



RECOVERY PROCEDURES

Council Tax and National Non-domestic Rates

South Lakeland District Council is committed to collecting overdue Council Tax and National Non-domestic Rates as quickly as possible.

Statutory Instalments

Everyone is entitled to pay their current year's bill by instalments. If you receive a bill at the start of the financial year, there are 10 statutory instalments April through to January inclusive. Where bills are issued during the year, the number of instalments will be reduced.

Council Tax and Non-domestic Rate payers now have the right to pay by 12 instalments, instead of the normal 10. This must be requested.

Reminders

If you do not pay your instalments as they are due you will be sent a reminder asking you to bring your payments up to date within 7 days.

A maximum of 2 reminders will be issued in any one financial year for Council Tax and only 1 for Non-domestic Rates, which is in accordance with the regulations.

A second reminder for Council Tax will only be issued if the tax payer has brought the first reminder up to date within the 7 days.

Final Notices

If payment is demanded on a closed account or an account with only one instalment, if it is not paid as it falls due, a final notice will be issued.

A final notice will also be issued when 2 reminders for Council Tax or 1 reminder for Non-domestic Rates have already been issued within the year.

The final notice requires the amount outstanding for the year to be paid in full in 7 days. At this point the right to pay by instalments is lost.

Summons

A summons will be issued if the liable person has not made payment in accordance with the notices previously issued.

Where a special payment arrangement has been agreed, a summons may still be applied for and liability order sought to protect the Council's interest.

Before a summons can be issued the Council will make a complaint to the 'Clerk to the Justice' at the Magistrates' Court requesting a liability order against the debtor. This will be signed by the Clerk and the summons will be issued first class, on the same day, to the liable person(s).

A summons will always be issued with a clear 14 days between the issue date and the court hearing date.

The summons will state the amount unpaid and the time and place of the court.

The issue of a summons will create a cost to the liable person(s). From 1st April 2017, this cost will be £75. If full payment of Council Tax or Non-domestic Rates is paid prior to court, but not the £75 fee, the court shall still make the order in respect of the sum equal to the costs.

There are only certain areas of dispute that can be heard in the Magistrates' Court for Council Tax. These include:

- There is no valid entry in the rating list for the period of liability
- The tax has not been properly set
- The tax has not been properly demanded
- The amount demanded has been paid
- More than six years have elapsed since the day on which the sum became due
- Bankruptcy or winding-up proceedings have commenced.

There are certain areas that are not a valid dispute at a hearing and it is not in the Magistrates' jurisdiction to make a decision on these areas or delay a liability order request as a result. These include:

- The liable person disputes their liability or the amount of discount or exemption granted in respect of Council Tax. They may appeal to the Local Taxation Manager in the first instance and if they still disagree with the decision they have a right of appeal to the Valuation Tribunal. However in the meantime the full amount as demanded remains due and payable until the appeal has been decided. If following the appeal the liable person's account is adjusted and goes in to credit then a refund would be issued.
- If the liable person has a benefit claim awaiting a decision, the amount demanded still remains outstanding and a summons would still be issued and a liability order obtained. No further action would be taken after that stage pending the outcome of the benefit claim.
- The Valuation Office Agency is responsible for maintaining the list of Non-domestic rateable values and Council Tax bandings. The Council has to bill and recover according to the list. If a person disputes the rateable value or Council Tax band they need to contact the Valuation Office Agency, but until any amendments are made payment is due according to the statutory instalments.

The summons is a legal document inviting the defendant to attend court to give evidence. If the defendant does not appear at court the hearing would still proceed.

Liability Order

If the Magistrates are satisfied that the sum shown has become payable by the defendant they will issue a liability order.

14 Day Notice

Although not a legal requirement, the Council may decide to send a notice to the liable person(s) to confirm that a liability order has been granted.

This notice will contain a request for further information in accordance with the regulations. In the case of a Council Tax debt, the liable person has a legal duty to provide certain information including their employer's name and address. Failure to provide this information could result in an additional fine of up to £500 for non-disclosure and £1,000 for supplying false information.

The opportunity is given for the debtor to make an offer of payment to avoid further recovery action.

The notice will also specify what action the liability order enables the Council to do to collect the debt.

A list of the enforcement fees will also be included to enable the liable person to see what extra charges they could incur. This will also provide contacts for a number of free financial advice services.

If no contact is made by the liable person and no special payment arrangement is agreed, recovery would commence, depending on the individual's circumstances. Each account would be looked at individually and a decision made as to the most appropriate recovery method to proceed with.

Council Tax Attachment of Earnings Order

This is an order sent to the liable person's employer instructing them to make deductions direct from the employee's earnings and to forward these payments to the Council. The amount of the deduction is a % of the net earnings depending on certain net pay brackets.

Once the Council Tax Attachment of Earnings Order (CTAEO) has been served the employer is able to deduct £1 towards administrative costs for each deduction.

The CTAEO is a legal document and an employer could be liable for a fine if they fail to comply.

A maximum of two CTAEOs can be in place at any one time.

Attachment of Prescribed Benefits – Council Tax

If the liable person is in receipt of Income Support, Income Based Job Seekers Allowance, Income Related Employment Support Allowance, Universal Credit or Guaranteed Pension Credit then the Council can apply directly to the benefit provider requesting a deduction from these benefits to be forwarded to the Council.

Enforcement Warning

If we do not know the debtor's employer, or we have considered that a CTAEO is not appropriate, or we are unable to make a request for deductions from benefit and no special payment has been agreed, a final enforcement warning letter may be issued, although this is not a legal requirement. This letter will give the debtor 7 days in which to pay the debt in full

or contact the Council with details of their employment, benefit or other income. The letter will also include a list of free advice services available.

Enforcement Agents – Council Tax and National Non-domestic Rates

From 6 April 2014 enforcement fees have been set by statute, The Taking Control of goods (Fees) Regulations 2014 (SI 2014/1), and are not negotiable. Compliance fees of £75.00 are incurred immediately the Enforcement Agent receives the debt from the Council.

If the enforcement agent (previously known as a bailiff) visits your property you will incur a further fee of £235.00, plus an additional 7.5% of your debt if you owe over £1,500.00.

This means that within 2 weeks enforcement fees alone, could be in excess of £310.00.

Charging Orders

A Charging Order can be applied for at the courts and if successful would be placed on a property to secure the debt. This means that when the property is sold the proceeds would go towards the Council's debt as a priority.

This could be used if the property was intended to be sold.

Alternatively we can request an Order of Sale, which if successful would mean the Council would take possession of the property, with a view to selling it, in order to clear the debt.

Bankruptcy/Liquidation

This action would be considered if there are sufficient assets to realise and meet the outstanding debt and the debt exceeds that required by legislation. This is one of the final options that the Council would consider. The Council has an individual policy specifically relating to bankruptcy/liquidation.

Committal

If the debt is still outstanding and the liable person does not have sufficient assets to meet the outstanding debt then one of the final options would be to apply for a summons to be issued for the debtor to appear before the Magistrates for an enquiry into his or her means.

If the debtor does not attend court the Council would apply for an arrest warrant and bail initially and then without bail if the debtor again fails to attend again.

The arrest warrant with bail will be hand delivered to the debtor and it will specify a time to appear at court.

The arrest warrant without bail will require immediate arrest of the debtor who will be taken and detained pending the hearing at court.

Such action could result in a maximum prison sentence of three months.

Tracing of Debtors

All amounts unpaid will be pursued in accordance with this procedure document.

In the event of a debtor leaving their last known address without providing a forwarding address, the Council will use various methods of tracing the individual. This will include tools such as Experian database and tracing agencies. The Council is legally entitled to request this information under the Data Protection Act Section 29 for the collection of tax.

Payment Arrangement

The Council will consider any proposals from defaulters who wish to make a payment arrangement and we will treat each case on its merits. However we will try and recover the amount due within the current financial year, and we may decide to protect our position in such cases by obtaining a liability order at the Magistrates' Court as previously stated.

If a low repayment amount is offered, the Council will issue an income and expenditure form for completion. This will allow us to consider a household composition and income against the expenditure, taking into account that Council Tax is a priority debt.