

Billing and Collection

Introduction to Council Tax Seminar

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Content

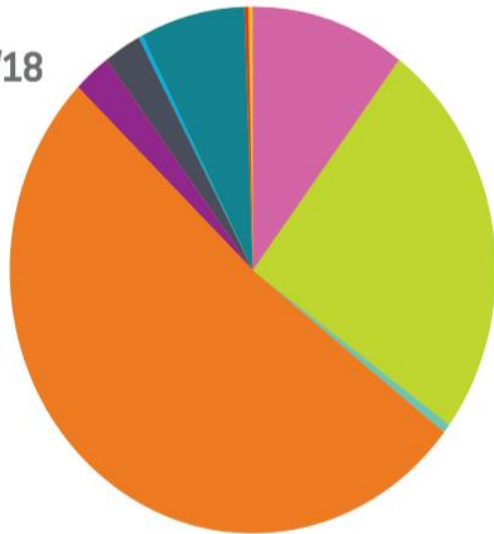
- Overview- why is it important?
- Demand notices
- Rules of 'service'
- The statutory instalment scheme
- The option of payment incentives
- The recovery process – the reminder and final notices
- Laying complaint and the issue of a summons
- The court hearing
- The granting of a liability order

Why is Council Tax collection important?

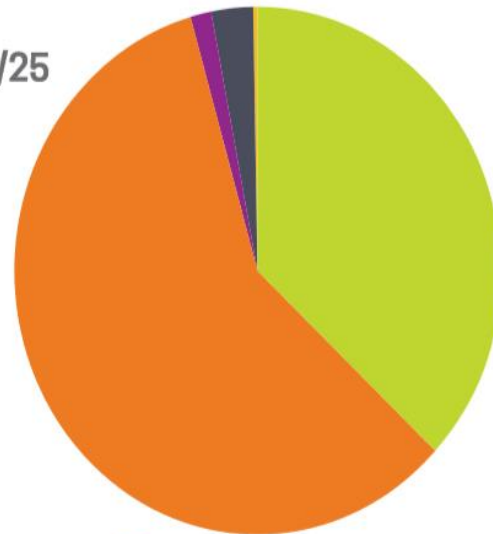
- Prompt billing and collection maximises income to fund core Council services
- Increased yield from Council Tax
 - Discounts and premiums for empty properties
 - Council Tax Reduction schemes
 - Adult Social Care Precept
- Reducing Central Government funding for Local Government

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 service demand – Adults and Children's Social Care
- Demographics – ageing population, deprivation
- Reduced funding certainty
- Council Tax non payment
- Business Rates – greater dependence, risk, appeals, revaluations, avoidance, decline of high street
- Welfare Reform
- Brexit?

The Legislation

- **The Local Government Finance Act 1992** requires billing authorities to levy and collect Council Tax in their areas and includes 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 aka Council Tax Bills – these are issued at the start of each financial year or when a new liability is determined

Adjustment notices – these will be served within the year where there is an adjustment to the original demand notice, such as a change in liability or a change in payment method

- Individual demand notices are required for each financial year
- Demand notices apply to a single property at a time
- Where joint and several liability – can issue one bill

Demand Notices

- Content and additional information is set out in legislation
- Issued as soon as possible after the Council Tax is set or after liability starts
- A demand notice is an estimate of the level of Council Tax which will fall due within the financial year
- A demand notice is still required even where the payable sum is 'nil'
- Issued 14 days before 1st instalment is due

Demand Notices

- Name of the liable person(s)
- The date issued
- The address, the period the bill covers and the relevant valuation band
- Details of the charge and any discount, exemptions or reductions which apply
- The outstanding sum and a summary of any instalments which fall due
- Percentage increases/decreases from the previous financial year
- The charges that apply to any precepts and details of where to find information relating to them

The rules of service - paper

Demand notices and other documents can be served:

- By post, addressed to the liable person or persons at the usual or last known address, or at the dwelling giving rise to the tax
- Limited Company – by post to the registered office or their usual place of business
- By delivering the demand notice to the liable person
- By leaving the demand notice at the usual or last known address or at the registered office of a limited company or
- By delivering the demand notice to a person on the premises giving rise to the tax or by fixing it on some other conspicuous part of the premises

The rules of service – electronic

- Council Tax and Non Domestic Rating (Electronic Communications) (England) order 2003 enables demand notices to be sent electronically
- Can be sent as an attachment to an email or via a secure website
- Taxpayer has to agree and give an email address

Instalment Schemes

- The legislation dictates that Council Tax is payable in instalments
- **The statutory instalment scheme**
 - Where the bill is issued before the start of the financial year – 10 instalments
 - Where the bill is issued on or after 1 May, the number of instalments = number of whole months remaining in that year less one
 - Where the notice is issued on or after 1 January – 1 instalment
 - The months in which the instalments are payable must be uninterrupted and the payment day in each month specified in the notice.

Instalment Schemes

- **12 monthly instalments** From April 2013, Council Tax payers can ask to pay over 12 monthly instalments rather than the statutory 10
- The request must be made in writing and may be made either before or after the demand notice is issued
- Where the notice is issued before 15 April – 12 monthly instalments
- Where the notice is issued on or after 16 April - number of whole months remaining

Instalment Schemes

- **Individual arrangement**
 - Agreement can be made about level of instalments
 - Can be made at any time
 - Can make provision for what happens if liability changes

Instalments – Discretionary Schemes

- **Lump Sum Payment Discount**
 - Has to be decided before the tax is set and paid before the first instalment is due e.g. if you pay 95% of the full bill upfront, the Council will not ask for the remaining 5%
- **Non cash payment discount**
 - Has to be decided before the tax is set and applies to non cash payments e.g. direct debits
 - This is an incentive to billing authorities to encourage their Council Tax payers to pay their bills by direct debit thus reducing the cost of collection
- Low take up by Local Authorities overall

Failure to pay instalments

- Where the Council Tax payer has been served with a notice, but has failed to make payment of the instalments, further recovery will follow
 - Reminder Notice – requesting payment up to date within 7 days or the full amount outstanding balance within a further 7 days if the account has not been brought up to date
 - If payment is not made, the Council Tax payer will lose the right to pay by instalments
 - Where the Council Tax payer brings payments up to date within the first 7 day period, then they will return to the instalment scheme

Failure to pay instalments

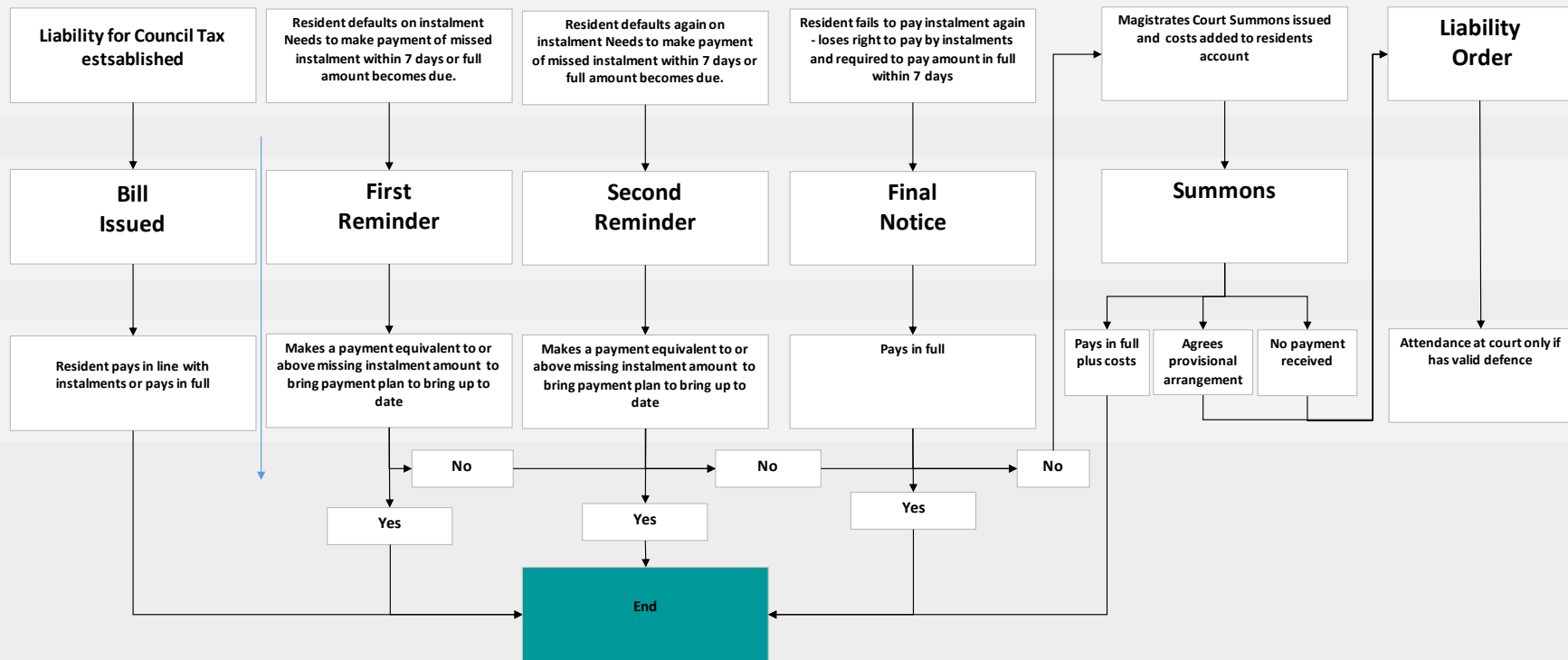
- Where the Council Tax payer has defaulted on a second occasion a further reminder notice may be sent requesting payment be brought up to date. If payment is made, the Council Tax payer will revert back to their instalment plan. If payment is not made, the Council Tax payer will lose the right to pay by instalments
- Where the Council Tax payer has defaulted on a third occasion , they will lose the right to pay by instalments and a final notice may be sent requesting payment of the full sum for the full financial year be paid within 14 days

Failure to pay instalments – next steps

- Where the Council Tax payer has lost the right to pay by instalments and a sum remains outstanding, the Local Authority will instigate proceedings to bring the matter before the Magistrate's Court
- The Local Authority will lay complaint with a Justice of the Peace and request 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.
- An application cannot be made more than 6 years after the day the amount became due

Electronic service of reminders/summonses

- The Council Tax and Non-Domestic Rating (Electronic Communications) (England) Order 2003 allows for statutory reminders to be issued electronically
- Final notices fall outside of this provision so cannot be issued electronically
- The Magistrates' Courts (Amendment) Rules 2019 (came into force on 1 January 2020) and enable summonses to be served electronically
 - Reminders ✓
 - Finals x
 - Summonses ✓



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
- Local Authorities adopt a variety of approaches
- Reverend Nicolson

Court costs

- If between the issue of the summons and the court date, a payment equal to the Council Tax due and the cost reasonable incurred, the Local Authority will accept the amount and the court application will stop
- If the costs are not paid then the application can proceed for the costs only

The hearing

At the hearing, the court must be satisfied that the sum claimed is due and has not been paid. In order to be satisfied, the court may require oral or written evidence from the Local Authority to prove that the following procedures have taken place

- The Council Tax has been fixed by resolution of the billing authority
- The sums have been demanded 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 hearing (cont.)

- 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 (cont.)

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
- Bankruptcy proceedings have started
- An unauthorized officer is attempting to obtain the order

The hearing (cont.)

Invalid defences against the issue of a Liability Order

- Matters that can be appealed to a Valuation Tribunal
 - Liability
 - Discounts
 - Exemptions
- Inability to pay
- Need more time to pay
- Waiting for a benefit decision

The hearing (cont.)

- If satisfied that the sum claimed is due and payable by the person summonsed and it has not been paid, the court is obliged to make a Liability Order. The billing authority is required to satisfy the court that the necessary statutory procedures have been followed.
- The granting of a Liability Order provides the Local Authority with a range of enforcement options which can be used without further recourse to the court, which will be discussed later today

Questions

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