



# **DEBT RECOVERY GUIDANCE**

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## **INTRODUCTION**

The Council has a duty to ensure that all revenue owed is collected efficiently and effectively for the benefit of all Council taxpayers. Whilst striving to continually improve collection and recovery performance, the Council recognises that some people do not pay their debts for a variety of reasons. This may include poverty or other financial hardship, which the Council will endeavour to balance against its duty to collect.

One of the priorities of Fylde Council is providing economy, efficiency and effectiveness to its customers. In terms of debt recovery the Councils' approach is to be firm but fair with its customers.

Fylde Council believes in a fair and consistent approach to everyone notwithstanding their age, race, gender, disability, sexuality or religious belief. Applying this same ethos for providing services equally and fairly to all its residents, the Council believes that customers have a social responsibility to pay any monies due to the Council, particularly Council Tax and Business Rates

Customers facing current and future financial difficulties should be encouraged to make contact at the earliest opportunity so that the maximum support can be provided. Where a customer makes contact their circumstances will be considered with a view to agreeing a reasonable and flexible payment arrangement, in so far as statutory timescales allow, thus minimising recovery action and helping to alleviate hardship.

The Council will aim to achieve a fair balance between the claims of competing creditors to try and ensure an acceptable standard of living, particularly by respecting their obligations to dependants and with regard to maintaining the family home.

Whilst the Council will encourage customer contact and provide support where possible, the Council will also be proactive in its attempts to collect debts and where wilful refusal and/or culpable neglect is established, relevant enforcement action will follow.

## **BENEFITS OF DEBT RECOVERY GUIDANCE**

- Ensures that where enforcement action is taken it is appropriate and effective
- By being approachable, customers will be more willing to make contact at an early stage when they first face difficulties
- Helps to identify deliberate non-payers or customers who delay payment
- Enables customers to come to realistic payment agreements appropriate to their circumstances

## **AIMS OF THE GUIDANCE**

The key aims of this guidance are as follows:

1. To use cost effective and fair collection and recovery practices in the pursuance of all debts owed to the Council, ensuring that those with the means to pay do pay.
2. To ensure a professional, consistent and timely approach to recovery action across all of the Council's functions.
3. To consider the customers circumstances and ability to pay and so distinguish between the customer who won't pay and the customer who genuinely can't pay.
4. To improve the levels of income collected by the Council and reduce levels of arrears. To ensure that debts are managed in accordance with legislative provisions and best practice.

## **DEBTS COVERED BY THIS GUIDANCE**

The debts covered are shown below:

- Council Tax
- Non Domestic Rates (Business Rates)

## **LEGISLATIVE FRAMEWORK**

The Council follows key legislation when collecting Council Tax and Business Rates. These are;

### **COUNCIL TAX**

Council Tax is payable on domestic dwellings and is charged by Fylde Council to pay for the services it provides and is also distributed to fund Lancashire County Council, Parish Councils, Lancashire Police and Lancashire Fire Services.

The power to raise Council Tax can be found within the Local Government Finance Act 1992, and the collection of this is empowered by the Council Tax (Administration & Enforcement) Regulations 1992 (as amended).

### **NON-DOMESTIC RATES (BUSINESS RATES)**

Generally, Business Rates are payable on most commercial properties such as shops, offices and hotels. Self-catering accommodation such as holiday homes are also liable for business rates where they are available for use by short stay guests for 140 days or more during the year.

The power to raise Non-Domestic Rates can be found within the Local Government Finance Act 1988, and the collection of this is empowered by the National Non Domestic (Collection & Enforcement)(Local Lists) Regulations 1989 (as amended).

## **GUIDANCE**

### **CONTACT WITH THE CUSTOMER - FYLDE COUNCIL WILL:**

- Aim to answer enquiries at the first point of contact wherever possible
- During office hours we will endeavour to answer telephone calls within 4 rings
- When a service is requested by web or email, we will acknowledge receipt and respond within 5 days
- We will reply to letters within 5 working days of receipt
- If more time is needed to respond to enquiries, customers will be told who is dealing with it and how long it will take
- On average, we aim we aim to see our customers within 6 minutes of arrival at Fylde Direct Once Stop Shop

Fylde Council's Customer Service Charter may be found at web link

<http://www.fylde.gov.uk/assets/files/5517/Customer-Charter-2014.pdf>

### **COLLECTION AND RECOVERY - FYLDE COUNCIL WILL:**

- Ensure each customer is dealt with consistently, but also ensure that procedures are flexible enough for each case to be judged on its merit, so injustice is avoided
- Ensure that where a customer makes contact their circumstances will be considered with a view to agreeing a reasonable and flexible payment arrangement, in so far as statutory timescales allow, thus minimising recovery action and helping to alleviate hardship
- Insist Priority Debts (see Appendix 1) are given a higher priority than all other Payments
- Aim to achieve a fair balance between the claims of competing creditors to try and ensure that the customer maintains an acceptable standard of living, particularly by respecting their obligations to dependants and with regard to maintaining the family home
- Monitor its Enforcement Agent companies to ensure compliance with the published Enforcement Agent Code of Conduct
- Afford relevant flexibility to recognised vulnerable groups (See Appendix 2)
- Provide a wide variety of payment methods and maximize access to payment facilities (Appendix 5)
- Ensure statutory documents and the Council's website contains instructions on how to pay
- Ensure statutory documents explain the consequences of non-payment. Be proactive and robust in its attempts to collect debts and where wilful refusal and/or culpable neglect is established, take proportionate recovery action.
- Where applicable, retain the right to withhold any future service provision in the event of none or continued late payment
- Undertake regular quality checks to ensure cases are dealt with according to agreed procedures and any identified training needs are promptly addressed

## **Council Tax Support**

When a customer is in arrears and contacts Fylde Council because they are unable to pay, and are on a low income, we will encourage them to apply for Council Tax Support if they have not already done so. We will apply the same recovery process whether they are in receipt of Council Tax Support or not. If a new application of support is made, or their circumstances have changed, we will continue to collect the instalments as they appeared on the last bill. Once Council Tax Support is awarded, this will reduce the remaining instalments, or if the account is overpaid for the year, the credit will be used to reduce any future liability unless they request a refund.

**PROCESS**  
**COUNCIL TAX AND BUSINESS RATES**

**DEMAND NOTICES**

Council Tax and Business Rates customers are entitled to pay their current year's bill by instalments. If a customer receives a bill at the start of the financial year they MAY get 10 OR 12 instalments, where bills are issued in the year the number of instalments will be reduced. Ordinarily, a Council Tax bill will be issued with 10 instalments

**JOINT AND SEVERAL LIABILITY**

This means that Fylde Council can hold two or more persons liable for the whole of the Council Tax or Business Rates. We may hold all parties jointly and severally liable if they are joint owners or joint tenants or live in the property with other people who have the same legal interest in the property. We may also hold married and unmarried couples joint and severally liable, whether or not both have the same legal interest in the property. If customers are treated as jointly and severally liable for the whole Council Tax or Business Rates, they cannot just pay what they think is their share. They are still liable for the whole of the Council Tax or Business Rates. Our bills will be addressed to all the liable persons in the property, however summonses will be sent individually to each liable party. If payment is not made we will take action for recovery of the debt against any or all of the parties. We will endeavour to make arrangements for payment with any or all of the parties, but where we cannot make satisfactory arrangements we may continue our action against any or all of the parties. Customers should note that if they pay what they consider to be their share of the Council Tax or Business Rates they may still be liable for the remainder if the other persons held jointly and severally liable fail to pay.

**REMINDERS AND FINAL NOTICES**

If customers do not pay the instalments that are due they will be sent a reminder asking for payments to be brought up to date within 7 days. The full years charge will become due if the payments are not brought up to date.

Customers experiencing financial hardship can contact Fylde Direct (01253 658658) to discuss their account, and payment plans may be revised. Decisions will be made on a case-by-case basis.

**SUMMONSES AND COURT ORDERS**

The Council may apply for a Court Order called a Liability Order against anyone who fails to pay following a reminder. The customer will be summonsed to appear at the Magistrates Court. The cost of this action will be a minimum of £75.00, and this cost will be borne by the customer.

**PAYMENT ARRANGEMENTS**

The Council will always look for debts to be paid without the use of enforcement action. Customers wanting to make arrangements after the issue of a summons can contact the Council on 01253 658658 to discuss payments.

When negotiating arrangements for payment of arrears staff will ensure that any current instalments are being maintained i.e. the arrangement payments will be in addition to and conditional on, current debt being paid. If the debt is for current year only, payments must be made by the end of the financial year.

When making arrangements staff will request as much detail as necessary in order to make the best assessment of the customer's ability to pay. However if a person refuses to divulge any information this should not be used as a reason for refusing to make an arrangement; but they should be advised that this could lead to a high rate of payment being required. The Council reserves the right, however, not to enter in to payment arrangements with those who have a history of regular default.

From time to time it may be necessary to request documentary evidence to confirm particular details when arriving at a payment arrangement. Individuals should not however be asked for documentary evidence unless it is absolutely necessary. If it is necessary the individual should be told of the particular items that require confirming and be given a specified reasonable time limit within which they are required. The individual should be advised that if the evidence is not produced within the agreed timescale the offer of payment may be rejected and further action could be taken.

### **ENFORCEMENT ACTION**

Once the Court grants a Liability Order, the Council can choose any of the following methods to enforce payment:

- Order employers to make deductions from wages.
- Instruct an Enforcement Agent to seize and sell goods at auction.
- Ask the DWP to make deductions from Jobseekers Allowance, Income Support, Employment Support Allowance or Guaranteed Pension Credit.
- Register a charging order against property, and apply to force sale.
- Apply to the County Court to make customers bankrupt or companies insolvent.
- Apply to the Magistrates' Court for customers to be sent to prison.

In deciding which method to take the Council will firstly consider whether the debt can be attached to earnings or benefits, the priority of the debts owed and the level of repayments currently being made.

Customers will be asked to provide information about their employment and income. Failure to supply this information is a criminal offence and the Council may undertake proceedings in Magistrates Court, which could lead to a fine of up to £500.00 plus an order to pay the Council's court costs.

## **ATTACHMENT OF EARNINGS ORDERS**

Once the Magistrates Court has issued a Liability Order for non-payment of Council Tax the Council can issue up to two Attachment of Earnings Orders without further notice.

This means a legal order is sent to a customer's employer instructing them to take deductions from wages each time they are paid. The amount that can be taken is set by the Government and is based on the customers net pay. The following table shows how much is taken:

<b>Weekly Earnings</b>	<b>Monthly Earnings</b>	<b>Amount Taken</b>
Up to £75	Up to 300	0%
£75 to £135	£300 to £550	3%
£135 to £185	£550 to £740	5%
£185 to £225	£740 to £900	7%
£225 to £355	£900 to £1,420	12%
£355 to £505	£1,420 to £2,020	17%
Over £505	Over £2,020	17% on the first £505 (weekly) or £2,020 (monthly) then 50% on the rest

If a customer is experiencing financial hardship due to a high level of deductions from their pay, they can complete an income and expenditure form to evidence this. Once completed and returned the Recovery Officer will consider the information supplied and advise whether deductions are to remain, be reduced or withdrawn.

## **DEDUCTIONS FROM INCOME BASED BENEFITS**

Deductions can be made from income based benefits administered by the Department for Works and Pensions (DWP). These currently include;

- Income Support
- Job Seekers Allowance
- Employment & Support Allowance (Income Related)
- Guaranteed Pension Credit

Deductions are currently made at a rate of £3.70 per week. Deductions levels change each year.

## **ENFORCEMENT AGENT ACTION**

The Council can instruct a Certificated Enforcement Agent to remove goods and chattels and sell them at auction. This is known as levying distress and can be done:

- By any Certificated Enforcement Agent (this is a person who is approved by the court)
- At any time of the day 7 days a week except Bank Holidays, Good Friday and Christmas Day
- Anywhere in England and Wales
- 

When Enforcement Agents are in a property they can take goods with a value of the amount of debt owed to the Council and any costs incurred through this process.

All external Enforcement Agents appointed will act in accordance with the Council's published Code of Conduct, which requires them to deal with cases in a prescribed manner. Enforcement Agents shall also be expected to comply with the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014.

## **SEIZURE OF GOODS**

The Enforcement Agent may remove goods from the property, but cannot remove certain goods. These include:

- fixtures and fittings
- tools with an aggregate value of under £3,500.00, books, vehicles and any other equipment that is necessary to meet the basic needs of the customer and their household
- food, clothing, bedding, furniture and household equipment that is necessary to meet the basic needs of the customer and their household

In the case of Business Rates, the following items will not be protected;

- books, vehicles and other items of equipment as are necessary to the debtor for use in their employment or business

The Enforcement Agent will take all reasonable steps to satisfy themselves that the value of the goods distrained upon are proportionate to the value of the debt and charges owed, and avoid excessive distraint.

## **CHARGING ORDERS**

Upon application to the County Court a registered charge can be placed on the title deeds of debt property providing the Council Tax debt for that property exceeds £1,000.00. This means the debt is secured until a relevant transaction takes place on the property at which point Council Tax will be paid from any proceeds.

Once a registered charge has been placed the Council can make a further application to the courts for an order to force sale of the property. Fylde Council does not take this action lightly. Therefore, the option to force sale is subject to the Vulnerability Guidance as seen at Appendix 3.

## **BANKRUPTCY / INSOLVENCY PROCEEDINGS**

A bankruptcy order could be made against an individual, and where the debtor is a company the amount due will be classed as a debt for the purposes of the winding up proceedings. The combined debts must exceed £5,000.00.

Applications are made to the County Court and once an order is made an official receiver is given responsibility for administering the bankruptcy. This process is lengthy, costly and could result in assets, savings and future pension being liquidated. The end result will be the individual being declared bankrupt or the company becoming insolvent.

Before commencing bankruptcy proceedings against an individual Fylde Council will consult its Vulnerability Guidance as listed at Appendix 3.

## **COMMITTAL PROCEEDINGS**

There are cases when other options to recover outstanding payments have been exhausted. The Council will firstly receive a signed Nulla Bona certificate from a certificated Enforcement Agent. This will advise that the Enforcement Agent has been unable to collect the debt.

Vulnerability checks will then follow, as seen in Appendix 3. The Council may then issue a summons for the customer to attend a committal hearing at the Magistrates Court where the Council will ask the court to send them to prison for non-payment. At the court hearing the Magistrates will establish whether a customer has displayed wilful refusal to pay or whether culpable neglect has been present. Customers will be asked questions by the Magistrates and by a representative of the Council. When the Magistrates have heard the case they can make one of several decisions:

### **ADJOURNMENT**

If more information or evidence is needed before a decision can be made a case can be postponed until a later date.

### **COURT ORDER WITHOUT A SUSPENDED SENTENCE**

Customers will be ordered to pay a set amount. If customers do not maintain the payments they will be ordered back to court to explain why they have not paid. The Magistrates will then decide what to do next.

### **COURT ORDER WITH A SUSPENDED SENTENCE**

Customers will be ordered to pay a set amount. If payments are not maintained the customer will be sent to prison for a set amount of time.

### **COMMITTAL TO PRISON**

The Magistrates can send customers to prison for a period of up to 3 months.

## **ABSCONDERS**

We will use whatever records are legally available to us, from various sources in order to trace customers where they have vacated a property without leaving a forwarding address.

## **APPENDENDIX 1**

### **WHAT IS A PRIORITY DEBT?**

Priority debts are those debts that can result in loss of essential service, loss of home or result in imprisonment. These are;

#### **HOUSING**

- Council Tax
- Mortgage
- Rent

#### **UTILITIES**

- Electricity
- Gas
- Telephone
- Water

#### **OTHER**

- Business Rates
- Child Support Agency deductions
- Court Fines
- Hire Purchase for essential goods
- Income Tax
- Maintenance Arrears
- Secured Loan
- VAT

## APPENDIX 2

### RECOGNISED VULNERABLE GROUPS

- Income Support recipients.
- Unemployed customers in receipt of Job Seeking benefits.
- Heavily pregnant customers.
- Single parent families with a low income.
- A household with young children under 5 years old and where severe social deprivation is evident.
- A pensioner who has difficulties in dealing with their affairs.
- A person who appears to be physically or mentally ill or severely disabled.
- A person with long-term sickness or serious illness. This would include the terminally ill, or any illness that has a major impact on the customer's ability to pay or deal with their affairs.
- A person in mourning due to a recent bereavement.

## **APPENDIX 3**

### **VULNERABILITY GUIDANCE**

This Guidance includes the sourcing and recording of information used to ascertain a customer's vulnerability when deciding to pursue bankruptcy, committal to prison, charging orders and enforced sale.

All recovery proceedings must be relevant and proportionate, but those listed above require a higher threshold of vulnerability checks as the impact of these proceedings can result in the loss of a family home, the loss of future pension, the payment of substantial costs, and ultimately a person's loss of liberty.

The Guidance lists the steps officers must take before deciding on each course of action. These steps exist to ensure that the Council has gathered and considered information about an individual debtor's circumstances so that an informed decision can be made. The steps are listed as follows:

#### **LAND REGISTRY SEARCHES**

The Recovery Officer will perform a search with Her Majesty's Land Registry to confirm the status of the customer's property. The search will list whether the property is of freehold ownership, or where relevant the leasehold ownership and term of years. The search will show the price paid and list any 'Notices' over the property. The search will also identify any registered charges over the property, such as mortgages, social care fees or personal debts owed to individuals as secured on the property.

#### **CREDIT SEARCH**

The Recovery Officer will perform a Credit Search to build a picture of a customer's financial situation. The Council is empowered to perform searches for full financial data under section 29(1) of the Data Protection Act 1998. This will include liabilities and debts owed to secured and unsecured creditors such as mortgagees and credit cards, including payment history and current outstanding balances, and the search will also record details of County Court Judgments and basic information from the Voters Roll.

#### **VISITS TO THE PROPERTY**

If appropriate an Officer will conduct pre-action visits to the customer's home address and place of business where necessary, to try to make contact, confirm residency and seek a final arrangement to pay the debt. If contact is made the Officer will establish whether the customer would fall into a recognised vulnerable group as listed in Appendix 2 or if the customer is not present the Officer will make discreet enquires with neighbours. The Officer will visit on a minimum of 3 occasions, at

different times of the day. The time, date and outcome of each visit will be recorded.

### **INTERNAL VULNERABILITY CHECKS**

The Recovery Officer will interrogate the Council Tax and Housing benefits systems to identify vulnerability. Enquiry Officers will also visit the customer's property to identify instances of vulnerability.

### **CONSIDERATION**

Once all the above searches, visits and vulnerability checks have been performed, if the Council still wishes to pursue proceedings for bankruptcy, committal to prison, charging orders or enforced sale the information will be presented to a Senior Manager for approval.

The Senior Manager will:

- consider the history of the debt and previous attempts to recover it
- consider information about the past, present, disputed or outstanding benefit claims or any discounts, exemptions or valuation proposals that might be relevant
- make comparison between the value of the property(s) and the known mortgage balance contained within the credit reports to identify whether the debtor has sufficient equity/assets that will clear the debt if bankruptcy is pursued
- ensure that there is no realistic prospect of recovering the debt by other means in a reasonable timescale
- ensure sufficient evidence about the debtor's circumstances is recorded
- consider whether a debtor's failure to pay and to respond to other recovery measures could arise from an unknown disability (including a mental impairment with a long-term and substantial effect on normal day-to-day activities)
- consider whether the debtor's personal circumstances warrant them being protected from the consequences of recovery action.

Once these points have been considered by a Senior Manager, should the Council still wish to pursue proceedings, the customer will be notified in writing of the Council's intent. The letter will explain the serious consequences of bankruptcy, charging orders, enforced sale and committal action. The letter will urge the customer to seek independent advice, listing local sources of advice as seen in Appendix 6.

**AVAILABLE METHODS OF PAYMENT**

**DIRECT DEBIT**

This is the preferred method of payment as it is the easiest and most cost effective method of collection. Direct Debit is available for Council Tax and Business Rates but not for some one-off charges or fines.

Council Tax payment dates are: 5<sup>th</sup>, 18<sup>th</sup> and the last day of the month.

Business Rates payments are collected on the 1st of the month.

**CUSTOMERS WISHING TO SET UP DIRECT DEBIT PAYMENTS CAN SPEAK WITH AN ADVISOR ON:**

Council Tax 01253 658658

Business Rates 01253 658658

Alternatively a paper mandate can be posted to a customer's property for completion and return.

**DEBIT/CREDIT CARD**

Debit/Credit Card payments are accepted in a number of ways.

- Payments can be made 24/7 via the Council's website: [www.Fylde.gov.uk](http://www.Fylde.gov.uk)
- Payments can be made 24/7 on the Automated Payment Line: 0845 3010213
- Payments can be made between 8.30 a.m. and 17.00 p.m. Monday to Thursday and 8.30 a.m. to 16.30 p.m. on Friday by calling 01253 658658.

The Council accepts Visa Debit, Visa Credit, MasterCard, Delta and Maestro card payments. Currently we do not accept payment by American Express

**BARCODE PAYMENTS**

Barcode payments are available to Council Tax payers and customers with a Housing Benefit overpayment. All Demand Notices, Reminders, Final notices and Arrangement Confirmation Letters contain a barcode strip. Customers can use the barcode to make payments.

Payments can be made at the Customer First Centre, nationwide Post Offices and at any All Pay outlet.

**BANK TRANSFER**

BACS, Internet Banking and standing order payments (which must include a reference number) can be sent to:

**COUNCIL TAX**

Bank: HSBC

Reference: Account/reference number on the bill

Sort Code: 40-40-02  
Account number: 41105000

**BUSINESS RATES**

BANK: HSBC  
Reference: Account/reference number on the bill  
Sort Code: 40-40-02  
Account number: 11006584

**CASH/CHEQUE PAYMENT**

Cash payments can be made at the Council Offices at the Council Offices. Cheques (cash should not be sent in the post) can be sent to:

Fylde Council  
PO Box 50  
Town Hall  
FY1 1NF

**CONTACTING THE COUNCIL**

Generally, telephone and other contact information and advice will be found on the bill, letter or invoice. The Council's website [www.Fylde.gov.uk](http://www.Fylde.gov.uk) also provides further information and advice about payment methods, benefits and contact points. Contact details are given below.

**CONTACT BY TELEPHONE**

Council Tax Account Enquires and Changes	01253 658658
Business Rates Account Enquires and Changes	01253 658658
Valuation Office Agency (Northern Group)	03000 501501
Council Tax Recovery	01253 658658
Business Rates Recovery	01253 658658
Phoenix Commercial Collections	0844 8243884
24/7 Automated Payment Line	0845 3010213
Fylde Council General Enquires	01253 658658

**CONTACT BY EMAIL**

Council Tax & Business Rates [fylderevenues@blackpool.gov.uk](mailto:fylderevenues@blackpool.gov.uk)

**CONTACT BY POST**

Send all enquires to:  
Fylde Council  
Town Hall  
Lytham St Annes  
FY8

**CONTACTING IN PERSON**

The Offices are open Monday to Thursday 8.30 a.m. to 17.00 p.m. and Friday 8.30 a.m. to 16.30 p.m. There is a dedicated team of customer service specialists to help with enquiries. The Council Offices are on Corporation Street (opposite the NatWest Bank).

**DEBT AND MONEY ADVICE SERVICES**

**ADVICE PROVIDERS**

Independent, confidential debt advice is also available free of charge from Fylde Citizens Advice Bureau (CAB)

Tel: (01253) 308400

Email: [advice@Fyldecab.org.uk](mailto:advice@Fyldecab.org.uk)

[www.Fyldecab.org.uk](http://www.Fyldecab.org.uk)

If a customer receives a low income, Income Support, Income based Job Seekers Allowance, Income Based ESA or Guaranteed Pension Credit they may qualify for free help and advice under the Legal Help scheme from the following local solicitors:

Atkinson Blackledge Warings

Tel: (01253) 293151

Roland Robinson and Fentons

Tel: (01253) 621432

Barker Booth and Eastwood

Tel: (01253) 362500

There are also three national organisations who provide free confidential and independent advice and information:

[National Debtline](#)

0808 808 4000

[Consumer Credit Counselling Services](#)

0800 138 1111

[Payplan](#)

0800 280 2816

**MY MONEY STEPS**

My Money Steps is a new interactive online tool, developed by the Money Advice Trust in partnership with Barclaycard to help people who wish to access free confidential debt advice online.

My Money Steps provides personalised debt advice based on the answers provided to a series of questions.

My Money Steps can be accessed 24 hours a day, seven days a week. Users can track their progress or get new suggestions on what action to take if their circumstances change. People whose situations are classed as 'emergencies' will be signposted for telephone advice or to a face to face adviser.

Visit My Money Steps at [www.mymoneysteps.org](http://www.mymoneysteps.org)