

**Non-Payment of Council Tax:
What action can be taken against
you if you do not pay your Council Tax**

The information contained in this booklet is intended to make you aware of some of the complex benefit issues that may arise. It is not a statement of the law on these issues. Every effort has been made to compile this booklet using information which is up to date at the time of publication. Leicestershire County Council however cannot accept responsibility for any loss arising from the use of the information contained in this guidance or any omissions therein.

You are advised to seek independent advice if you believe that any of the information in this booklet might be relevant in your particular situation.

This booklet is available in other languages. If you would like a translated copy please contact:

Welfare Rights Training & Information Officer, Tel: 0116 2787111.

The Social Services Department is constantly working to improve its services. If you would like to make a comment, suggestion or complaint, please contact:

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CONTENTS

	PAGE
Non Payment of Council Tax	1
Action Council may take.....	1
Attachment Orders	2
Deduction from IS/Income-Based JSA.....	3
Distress.....	3
Bailiffs Powers	4
Charging Orders	4
Imprisonment	5

Non-Payment of Council Tax

Council Tax bills show how much has to be paid and when any payments are due.

If installments are not paid on time the local authority has powers of recovery.

If the Council Tax due is not paid then the Council can take the following action:

- 1) **REMINDER** – The local authority will send a reminder if any Council Tax payment is overdue. If payment of the installment is made within seven days of the issue date no further action will be taken. If payment is not made the right to pay by installments is forfeited and the full amount of Council Tax will become due in a further seven days.

If the claimant has genuine difficulty in paying they should contact the revenue section of the local authority as soon as possible to try to arrange payment or assistance.

- 1) **SECOND REMINDER** – If a second reminder is issued in a financial year the liable person will become liable for the whole of the outstanding balance following a third failure to pay.
- 2) **FINAL NOTICE** – If a third failure to pay occurs a final notice will be issued. The liable person forfeits the right to pay by installments. The final notice will inform the liable person(s) of the amount that is owing and that the local authority will be seeking a **LIABILITY ORDER**.
- 3) **SUMMONS** – To obtain a **LIABILITY ORDER** the local authority must apply to a magistrate's court for a summons to be issued to the debtor.

The summons instructs the debtor to appear at magistrate's court and explain why they have not paid. The debtor does not have to attend and the hearing may take place in their absence. The debtor will be charged with the costs of issuing the summons.

If the amount owing plus costs is paid the local authority cannot proceed with the application for a liability order. Some local authorities may accept an agreement to pay (usually by direct debit) even at this stage. In some circumstances the local authority may be persuaded to relinquish their costs.

- 4) **LIABILITY ORDER** – A **LIABILITY ORDER** may be granted to the local authority that giving them the power to:
 - a. Obtain financial information about the debtor and therefore assess the best means of recovery action
 - b. Make an attachment of earnings
 - c. Make an attachment order on an elected members allowances
 - d. Apply to the DWP for deductions to be made from the debtors Income Support, JSA or Pension Credit
 - e. Use bailiffs to seize the debtors goods (also known as distress)
 - f. Apply for a charging order against the dwelling in respect of which the debtors liability arose

- g. Apply to bankrupt the debtor (if they are an individual) or to wind up the company (if the debtor is a corporate body)

Attachment of earnings

Deductions made from earnings after a successful LIABILITY ORDER are taken from NET earnings

DEDUCTIONS FROM WEEKLY EARNINGS (for Court Orders issued after 01/04/07)

NET EARNINGS	% deduction
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 £550 and 50% in respect of the remainder

DEDUCTIONS FROM MONTHLY EARNINGS

NET EARNINGS	% deduction
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

DEDUCTIONS BASED FROM DAILY EARNINGS

NET EARNINGS	% deduction
Not exceeding £11	0
Exceeding £11 but not exceeding £20	3
Exceeding £20 but not exceeding £27	5
Exceeding £27 but not exceeding £33	7
Exceeding £33 but not exceeding £52	12
Exceeding £52 but not exceeding £72	17
Exceeding £72	17 in respect of the first £72 and 50% in respect of the remainder

Attachment order on elected members allowances

If the debtor is a local authority councilor the local authority can make an order to make a 40% deduction from their member's allowances.

Deduction from Income Support, JSA or Pension Credit

If a liability order has been obtained the local authority may apply for deductions from the debtor's Income Support, JSA or Pension Credit.

The maximum weekly amount that can be deducted from IS, JSA or PC is £3.00 (£4.55 for a couple). If there are other deductions being made from the benefit the maximum weekly deduction for all debt repayment is £9.00 (3X£3.00).

Deductions cannot be made if:

- There is not enough benefit in payment to allow a deduction to be made, in this case the amount payable after deductions is 10 pence per week.
- If there are deductions for higher priority debts ie rent, fuel or water.

The maximum amount of deduction that can be made from Contributory JSA is one third of the weekly amount of JSA for a person of the debtor's age.

Distress

"Distress" is the power that enables bailiffs to enter the debtor's property to remove possessions to sell at auction to pay off the Council Tax debt and any charges incurred by levying the distress

If all amounts due are paid:

- Distress can be prevented.
- If distraint has been levied a sale of goods can be prevented.

Distress cannot be attempted unless:

- A written notice has been sent to the debtor
- The written notice **MUST** specify
 - The fact that a **LIABILITY ORDER** has been issued
 - The amount for which the **LIABILITY ORDER** was made for and the amount outstanding
 - A warning that unless the amount specified is paid within 14 days distress may be used
 - A warning that further costs may be incurred
 - A copy of the fees payable
 - The local authority's address and telephone number.

Certain goods cannot be seized when distress is levied. These are:

- Goods on lease or hire purchase
- Goods belonging to the landlord or other members of the household
- Tools, books, vehicles and any other items of equipment that is needed for the debtor's employment, business or vocation
- Clothing, bedding, furniture, household equipment and provisions necessary for the basic need of the debtor or their family

Bailiffs Powers

Bailiffs have no formal powers to force initial entry or break open an outer door that is locked or bolted. The bailiff must enter **PEACEABLY** through an **UNLOCKED DOOR** or **WINDOW**. They may not open a closed window even if it is not locked.

- Bailiffs cannot obtain a court order to gain entry
- An occupier cannot be sent to prison merely for refusing entry to a bailiff
- The police have no power to force entry on behalf of a bailiff or local authority
- A householder is entitled to
 - Refuse entry to bailiffs
 - Use reasonable force to resist bailiffs who are unlawfully trying to push their way in

If a local authority gains a **LIABILITY ORDER** granting distress seek advice

Charging orders

This method of recovery is available if the debtor is owner/part owner of the property and the debt is at least £1,000 and is for the property that gave rise to the Council Tax arrears.

A charging order "mortgages" the property with the debt. If the debt is not paid the local authority may apply to the court for the property to be sold to pay the debt. This entitles the local authority to receive money from the sale after any charge with a higher priority has been met (such as mortgage lender debt).

In practice the court rarely orders the property to be sold.

Bankruptcy proceedings

If a **LIABILITY ORDER** has been issued a local authority can apply to bankrupt an individual or wind up a company (if they owe £750 or more) The court will make an order following a hearing and no other recovery action can be taken.

An individual facing bankruptcy proceedings should seek professional help as soon as possible.

Imprisonment

Local authorities can in certain circumstances apply to magistrates court for a warrant to commit the debtor to prison. This is a coercive measure designed to extract payment from someone with the means to pay. It is not a punishment for failure to pay the debt.

If the amount is paid before the warrant is issued or offered to the local authority it must accept the payment and no further action should be taken. If the amount owed is paid after the local authority has applied for the warrant but before it is issued or a term of imprisonment has been fixed and the issue of a warrant is postponed, a local authority may recover reasonable costs in connection with the committal proceedings.

A warrant to commit to prison is only issued if the court is satisfied that the failure to pay is:

- Willful refusal by the debtor OR
- Culpable neglect by the debtor AND
- The debtor has means to pay the debt

The maximum period of imprisonment is three months, but the maximum period should be reserved for the most extreme cases eg deliberate refusal to pay.

Once a warrant for commitment to prison is issued the liability for Council Tax, including any joint liability must be written off. No further recovery action can be taken in relation to the relevant amount.