



# INFORMATION NOTE

## Update on Local Taxation

### 1. INFORMATION AND BACKGROUND

Council tax and business rates are significant income streams for the Council. In 2018/19 the Council is forecast to collect £26.6 million in Business Rates and £53.5 million in Council Tax. Not all of these amounts are retained by Fylde Council:

- for business rates around 12% is forecast to be retained in 2018/19 with the remainder shared between Central Government, County Council and Fire Authority; and
- for Council Tax, Fylde Council retains approximately 12% with the vast majority (around 74%) going to Lancashire County Council.

In 2017/18 the in-year collection rates improved when compared to the previous year for both Council Tax and Business Rates with the Council Tax collection rate being 96.8% and the Business Rates collection rate being 98.8%. It is anticipated that the ultimate collection rate will be over 99% for both taxes.

### 2. COUNCIL TAX AND BUSINESS RATES RECOVERY PROCESSES

For both Council Tax and Business Rates the administration, collection, and recovery are governed by legislative frameworks. Recovery flow charts have been produced (as shown at the end of this information note) detailing the stages that are followed from sending the initial bill until a case may be sent to an external enforcement agent.

If a Council Tax or Business Rates payer fails to pay (which may be after several broken payment arrangements), the process following reminders and a final notice is to serve a summons for the individual or business to appear before the magistrates court. At the hearing the Council will request a liability order be granted and the debtor will incur further costs as a consequence.

If granted, the liability order allows the Council to take further actions to recover the debt, which are different for Council Tax and Business Rates under legislation. For example, for Council Tax it is possible to apply for attachments of earnings or benefits, but this is not available under Business Rates legislation. Even at this stage further payment arrangements may be made in order to secure collection of the debt.

One of the options following the issue of a liability order is to refer the case to enforcement agents acting on behalf of the Council under contract. If the case is returned unpaid by the enforcement agents the Council has limited options for further recovery but further contact with the customer is made to try to secure payment.

During the recovery process businesses or individuals can be liquidated or become bankrupt and at that point the Council has little choice but to write off the debt.

It is not uncommon for debts to accrue over a number of years before write off in order to maximise the attempts at collection of some, or all, of the amount.

Writing off the debt in the year that it becomes due is not always possible, or in the best interests of the Council.

Each case has to be dealt with based on its own set of circumstances. A defaulting Council Tax payer or Business Rates payer will have an ongoing liability if they remain liable for the subject property. Writing off the debt when the taxpayer has an ongoing liability could send the wrong signals to the taxpayer and possibly jeopardise future collection from that taxpayer.

On some occasions the Council Tax payer or Business Rates payer changes during the course of the financial year and the Council is not notified immediately. This will delay the billing, collection and recovery process.

In future, as part of the annual report detailing Council Tax and Business Rates write-offs, Members will receive more details concerning the particular set of circumstances that has led to the write off being actioned or requested.

### 3. BANKRUPTCY AND INSOLVENCY PROCEEDINGS

It would be unusual for the Council to take the lead in insolvency proceedings against a business. This is because the process can be costly, time consuming and would often not result in the Council receiving the outstanding amounts due. This may be due to the debtor having no assets or debts with other organisations that have a higher priority debt, for example a mortgagee. A similar position applies for Council Tax but this is not to say this recovery option will never be considered. The shared service has taken such actions previously but great care is required as the cost of this type of action can be more than the outstanding debt.

### 4. HIERARCHY OF CREDITORS

The Insolvency Act 1986 determines which types of creditor are paid first during liquidation no matter which organisation initiates and bears the cost of taking such action. Each class of creditor is paid in full before funds can be allocated to the next. For Council Tax and Business Rates debts, the Council is classed as an **unsecured creditor**, which is low down the list in the hierarchy for receiving payment. The list is shown below.

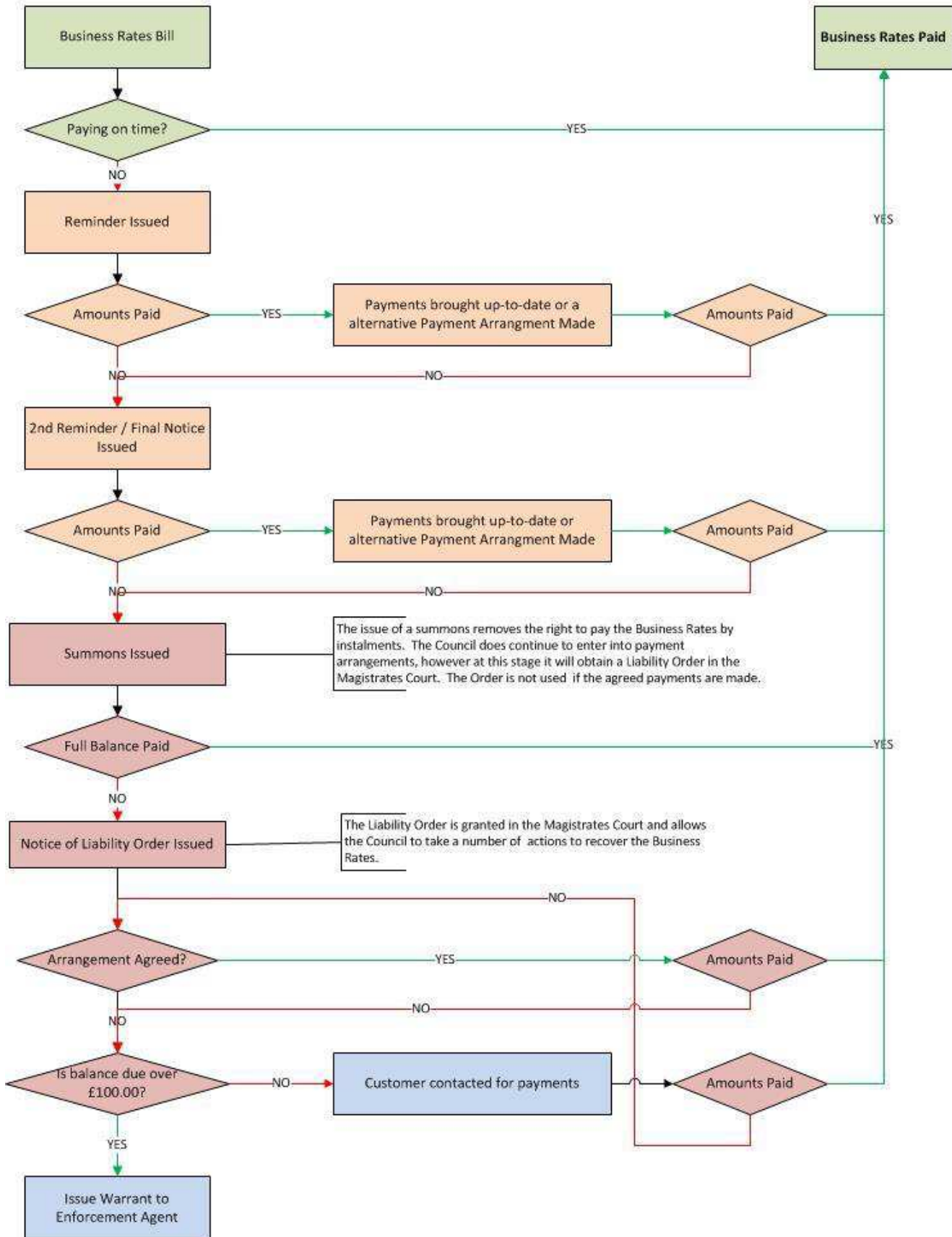
Creditors are ranked as follows:-

- Liquidator's fees and expenses - such as costs for holding meetings, realising assets, distributing funds, and providing reports.
- Secured creditors with a fixed charge  
These are often banks and other lenders who hold a title over an asset. When a fixed charge is provided to a lender they hold the right to sell the asset which might include property, machinery, or vehicles.
- Preferential creditors  
These are creditors such as employees entitled to arrears of wages.
- Secured creditors with a floating charge  
Assets subject to a floating charge often include stock, raw materials, work-in-progress, fixtures and fittings – basically any other asset not subject to a fixed charge. Assets of this type can be traded in the normal course of business.
- **Unsecured creditors**  
These include trade creditors, suppliers, customers, contractors, some staff claims, plus Her Majesty's Revenue and Customs and **local authorities in respect of Council Tax and Business Rates**. Before 2002, Her Majesty's Revenue and Customs was ranked as a preferential creditor, but the introduction of the Enterprise Act reduced their status to that of unsecured creditor for all forms of tax.
- Shareholders

### 5. PROCESS FLOWCHARTS

The flow charts shown below detail the stages that are followed from sending the initial bill until a case may be sent to an external enforcement agent in respect of Business Rates and Council Tax:

## Outline Business Rates Recovery Process



## Outline Council Tax Recovery Process

