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Lancashire & Cheshire IRRV Association

An Introduction to Council Tax

Welcome and Introduction

Richard Kerr IRRV (Hons)
Association President



A BACKGROUND TO COUNCIL TAX AND MAINTAINING THE PROPERTY BASE

Introduction to Council Tax 28th February 2024

Peter Haywood IRRV (Tech) MBA
Bristow & Sutor



Local Government Funding

- Central Government Grants
 - Revenue Support Grant
- Local Fees & Charges
 - Including Sundry Debts, Parking
- Business Rates
 - Retention
- Council Tax
 - Tax on domestic property

The Financial Case for Council Tax

- In 2022-23, in England a Net Council Tax Yield of £37.2bn
- In 2022-23, Lancaster had £89m of collectable Council Tax debt – in respect of 66,000 properties
- £84m of this amount was collected in year
- An in year collection rate of 94.5%

Public View of Council Tax

- Highly Visible
- Not a progressive tax
- Difficult to avoid
- Annual increases subject to referendum
- Viewed as a charge for services, not as a tax on domestic property
- Adult Social Care – April 2016

Where does Council Tax Go?

- Preceptors
 - Unitary/Metropolitan Councils
 - ASC
 - County Councils
 - ASC
 - District Councils
 - Police and Crime Commissioner
 - Fire Service
 - Parish & Town Councils

How is Council Tax Calculated?

- Calculate Budget Requirement for Council Tax
 - After taking account of other income
- Calculate Number of Chargeable Properties
 - Band D equivalent number of properties
- Divide Budget Requirement by the Band D number of properties
- Example: £10,000,000 Budget / 50,000 Band D properties
 - = Band D Council Tax amount of £200
- Each preceptor does their own calculation

The Property Base

- Local Government Finance Act 1992 – Part 1
 - Each ‘billing authority’ shall levy and collect a tax.....which shall be payable in respect of dwellings situated in its area
 - Dwelling:
 - Would have been liable for Rates
 - Is not in the Non Domestic rating list
 - Is not exempt from Non Domestic rating
 - May be a composite hereditament

Valuing Property

- Valuation Office
 - An agency of HMRC
 - Appoint a Listing Officer
 - Compiles the Valuation List
 - Determines whether a property is a 'dwelling' for the purposes of Council Tax
 - Decides upon the Valuation Band for the property and enters it on the list

Unusual Domestic Properties

- Mobile Caravans and Boats
 - Non Domestic, unless occupied as a sole or main residence
 - Caravan pitch or mooring
- Permanent Caravans
- Annexes
 - Self contained unit of occupation

Types of Domestic Property

- Care home for the elderly
- Sheltered housing schemes
- Halls of residence
- Bedsits/HMOs
- From 2023-24 a 'holiday let' must be available for let for 140 days per year and actually let for 70 days, to be included in the NNDR Rating List. Otherwise, it will be classed as a domestic property and be liable for Council Tax

Valuation Bands (England)

- Value as at 1st April 1991:

Band Value		Proportion	Example	Lancaster
A	Up to £40,000	6/9	£1,000.00	23,335
B	£40,001 to £52,000	7/9	£1,166.67	16,482
C	£52,001 to £68,000	8/9	£1,333.33	12,774
D	£68,001 to £88,000	9/9	£1,500.00	6,682
E	£88,001 to £120,000	11/9	£1,833.33	4,212
F	£120,001 to £160,000	13/9	£2,166.67	2,088
G	£160,001 to £320,000	15/9	£2,500.00	847
H	Exceeding £320,000	18/9	£3,000.00	78

Council Tax Band Appeals

- Submitted direct to the Valuation Officer by the taxpayer
- The Valuation Office will usually only consider appeals against banding when:
 - The property has been banded for the first time
 - The taxpayer has purchased the property within the last six months
- However, the Valuation Office has a legal responsibility to uphold the "integrity" of the council tax list, so in many cases they still consider appeals
- If dissatisfied with the outcome, the taxpayer can then make a further appeal to the Valuation Tribunal



The Valuation List

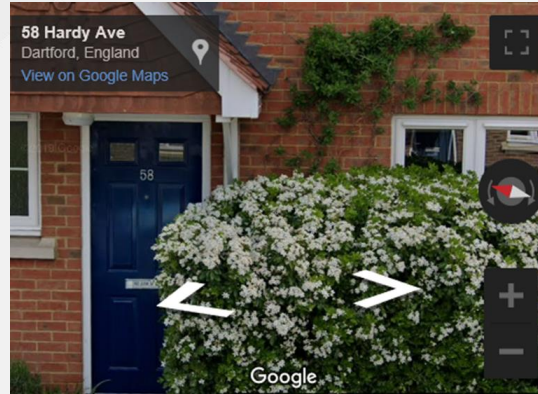
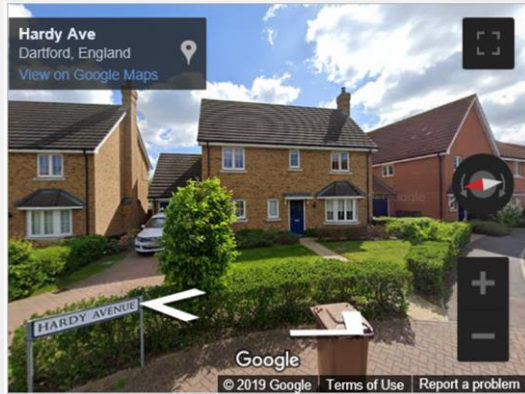
- Compilation
- Alterations
- Appeals
- Band Changes
- New Dwellings

Valuation List

- Important to manage and monitor the property base:
 - Inspectors
 - Local knowledge
 - Liaison with other council departments
 - Increase in the number of properties:
 - Increases Council Tax income
 - New Homes Bonus

Valuation List – Is It Complete?

56, HARDY AVENUE, DARTFORD, DA1 2FE	F
57, HARDY AVENUE, DARTFORD, DA1 2FE	F
59, HARDY AVENUE, DARTFORD, DA1 2FE	D
60, HARDY AVENUE, DARTFORD, DA1 2FE	D



Completion Notices

- New Dwellings
 - Work remaining can reasonably expected to be completed within a period of 3 months, or:
 - At the time of inspection, work is complete

In Summary

- Council Tax is an important source of income for councils and other preceptors
- Residents are familiar with and highly aware of Council Tax
- Council Tax remains in the spotlight both nationally and locally

Any Questions?

Council tax liability

Who has to pay and why

Paul O'Keefe IRRV (Hons)
Council Tax Operations Manager
Manchester City Council

Lancashire & Cheshire IRRV Association



Liability is the key to sound collection – get it right first time



Right first time

- Saves time and effort later on
- Helps with collection and cash flow
- Less chance of data incidents
- You cannot have good recovery without sound billing – they are joined like a car and a caravan



Liability is determined by

1. The property

Whether it is a “chargeable dwelling” or not.

2. Residency or ownership

Interest in the property held by its residents or owners

Local Government Finance Act 1992 (LGFA 1992)

- **s.1(1)** - each billing authority shall levy and collect council tax in respect of dwellings situated in its area.
- **s.4(1)** - Council tax shall be payable in respect of any dwelling which is not an exempt dwelling.
- **s.2(1)** Council tax is determined daily and the situation at the end of the day is assumed to have lasted all day i.e. 1st day of residence is chargeable but not the last.

The liable person

s.6 LFGA 1992

- a) **Residents** who have a **freehold interest** in the whole or any part of the dwelling;
- b) **Residents** who have a **leasehold interest** in the whole or any part of the dwelling;
- c) **Residents** who are **statutory or secure tenants** of the whole or any part of the dwelling;
- d) **Residents** who have a **contractual licence** to occupy the dwelling or any part of it.
- e) **Residents**, or
- f) **Owners**.

The liable person

s.6(5)

- Resident is a person over the age over 18 who is “**solely or mainly**” resident in the dwelling.
- Owner is a person with a “material interest” in the whole or any part of a dwelling which is not subject to an inferior material interest.

The liable person



Joint and several liability

s.8(4) where two or more persons are resident and have an equal interest in the dwelling as per the hierarchy, they will be jointly and severally liable.

s.9 a partner of a liable person who is resident but not on the same level of hierarchy will still be jointly and severally liable; this applies to couples married or living together or in a civil partnership.

N.B. Students and anyone designated as severely mentally impaired cannot be jointly and severally liable

Sole or main residence



Primary legislation **does not give a definition** of “sole or main residence”.

Several factors can be considered including:

- a person's lifestyle
- family ties and or work ties
- relevant interest in the property and intention to return
- security of tenure
- where the majority of possessions are kept and **length of stay**.

Sole or main residence

Guidance can be taken from the decisions made by the courts in cases brought before them, including decisions made in relation to community charge.

Several cases have been heard by the High Court, which have established the following principles:-

- ***Residence implies a degree of permanence;***
- ***Temporary presence at an address does not make a person resident;***
- ***Temporary absence does not deprive a person of residency.***

Sole or main residence

- Depends on factors that are unique to each individual's particular circumstances at a particular time
- Impossible to give a definition of "main residence" suitable to all circumstances.
- Apply "**reasonable onlooker**" test :

What would a reasonable onlooker, with knowledge of the material facts regard as that person's home at the material time?

Sole or main residence - Case Law

Bradford Metropolitan Borough Council v Anderton (1991)

(House remained settled and usual abode, a Merchant ship cannot be sole or main residence, and long absence for work did not change usual abode).

Ward v Kingston upon Hull City Council (1993)

(Family home still sole or main residence whilst working in Saudi Arabia)

Codner v Wiltshire Valuation and Community Charge Tribunal (1994) and Cox v London (South West) Valuation and Community Charge Tribunal and Poole Borough Council Community Charge Registration Officer (1994)

(Family home sole or main residence even when only there at weekends)

Doncaster Borough Council v Stark and Stark (1997)

(RAF Corporal; family residence still usual abode not service accommodation)

Sole or main residence - Case Law

R (on the application of Navabil) v Chester le Street District Council (2001)

(Unfurnished property can still be main residence)

Williams v Horsham District Council (2004) & Bennett v Copeland Borough Council (2004)

(Sole or main residence must relate to premises in which taxpayer actually resides). Established the reasonable onlooker test – this is a key case and one which has simplified decisions.

Authority and VT placed greater emphasis on security of tenure rather than other factor i.e. time

Parry v Derbyshire Dales District Council (2006)

(Landlord living & working in Spain not resident in cottage he owned when tenant vacated.

Main residence only when he returned to live there)

What does this mean in practice?

Scenario:

Mrs & Mrs Goode live in a detached house, Costa Fortuna, with their 17-year-old son Max and 16-year-old daughter Missy.

Mrs Goode is the joint owner of the property with her brother Mr Nice as they inherited the property from their parents.

Mr Nice comes to stay quite often, and has his own room, but lives in Spain.

Who is liable for Council Tax?



What does this mean in practice?

Scenario:

Mrs Goode decides she has had enough of the damp British weather, so packs her bags and moves to Spain permanently to live near her brother.

Mr Goode must stay behind for work purposes but will visit when he can.

Missy decides to go with mum as she loves the sun too and wants to learn to speak Spanish fluently.

Who is liable for Council Tax?

What does this mean in practice?

Scenario:

After a while, Mr Goode decides it makes more sense for him to move into town, closer to work, and quicker to get to the airport to fly out for weekends with the family.

He buys himself a nice new pad close to all the cafes and bars, but this leaves 17-year-old Max in the house, as it is only a short walk to college for him.

Who is liable for Council Tax?

What does this mean in practice?

Scenario:

17-year-old Max decides he wants to change the course he is studying, which means he will need to attend a different college.

Some mates have rented a house close to his new college and have a spare room, so he decides to pack up and moves in with them.

The house is now empty and up for sale.

Who is liable for Council Tax?

The exception to the rule - liability of owners

s.8 LGFA 1992

Provision for owners to be liable rather than residents.

- The Council Tax (Liability for Owners) Regulations 1992 **SI 1992/551**;
- The Council Tax (Liability for Owners) (Amendment) (England) Regulations 1993 **SI 1993/151**;
- The Council Tax (Liability for Owners and Discount Disregards) (Amendment) Regulations 1995 **SI 1995/620**;
- The Council Tax (Liability for Owners) (Amendment) Regulations 2003 **SI 2003/3125**.

Liability of owners

Class A – care homes and certain hostels providing care and support;

Class B – dwellings inhabited by religious communities;

Class C – houses in multiple occupation;

Class D – dwellings occupied by resident staff;

Class E – dwellings occupied by ministers of religion;

Class F – dwellings provided to asylum seekers.

Class A – care homes etc.

Refers to:

- a) care homes within the meaning of the **Care Standards Act 2000**, in respect of which a person is registered in accordance with Part 2 of the Act;
- b) buildings or parts of buildings in which residential accommodation is provided under **section 21 of the National Assistance Act 1948**, and
- c) hostels within the meaning given by **paragraph 7 of Schedule 1 of the LGFA 1992**.

Class B – religious communities

A dwelling occupied by a religious community where the principal occupations are:

- prayer;
- contemplation;
- education;
- the relief of suffering or any combination of these.

Class C – houses in multiple occupation

With effect from 1st April 1995, any dwelling which, either;

- a) was originally constructed or subsequently adapted for occupation by persons who do not constitute a single household, or
- b) each person who lives in it is either;
 - a tenant or licensee able to occupy only part of the dwelling; or
 - a licensee liable to pay rent or a licence fee on only part of the dwelling.

*Note VOA treatment of HMOs from 1.12.23 - Licensing

Class D – resident staff

A dwelling where at least one resident is solely or mainly resident there to be employed in domestic service, and any other residents are so employed or part of that person's family.

- they live in the dwelling in order to maintain it for occasional occupation of the employer.

Class E – Ministers of religion

A dwelling which is inhabited by a minister of any religious denomination, from which to perform the duties of their office.

If the dwelling is owned by the minister themselves, they will be liable, unless they are a minister of the Church of England and in receipt of a stipend in which case the Diocesan Board of Finance is liable.

Class F – asylum seekers

This class refers to any dwelling which is provided to an asylum seeker under, or under arrangements made under, **section 95 of the Immigration and Asylum Act 1999**.

Has applied since 3rd April 2000.

Caravans and boats

Caravans and boats are “**chattels**” and are not, in themselves, subject to council tax.

Liability arises by virtue of the land (pitch) on which a caravan stands or a mooring by which a boat is attached to the land.

So, caravans and boats, on a permanent pitch or mooring, that are someone's sole or main residence **will be liable** for council tax.

s.7(2) LGFA 1992 – liability will fall on the owner of the caravan or boat unless he is not resident, and another person is, in that case liability will rest on the resident.

Note Class R exemption may be applicable when unoccupied

Identifying the liable person

In order to establish liability, billing authorities may obtain information using the powers prescribed under: **The Council Tax (Administration and Enforcement) Regulations 1992 SI 1992/613.**

It is essential that adequate and accurate information is obtained as this makes collection easier and more efficient.

No statutory obligation for a resident/owner or managing agent to give information on residency **unless you have asked for it.** It is the request under these regulations that creates the duty to provide the information.

Identifying the liable person

Reg 3 CT(A&E) Regs 1992 - Information From Residents

A person who appears to be a **resident**, **owner** or **managing agent** of a dwelling shall supply to the authority, upon written request, information for the purposes of identifying the liable person in relation to that dwelling.

This information shall be supplied within 21 days of request.

- **resident** – person liable for council tax.
- **owner** – can be an owner occupier or a Landlord
- **managing agent** – person authorised to arrange lettings.

Identifying the liable person

Reg 4 CT(A&E) Regs 1992 – Information from Public Bodies

A billing authority may request in writing relevant information from:

- a) any other billing authority
- b) any precepting authority
- c) any levying authority
- d) the electoral registration officer for any area in Great Britain;

Information shall be supplied within 21 days of request.

Identifying the liable person

Reg 4 CT(A&E) Regs 1992 – Information from Public Bodies

A billing authority **may not request** the following:

- a) information obtained by a person or committee in their capacity as a police authority;
- b) information obtained in its capacity as an employer;
- c) information consisting of anything but name, address and any place of residence of any person and applicable dates of their period of residence.

Identifying the liable person

Reg 5 CT (A&E) Regs 1992 – Information Regarding Deaths

Within 7 days of the registration of the death of a person aged 18 years or over, the registrar of births and deaths shall supply to the billing authority concerned, information as to name, date of death, and the usual address of the deceased.

Identifying the liable person

Reg 6 CT (A&E) Regs 1992

An authority may use information obtained under any other enactment provided it is not obtained on behalf of a police authority

Penalties

For non-compliance with written request or knowingly providing false information S.14(2) and Schedule 3 LGFA1992.

A penalty of £70 may be imposed for failure to provide information or knowingly providing false information.

Appeals

s.16 LGFA 1992

- Can appeal against a decision of the billing authority in relation to a chargeable dwelling or liability;
- Must appeal in writing to the billing authority; BA has two months to respond
- If still dissatisfied with decision or no response within 2 months, can then appeal to the Valuation Tribunal;
- Good practice to let taxpayers know about appeal rights other than just on annual leaflet.

s.3 LGFA 1992

- Also have the right of appeal against penalties but can appeal directly to Valuation Tribunal.



Introduction to Council Tax Seminar

Discounts, Disregards and Exemptions



Discounts – SPD - History

- Council Tax charged on basis of half property tax, half personal tax.
- If there is only one adult resident at a property, they can apply for a 25% Single Person discount.

Disregards

The following people are disregarded for the purposes of Council Tax;

- Persons in detention
- Severely Mentally Impaired
- Persons in respect of whom Child Benefit is payable
- Apprentices
- Students
- Student Nurses

Disregards, cont'd

- Youth Training Trainees
- Hospital Patients
- Patients in Care Homes
- Care Workers
- Residents of Certain Hostels and Night Shelters
- Members of International and Defence Organisations
- Religious Communities
- School Leavers

Disregards, cont'd

- Visiting Forces
- Spouses of Certain Students
- Persons subject to diplomatic privileges and immunities
- a person who has secured a visa under the Homes for Ukraine sponsorship scheme

Disability Reduction

This reduction has two elements;

1. Property relief – When the Valuation Band is allocated to a property no account will be taken of any value of fixtures designed to make the property suitable for use by a disabled person (if these fixtures add value).
2. Personal Relief – Where a property is the sole/main residence of a qualifying disabled individual, criteria;



Personal Relief

- A room, not a bathroom, kitchen or toilet which is predominantly used by, and is required for meeting the needs of, any qualifying individual in the property; or
- A bathroom or kitchen which is not the only bathroom or kitchen in the dwelling, and which is predominantly used by, and is required for meeting the needs of any qualifying resident; or
- Sufficient floor space for the use of a wheelchair required for meeting the needs of any qualifying individual resident in the dwelling

Personal Relief, cont'd

- If awarded this reduction results in the charging of Council Tax at one valuation band lower than that which is shown for the dwelling in the valuation list
- In 2001 provision was introduced to allow this reduction for properties in band A, the relief for these properties is calculated as one 9th of the band D council tax for the Authority

All Disability Reduction cases should be reviewed on an annual basis

Exemptions – Unoccupied Properties

- Class B – Owned by a body established for charitable purposes only
- Class D – Left empty by individual detained in prison
- Class E – Left empty by individual who is permanently in care home/hospital
- Class F – Empty owner deceased
- Class G – Occupation prohibited by law
- Class H – Held for occupation by a minister of religion



Exemptions – Unoccupied Properties

- Class I – Individual left property to receive care
- Class J – Individual left property to provide care
- Class K – Left empty by a student
- Class L – Mortgagee in possession
- Class O – held for the purposes of armed forces accommodation
- Class Q – Liable person is qualifying person in his capacity as a trustee in bankruptcy
- Class R - Unoccupied caravan pitch/mooring
- Class T – Unoccupied annexe to a main dwelling

Exemptions – Occupied Properties

- Class M – Halls of Residence (Look At Case Law)
- Class N – All student occupiers
- Class P – Members (and dependents) of visiting Forces
- Class S – All occupants aged under 18
- Class U – All occupants Severely Mentally Impaired
- Class V – Occupiers has diplomatic privileges and immunity
- Class W – occupied annexe (specific criteria apply)



No Loss of Exemption

Homes for Ukraine

- Amended the Council Tax (Exempt Dwellings) Order 1992 so that there is no loss of an exemption where a household hosts a person who has secured a visa under the Homes for Ukraine sponsorship scheme.
- The regulations will not provide for a general exemption for dwellings occupied by people arriving under the Homes for Ukraine or other schemes.

Annexes

- A discount of 50 per cent applies to annexes which are:
- occupied by relatives - under the age of 65 - of the person liable to pay the Council Tax of the main property; or
- unoccupied as the person living in the main property is using the annexe as part of their main home

Annexes

An exemption applies to annexes which are:

- occupied by relatives - all over the age of 65 - of the person liable to pay the Council Tax of the main property (class W)
- occupied by relatives - aged between 18 and 65 - who are severely and permanently disabled (Class W)
- unoccupied and the planning permission for the annexe has a restriction in that it can only be used as ancillary accommodation of the main property (Class T)



Empty Properties

Pre 2013;

- Unoccupied undergoing major/structural repairs – 100% discount up to 12 months
- Unoccupied unfurnished – 100% discount up to 6 months
- Unoccupied furnished – 50% discount, varied to allow a 90% charge to be applied

Empty Properties

Post 2013:

- From 01/04/2013 no prescribed discount, Authorities able to decide on their own, can be different in neighboring councils and many have changed since that date
- Second Homes typically 100%

Long Empty Premiums

- In April 2013 Authorities given permission to charge premium on properties empty and unfurnished over 2 years. An additional 50% (150% of the Council Tax for that band of property)
- From April 2019 Councils can charge up to 200% for empty and unfurnished properties for between 2 and 5 years
- From April 2020 Councils can charge up to 300% for empty and unfurnished properties for between 5 and 10 years
- From April 2021 Councils can charge up to 400% for empty and unfurnished properties for > 10 years
- From 1 April 2024 – Councils can charge the premium after 1 year



Exceptions to Long Empty Premiums

- Statutory
 - Job related Accommodation
 - Service Personnel posted overseas
- Discretionary
 - Marketing for Sale or Rent
 - Legal barriers preventing Sale or Rent
 - Hardship
 - Working with the council to bring back into use
- Best Practice Guidance Expected

Council Tax Support

- April 2013 also saw the removal of the Council Tax Benefit Scheme
- This has been replaced by a discount
- Authorities were allowed to write their own schemes and there was no requirement to award 100% reduction
- Authorities have made very different choices regarding this and these schemes are still changing and developing
- This is an ever changing area with a large number of LA's now looking to move away from a detailed means test to more of a Council Tax Discount.



Council Tax Support Options

- Prescribed Scheme 36 (2018) LA's still offer up to 100% discount, this has increased slightly since due to Pandemic
- Fast moving area of Revs & Bens
- Considerations Cost of Scheme & Cost of Administration
- Means test with reduced entitlement
- Banded schemes
- Benefit Periods
- Impact of Universal Credit and Numerous changes to income



Discretionary Relief (hardship)

- The removal of a prescribed benefit scheme and empty exemptions has left some residents in hardship
- Authorities have allocated funds to allow people to apply for discretionary assistance, either for empty properties or those where there is a shortfall in Council Tax Support
- Decisions regarding this relief can be appealed at the Valuation Tribunal



Local Discounts

- Normally only the preserve of Unitary and Metropolitan Councils due to costs**
- Special Constables Southampton 100%, Met Police £150, Rochdale 50%, Kent 10% paid by PCC
- Pensioner Discounts Southampton
- Early payment/Direct Debit Discount (couldn't find any) Havering 1.5% early payment
- Flood Relief



Local Discounts

- Fostering Discount - Halton BC, Liverpool, Flintshire
- Care Leaver Discounts – Numerous
- Women's Refuge

** If families hosting Ukrainian families under the Homes for Ukraine scheme lose Council Tax Support as a result of the £350 payment, LA's requested to make up the reduction with a Discretionary Payment under Section 13 (1) A.
The cost will be met from the collection fund

Any questions?

Billing and Collection

Introduction to Council Tax Seminar

Penny Mitchell - IRRV(Hons)
Service Manager – Council Tax
Salford City Council
28 February 2024



Content

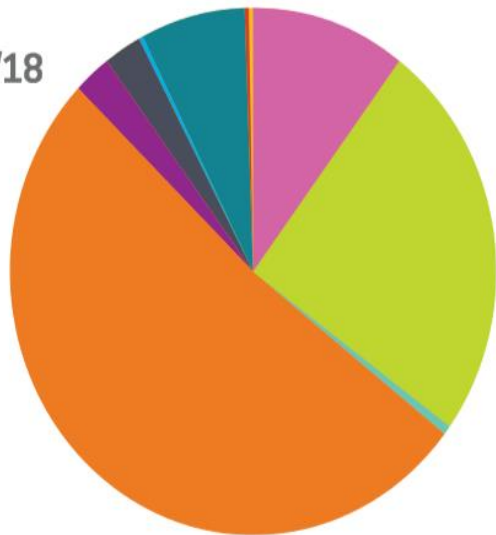
- Overview- why is collection important?
- Demand notices (bills)
- Rules of 'service'
- The statutory instalment scheme
- The option of payment incentives
- The recovery process – reminder and final notices
- Laying complaint and the issue of a summons
- The court hearing
- The granting of a liability order

Why is Council Tax collection important?

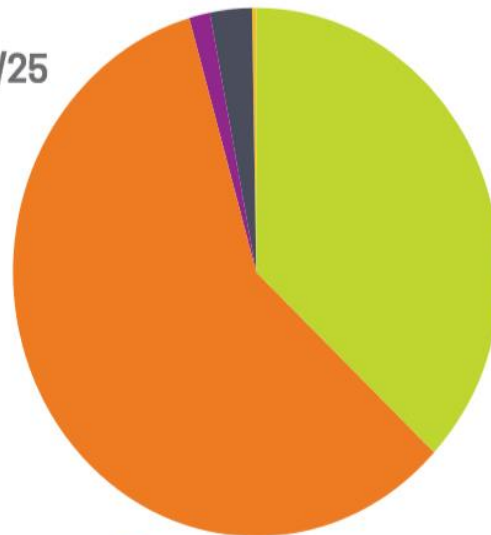
- Funds the vital services - council, police, fire, mayoral
- Council Tax is biggest income source
- Central Government funding for Local Government reducing
- Prompt billing and collection – cash flow, reduce debt
- Limited ways to increase income
 - Cap in annual increases
 - Discounts and premiums for empty properties
 - Council Tax Reduction schemes
 - Adult Social Care Precept

THE MAKE-UP OF COUNCIL FUNDING IS CHANGING

2017/18



2024/25



- Council tax
- Retained business rates
- Revenue support grant
- Transition grant
- Adult social care support grant
- Improved Better Care Fund
- New homes bonus
- Rural services delivery grant
- Public health grant
- Education services grant

Source: LGA June 2018
Local Government Funding
Moving the Conversation on

Why is Council Tax collection important?

- Increased pressures on services – demand (Adults and Children's Social Care) and expectations (public health and standards)
- Demographics – ageing population, deprivation and cost of living pressures
- Accountability and visibility
- Reduced funding certainty and Council Tax non-payment
- Business Rates – greater dependence, risk, appeals, revaluations, avoidance, decline of high street
- Welfare Reform and Brexit?

The Legislation

- **The Local Government Finance Act 1992** requires billing authorities to levy and collect Council Tax in their areas with the requirement to serve a notice on the liable person stating what is owed and the payments that are required
- **Council Tax (Demand Notices) (England) Regulations 2011 (as amended)** set out the information that must be contained in the Council Tax bill and the information that should be supplied with it
- **The Council Tax (Administration and Enforcement) Regulations 1992** set out the process by which liable persons should be billed and the process of seeking a Liability Order at the Magistrate's Court.

Demand Notices

Demand notices – Bills!

- One for each financial year
- ‘New bill’ issued when liability first starts
- Annual bill then issued every year - perpetual
- Only covers one property
- Can be one bill in joint names – joint and several liability

Adjustment notices – revised bills

- Change to calculation of the amount charged on the bill;
- Payment method changes
- Renegotiated payment plan



Demand Notices - Basics

- Content and additional information is set out in legislation
- Issued as soon as possible after the Council Tax is set or after liability starts
- An estimate of the Council Tax due for the year
- Calculated on the circumstances at the time of the bill
- Nil value bills must be sent
- Exemption notice replaces bill
- Issued 14 days before 1st instalment is due

Demand Notices - Content

- Name of the liable person(s)
- The date issued and period it covers
- Property address and valuation band
- Precept charges for a property in that band
- % change from the previous year
- Breakdown of the household charge – discounts, exemptions, reductions or premiums etc
- The total sum due and an instalment plan
- How to appeal
- How to pay
- How to apply for reductions or report changes
- Where to find more information
- Explanatory notes - budgets

The bigger picture

- The bill is the face of the billing authority
- Might be the only engagement with the council
- We reach every household at least once a year
- Set the tone of the relationship between household and council
- Plain English, friendly, signposting initiatives, logos
- Encourage engagement – how and when, website
- Reach out and offer up front – its ok to need help
- Change behaviour and educate – lifelong relationship



The rules of service - paper

Demand notices and other documents can be served:

- No separate rules for Council Tax – s.233 Local Government ACT 1972 Service of notices by local authorities
- Individuals - service to the usual or last known address – may or may not be the property the bill is for
- Limited companies or organisations – registered office, accountants, HQ or usual place of business

Service options:

- Post
- Delivering it in person
- Leaving it at the address
- Handing it to a person resident/employed at the address
- Not delivered if returned by Royal Mail / Mailing company

Electronic service - rules

Specific to Council Tax and Business Rates

- Council Tax and Non Domestic Rating (Electronic Communications) (England) order 2003 – bills can be sent electronically
- Sent as an attachment or link in an email or via a secure website – customer notified by email to retrieve their bill
- Served on the second business day after it was sent

Taxpayer has to:

- Actively agree to 'ebilling'
- Notify the billing authority (in writing) of a change to their electronic address.
- Withdraw agreement to ebilling if no longer wants ebilling

Instalment Schemes

The statutory instalment scheme

- Taxpayer must be given monthly instalments
- Months must be consecutive and date in month specified
- 10 instalments – where bill issued prior to or in April
- Bill issued from May the number of instalments = number of whole months remaining in that year less one
- Bill issued on or after 1 January – 1 instalment
- 10 months popular with many – 2 council tax ‘free’ months

12 month Instalment Schemes

- From April 2013 – taxpayer can ask for a 12 month instalment plan rather than the statutory 10
- Must be requested and we must give it
- 12 monthly instalments if bill is issued before 15 April instalments
- Bills issued after 16 April - number of whole months remaining
- Subsequent years will be 12 months

Individual Instalment Schemes

- Flexibility to make individual arrangement
- Agree on amount and frequency of instalments
- Ideally encourage to request it any time
- Should make provision for what happens if liability changes
- Should fit with recovery processes if default
- Usually designed to match local preferences and pressures

Instalments – Discretionary Schemes

- Have to be decided before the tax is set for the year
- Has to be funded by all the preceptors – loss of income
- Must apply to everyone who adheres to the scheme
- **Lump Sum Payment Discount** i.e. pay 95% of the full bill upfront and get 5% off
- **Non cash payment discount** – i.e. reduced bill as in incentive to sign up to DD
- Not well used by authorities – costly, administrative burden, relies on taxpayer sticking to the agreement.
- Lottery style incentives – prize draw for signing up to DD

Failure to pay instalments

- Reminder Notice – sent as soon as an instalment payment is overdue, served by post, can be in joint names
- Gives 7 days to pay the outstanding instalment(s) and bring the account 'up to date'
- If payment made within the 7 days – taxpayer returns to the instalment scheme
- Payment not made – taxpayer loses their right to instalments and reminder notice tells them full balance will be due after a further 7 days
- Summons to appear before magistrate for non-payment can be issued if account not brought up to date in the 7 + 7 days

Further failure to pay instalments

- If a taxpayer complies with the first reminder, they are only entitled to one more reminder notice – second reminder
- Pay second reminder on time – revert back to instalments
No payment on second reminder – right to pay instalments for that bill is lost
- Third failure to pay – summons to court for non-payment (or a discretionary final notice)
- Final notice – failed to pay a bill that was due in lump sum.
Some authorities may include a final notice for all

Failure to pay – next steps

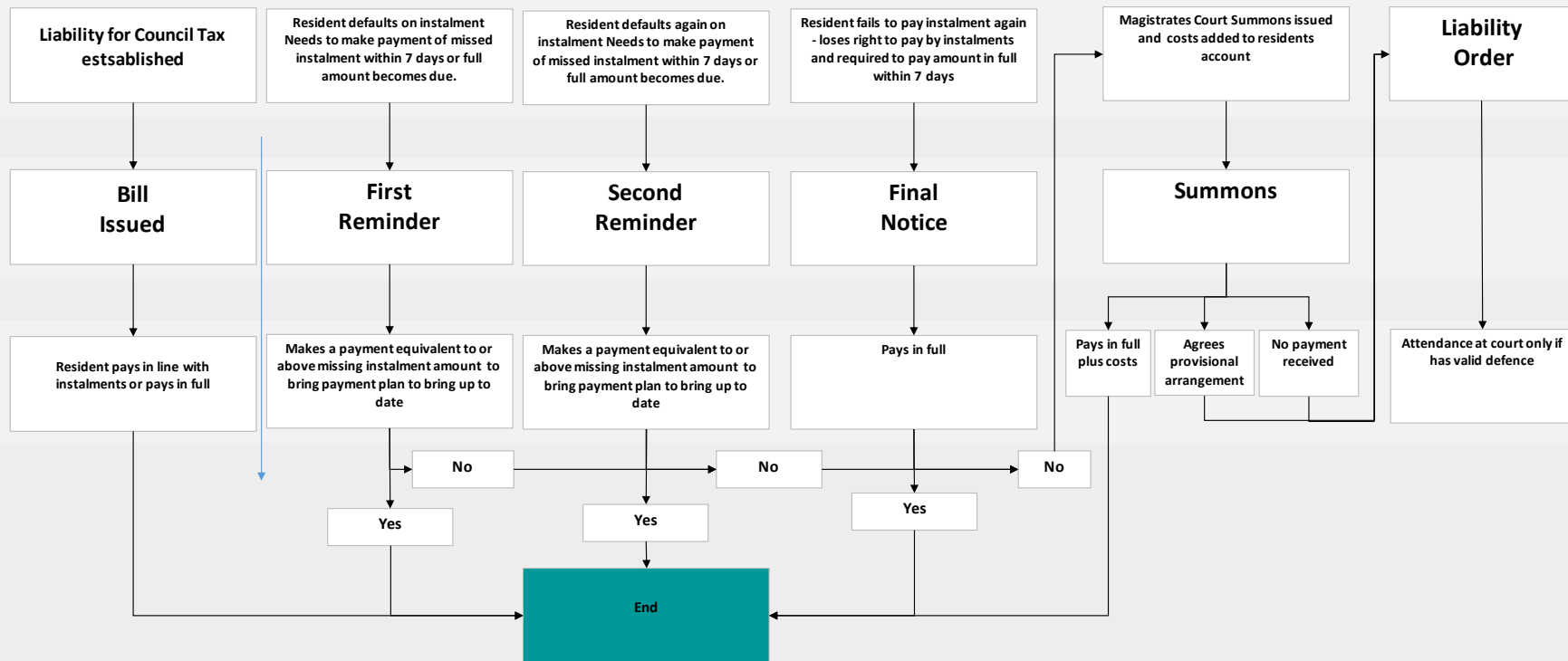
- Instalments forfeit – billing authority instigates proceedings to ‘bring the matter before the Magistrate’s Court’
- Billing authority ‘lays a complaint’ with a Justice of the Peace and requests the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding.
- Usually bulk applications – regulations written to support
- Court may well scrutinise list and sign complaint authorising the billing authority to issue a summons – court doesn’t send
- Application for a summons cannot be made more than 6 years after the day the amount became due – Limitation Act 1980

Service of Summons

- Must be served at least 14 days before date of the hearing
- State that it refers to unpaid Council Tax
- Give the date and time of the hearing
- The triage time and date
- Preferably sent 1st class
- By delivering it to the liable party(s) at usual or last known address – post, hand etc
- Can be addressed to two or more joint taxpayers – different contact addresses, separate summonses

Electronic service - reminders/summonses

- The Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 allows for statutory reminders to be issued electronically
- Does not include electronic service of final notices
- The Magistrates' Courts (Amendment) Rules 2019 (came into force on 1 January 2020) - summonses can be served electronically
 - Reminders ✓
 - Finals x
 - Summonses ✓



Applying summons or court costs

- Regulation 34(7) of the Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992 No 613) provides that when granting a liability order, the court shall make an order reflecting
 - a) The sum payable and
 - b) The sum of an amount equal to the costs **reasonably incurred** by the applicant in obtaining the order
- Billing authorities must be able to substantiate their 'reasonable costs' per case - therefore differs nationwide
- Reasonable costs - bulk application vs single application or waiving for certain taxpayers
- Reverend Nicolson case

Payment of the summons and costs

- If between the issue of the summons and the court date, a payment equal to the Council Tax due and the costs reasonably incurred, the billing authority will accept the amount and the court application will stop
- If the Council Tax due is paid but the amount of the costs is not, the application for a liability order can proceed for the costs only
- Court can make a liability order for the Council Tax plus costs, the Council Tax only (if the authority doesn't request costs) or the costs only

The hearing – the process

- The court (usually 2 or 3 magistrates or a judge) must be satisfied that the sum claimed is due and has not been paid.
- The billing authority officer gives evidence (usually orally) that the required regulatory steps have been taken
- Tax payer can ask to appear before the court but doesn't need to if they don't dispute being liable for the debt
- For bulk applications some of the evidence is more general i.e. demand notices have all been served
- For individual applications information will be more specific i.e. a demand notice was served on XX/XX/XXXX

The hearing – the evidence

The billing authority ‘advocate’ must give evidence that:

- The Council Tax has been fixed by resolution of the billing authority – meeting of the Full Council (all elected members)
- The sums have been demanded (billed) correctly
- Full payment of the amount due has not been made by the due date
- A reminder notice or a final notice has been duly issued
- The sum has not been paid within 7 days of the reminder or final notice being issued and the full amount has become payable
- The summons has been served at least 7 days after the sum became payable and
- The full sum claimed (including costs) has not been paid

The hearing – defences

There are limited defences against the issue of a Liability Order:

- The property is not in the valuation list
- The Council Tax has not been set properly
- Payment has not been demanded in accordance with the regulations
- More than 6 years since the amount fell due (bill issued)
- Bankruptcy proceedings have started
- An unauthorised officer is attempting to obtain the order

The hearing – invalid defences

Any matter that can be the subject to an appeal to the Valuation Tribunal cannot be raised as a defence to an application for a Liability Order. These are disputes about:

- Liability
- Entitlement to discounts or reductions
- Entitlement to exemptions

Other invalid defences are:

- Inability to pay or need more time to pay
- Waiting for a benefit decision
- Unhappy with the services they get
- Cannot withhold payment pending the outcome of an appeal, benefit decision or other dispute

The hearing (cont.)

- If the billing authority has satisfied the court that the sum claimed is due and payable by the person summonsed, it has not been paid and the correct procedures were followed, the court is obliged to make a Liability Order.
- Court can't remit or change the charges or stipulate any other conditions
- The making of a Liability Order provides the Local Authority with a range of enforcement options which can be used 'without further recourse to the court' – these will be discussed in a different presentation

Finally:

The legislation and the regulations exist to make sure we do things right and fairly.

Our attitude towards our customers, the support we give them and the relationship we build with them is what is in our gift to shape, design and continue to develop.

Questions?

What happens if you don't pay your Council Tax?



Paul Kelly FIRRV



What is a Liability Order?

An order of the Magistrates Court that enables the local authority to make any of several enforcement powers without further recourse to the Court(s).

What does a Liability Order look like?

Since 2003 the paper copy of the LO was abolished

[The Council Tax \(Administration and Enforcement\) \(No. 2\) \(England\) Regulations 2003 \(SI 2003/2211\)](#)

Certificate: [Rule 68](#) of The Magistrates' Court Rules 1981.

Proof of proceedings

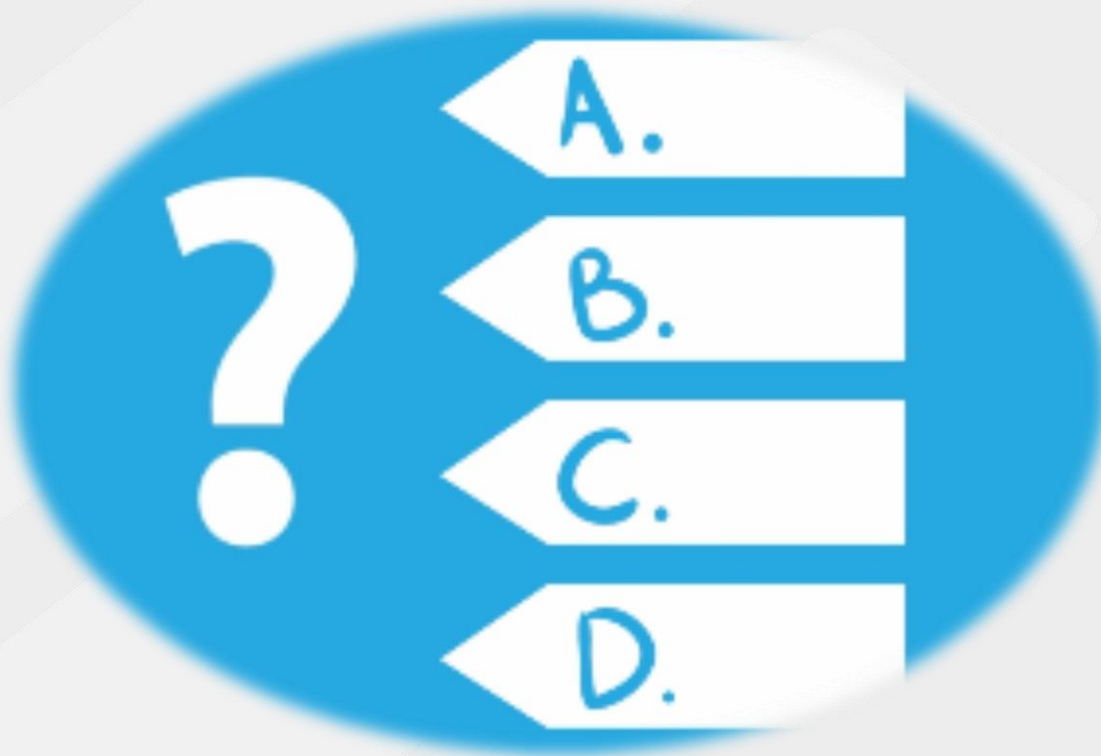
68. The register of a magistrates' court, or any document purporting to be an extract from the register and to be certified by the clerk as a true extract, shall be admissible in any legal proceedings as evidence of the proceedings of the court entered in the register.



Options for Post LO Recovery



Options for Post LO Recovery



Legislation

The Local Government Finance Act 1992;

- The Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992/613);
- The Council Tax (Deductions from Income Support) Regulations 1993 (SI 1993/494);

Part 3 – Tribunals, Courts and Enforcement Act 2007;

- Schedule 12 – Taking Control of Goods - The Procedure
- The Taking Control of Goods Regulations 2013.

Insolvency Act 1986



Council Tax – Best Practice

Council Tax – Guidance to local councils on good practice in the collection of Council Tax arrears

- Section 3 – Enforcement
- Section 4 – Working with Bailiffs
 - Actively managing contracts;
 - People in vulnerable situations.

Taking Control of Goods: National standards (April 2014)

<https://www.gov.uk/government/publications/bailiffs-and-enforcement-agents-national-standards>


Department for
Communities and
Local Government

Council Tax

Guidance to local councils on good practice in the collection of Council Tax arrears


Department for Levelling Up,
Housing & Communities


Ministry of Housing,
Communities &
Local Government

Guidance

Council tax collection: best practice guidance for local authorities

Published 16 August 2021

unpublished 16 August 2021

guidance for local authorities

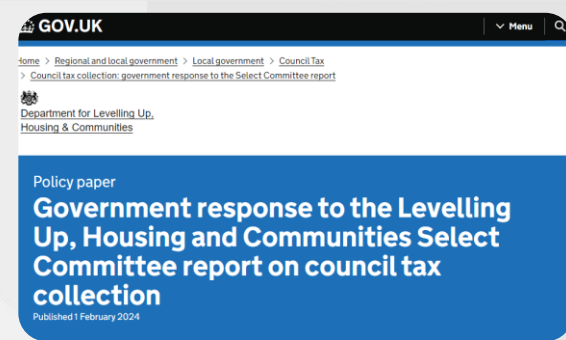
Department for Communities and Local Government
June 2013


Irrv
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Policy Paper – published 1st February 2023

Liability orders

Recommendation: The process for obtaining a liability order is inefficient and can hinder, rather than aid, the collection of unpaid council tax. We therefore strongly recommend that the government make the liability order process less burdensome, including by allowing bulk applications, virtual applications, or both, so long as residents remain able to raise objections. (Paragraph 21)



Policy Paper – published 1st February 2023

Government's response:

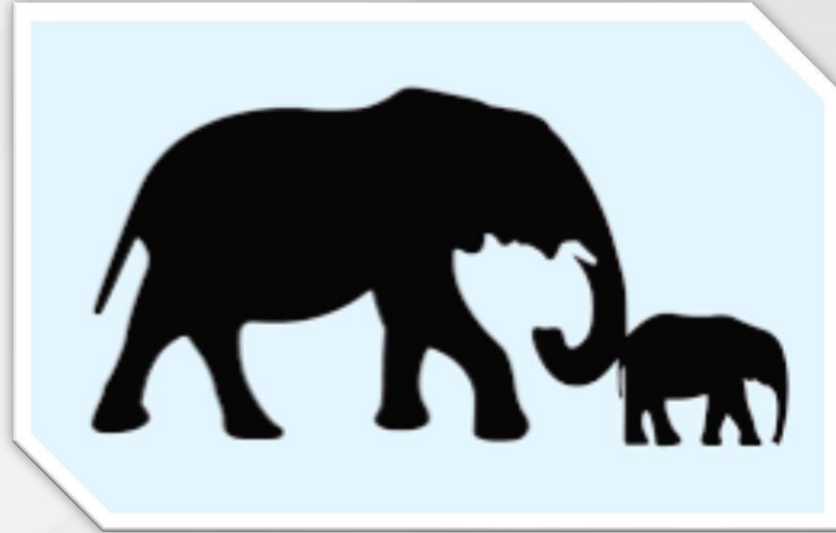
Magistrate courts have dealt with council tax applications in bulk since its inception in 1992. An in-depth review by HM Courts and Tribunals Service (HMCTS) in 2019-2020 confirmed that courts on average deal with lists of several hundred.

Virtual proceedings are lawful in magistrates' courts civil proceedings. The court can make a direction for a live link hearing where the court is satisfied that it is in the interests of justice.



Discretionary Arrangements

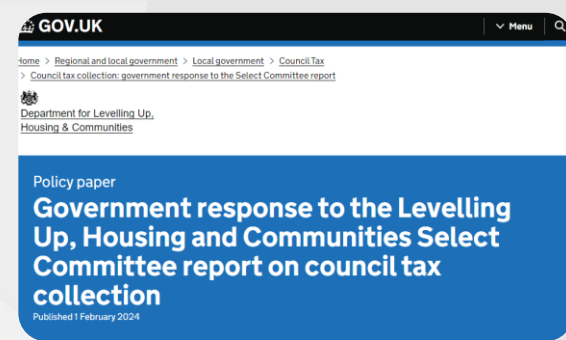
- NUDGE!
- Behaviour Management;
- Negotiation;
- Agreed Parameters (Arrangements);
- AEO Deductions;
- Enforcement Agent Fees;
- Direct Debit Sign Up;
- Cancellation of LO Costs!
- Recovery Code of Practice!!



Policy Paper – published 1st February 2023

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If you want to encourage a behaviour, make it:

Easy, Attractive, Social and Timely (EAST).

- ❖ **Easy** – let people select what you want them to choose;
- ❖ **Attractive** – colour, images, fonts;
- ❖ **Social** – social norms; peer pressure;
- ❖ **Timely** – when to contact them.

Enforcement Remedies

Without further recourse to Court:

- Request Financial Information (*Regulation 36 & 56*);
- Deductions from Benefits (*SI 1993/494*);
- Attachment of Earnings Order (AEO) (*Regulations 37 to 43*);
- Attachment of Allowance Orders (*Regulation 44*);
- Enforcement by Taking Control of Goods (*Regulation 45*);
- Commitment to Prison (*Regulation 47*);
- Insolvency (*Regulation 49*);
- Charging Order (*Regulation 50*).

Duty of Debtors

Duties of debtors subject to liability order (Reg 36);



duty

/ˈdjuːti/

noun

noun: **duty**; plural noun: **duties**

1. a moral or legal obligation; a responsibility.
"it's my duty to uphold the law"

“Duty to supply relevant information to the billing authority...”

- Name and address of employer;
- Earnings or expected earnings;
- Net earnings (less usual Tax; National Insurance etc.);
- Works ID No;
- Other sources of income (Benefits/Interest/Dividends);
- If joint and severally liable with another.



Offences

- Request **MUST** be made in writing;
- Information is to be supplied within 14 Days.

Penalties/Fines:

- Failing to provide relevant information (without reasonable excuse); or
- Providing false information;
- Liable for a FINE not exceeding **Level 2 (£500)** for failing to provide and **Level 3 (£1,000)** for providing false information.



Deductions from Benefits



Application MUST contain:

- Name and address of the debtor;
- The LA details making the application;
- Details of the court that granted the liability order and date;
- Amount of the specified arrears;
- Total amount to be deducted (less part-payments or reduction);
- National Insurance number and/or debtor's date of birth;
- Type of benefit in payment (if known);
- The LA's unique identifier, (5 figure AP number).



Deductions from Benefits (2)

GOV.UK call them:

Third Party Deductions

Advantages:

- ✓ Guaranteed something towards the debt;
- ✓ Low maintenance once set up.

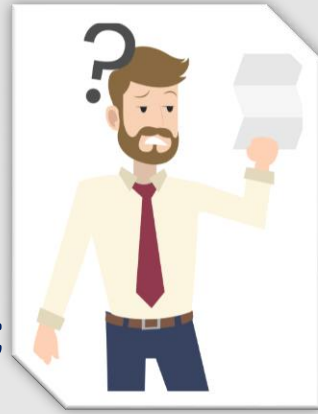
Disadvantages:

- £4.25 per week deduction (£221.00 per year),
- Unlikely to be able to make multiple deductions;
- Can take years to clear (if ever);
- DWP admin is not efficient (backlogs in some areas).
 - Up to 6 weeks to set up.
 - Monthly pay-overs.

Attachment of Earnings Orders

Firstly, must have some idea where they work;

- Local Authority makes an Attachment of Earnings Order;
- Form Specified in the Schedule to the regulations;
- Accompanying notes to Employer and Employee/Debtor;
- Deductions Set in Tables in Schedule 4 (as amended);
- Duties on the Employer to comply and make deductions;
- Employer can charge £1 admin fee per deduction;
- Maximum of 2 AEO's in place concurrently;



Attachment of Earnings Orders (2)

Advantages:

- ✓ Can be used as Negotiation Tool;
- ✓ Little further administration once in place;
- ✓ Rehabilitation of the debtor;
- ✓ Prosecute for failing to comply or supplying false information.

Disadvantages:

- Deductions fixed by tables: low income = low deduction;
- Can cause financial hardship;
- Employer administration – worst case collusion/fraud.

AEO - Weekly Tables

Deductions table for a Council Tax Attachment of Earnings Order

Table A - Deductions from weekly earnings

(1) Net earnings	(2) Deduction rate (percentage)
Not exceeding £75	0%
Exceeding £75 but not exceeding £135	3%
Exceeding £135 but not exceeding £185	5%
Exceeding £185 but not exceeding £225	7%
Exceeding £225 but not exceeding £355	12%
Exceeding £355 but not exceeding £505	17%
Exceeding £505	17% in respect of the first £505 and 50% in respect of the remainder

AEO - Monthly Tables

Table B - Deductions from monthly earnings

(1) Net earnings	(2) Deduction rate (percentage)
Not exceeding £300	0%
Exceeding £300 but not exceeding £550	3%
Exceeding £550 but not exceeding £740	5%
Exceeding £740 but not exceeding £900	7%
Exceeding £900 but not exceeding £1,420	12%
Exceeding £1,420 but not exceeding £2,020	17%
Exceeding £2,020	17% in respect of the first £2,020 and 50% in respect of the remainder

Attachment of Allowances

Regulation 44



Applies to members of a **Billing Authority** or **Precepting Authority**;

Follows the same principles as Attachment of Earnings Orders;

Keep Finance Director informed as may need to prohibit members voting on certain issues until they have paid any arrears.

Advantages:

Provides a remedy where a member seeks to take a political stance to not pay Council Tax.



Taking Control of Goods

Regulation 45 “Where a liability order has been made, payment may be enforced using the Schedule 12 procedure.”

Enforcement Agents to take control of goods;

- Compliance Stage;
- Enforcement Stage;
- Sale Stage;

Usually, a last resort where debtor has failed to supply information.

Regulation 45a deleted:

- No longer a requirement to send a 14 Day Letter!

TGOG – Compliance Stage

The initial action is a **Notice** so avoids perceived “*aggressive*” action of a visit to remove/take control of goods;

Identifies potential issues earlier: Vulnerability; Can’t Pay; Gone Away.

Statutory Notice of Enforcement (NOE);

- *Binds the debtors goods;*
- *Prescribed content provides signposting to FREE Advice;*
- *Informs: **How, Where, When** to pay by and contact details.*
- *Clearly details the consequences of failing to pay;*
- *Includes details of the further fees.*

Provides a minimum 7 clear days before a visit can be made.



TGOG – Enforcement Stage

Commences when visit is actually made;

- England and Wales only;
- Relevant Premises;

Incurs a minimum fee of £235.00;

- Plus 7½ % on debt >£1500

Visits between 6:00 am and 9:00 pm

- Outside these hours for Commercial Debts;

Visits any day of the week (including Sunday);

- Client Guidelines - respect for religious festivals;

TGOG – Sale or Disposal Stage

- Should have **controls** in place to prevent abuse of the fee:
- Regulation 12 Taking Control of Goods (Fee) Regulations 2014

Recovery of fees from vulnerable debtors

12. Where the debtor is a vulnerable person, the fee or fees due for the enforcement stage (or, where regulation 6 applies, the first, or first and second, enforcement stages as appropriate) and any disbursements related to that stage (or stages) are not recoverable unless the enforcement agent has, before proceeding to remove goods which have been taken into control, given the debtor an adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power.

“.....given the debtor adequate opportunity to get assistance and advice...”

- LA's should have guidelines in respect of the sale fee.
- Sale stage should be the exception and not the rule!



TGOG – Fees*

Schedule of Fees, Regulation 4, SI 2014/1

Stage	Fixed Fee	Percentage Fee	Trigger
Compliance	£75.00	0%	Receipt of Instruction
Enforcement	£235.00	7.5% of debt > £1500	First Attendance to relevant premises
Sale	£110.00	7.5% of debt > £1500	First Attendance for purpose of transporting goods to place of sale



TGOG – Pros and Cons

Advantages:

- ✓ FREE Service to Council (Debtors pay the fees);
- ✓ With right partners - high collections at compliance - minimises fees;
- ✓ Payment in Full or Information (Case Intelligence) to use;
- ✓ Null Bona Certificate for Committal;
- ✓ Deterrent – future rehabilitation of the debtor;

Disadvantages:

- Small debts - Potential cost to debtors (£75/£310/£420);
- Last resort so is Council recovery process working?;





Committal (Regulation 47)



Where the enforcement agent reports that he was unable (for whatever reason) to find any or sufficient goods of the debtor to enforce payment, the authority may apply to a magistrates' court for the issue of a warrant of commitment.

The court shall **(in the debtor's presence)** inquire as to his means and inquire whether the failure to pay which has led to the application is due to his **wilful refusal** or **culpable neglect**.



Committal (2)

If court of the opinion non-payment due to **wilful refusal** or **culpable neglect** it may:

- Issue a warrant of commitment, or
- Suspended committal order.

Imprisonment **shall not exceed 3 months**,

Or until the warrant is paid

Policy Paper – Imprisonment

Imprisonment

Recommendation: The government should amend existing regulations by the end of this Parliament to replace the sanction of imprisonment with more suitable deterrents, such as bank arrestment or community service. (Paragraph 28)



Policy Paper – Imprisonment

Government's response:

The government notes the arguments on this issue made by the Committee. The government would like to assure residents that imprisonment in relation to the non-payment of council tax would only be used in cases where the debtors are able to pay but choose not to pay. The reality is that the power is used extremely rarely and only for those who have the ability to pay. No one has spent time in prison for non-payment of council tax as their main offence since 2018.



Committal – Case Law

Lots of Case Law most of it relates to when the Courts got it wrong!!

R v Poole Justices ex parte Benham 1991

Community charge case.

Debtor was young man imprisoned for having potential to earn and no actual income.

- Appeal by way of Judicial review;
- Legal aid not granted despite request;
- European court of Human Rights in 1994.

Committal – Case Law

R v Bridgend Magistrates Court ex parte Woolcock 2017

- Single parent with limited means;
- Mental health issues including depression;
- Not well enough to work;
- Committed for 81 days.

Since April 2019 the **Welsh Assembly Government (WAG)** abolished Council Tax committal in Wales



Llywodraeth Cymru
Welsh Government



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Committal – Pros and Cons

Advantages:

- ✓ If you select the right case, then it is worthwhile;
- ✓ Use of ALL the resources available to maximise collection;
- ✓ Positive publicity;
- ✓ Deterrent and rehabilitation of the debtor.

Disadvantages:

- Cost of Committal is prohibitive £245.00 at least;
- Difficult to select the right cases;
- Admin of Arrest Warrants is labour intensive;
- Requires specialist staff;
- When it goes wrong the consequences can be devastating.

Insolvency (Reg 49)

Council Tax - debt for a Creditors Petition

- Section 267 of the Insolvency Act 1986;

Bankruptcy minimum threshold £5,000 (previously only £750);

Cost of instigating Bankruptcy is significant.

Case intelligence is essential;

- Do they own their own home? Or have other assets?
- Do they owe others and if so, how much?
- Do they hold a position that bankruptcy may affect?

Should you instigate Bankruptcy Proceedings?



Charging Order (Reg 49)

Advantages:

- Relatively low costs and can provide the debtor with time to get funds together to satisfy the charge;
- Protects the Council's position in the short to medium term;
- Sends out the message that the Council is actively pursuing non-payment in a cost effective manner.

Disadvantages:

- Can be left waiting years for order for sale;
 - *(Especially if children or vulnerability involved);*
- Ongoing liabilities may be unpaid;
 - May require adding to the order.

Relationship between Remedies

Regulation 52 – ‘Grey’ area.

(2) Steps under this Part by way of attachment of allowances, attachment of earnings, distress, commitment, bankruptcy, winding up or charging may not be taken against a person under a liability order while steps by way of another of those methods are being taken against him under it.

(3) Subject to paragraphs (1) and (2)—

- (a) attachment of allowances, attachment of earnings or distress may be resorted to more than once, and
- (b) attachment of allowances, attachment of earnings or distress may be resorted to in any order or alternately (or both).

When originally drafted, it was intended to prevent different enforcement remedies being undertaken concurrently in respect of the same Liability Order not for all LO's.

NB. Check if your Recovery Policy effectively deals with how to administer cases where you have deductions from benefits and other LO's outstanding.



Questions?

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