustee appointed by the court.

### **6. SERVICE LEVEL AGREEMENT WITH SHERIFF OFFICER**

- 6.1 Falkirk Council will enter into a contract with a firm of Sheriff Officers to recover legally founded Council Tax debts and to carry out diligence, as required in accordance with a Service Level Agreement between both parties. The S.L.A. will be subject to performance review at the end of each quarterly period. i.e. at the end June, September, December and March.
- 6.2 The Sheriff Officer will not carry out a Warrant Sale without the specific approval of Falkirk Council through a report being submitted to, and agreed by, the Policy & Resources Committee.

### **7. PERFORMANCE REVIEW**

- 7.1 The Director of Finance will report annually to members on Council Tax Collection levels and the Cost of Collecting Council Tax.

Prepared by : Director of Finance

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