

Billing and Collection

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David Holmes LL.B, IRRV(Hons)
Court Officer, Blackpool Council

IRRV Examiner for Council Tax Law and Practice
IRRV Examiner for Non Domestic Rating Law and Practice
Editorial Board Member for CIPFA's tisonline service



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Demand notices

Demand notices – these are sent 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.
- 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'

Demand notices

The content of a demand notice is prescribed by legislation. The list is comprehensive, but in the main this is to include the following:

- Name of the person(s) to whom the demand is payable
- The date of issue
- The address and the period to which the notice relates, 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 which apply to any precepts, and details of where to find information relating to them.

The rules of service

- The demand notice should be issued as soon as is practicable after the tax has been set or the adjustment has been made, and at least 14 days before the first instalment is due.
- In the event of there being joint and several liability; where all liable parties reside at the same address, then only a single demand notice is required, but where the liable parties live apart, then a separate notice needs to be sent 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
- in the case of a 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 conspicuous part of the premises.

But if the notice is returned to sender then it is deemed not to have been served.

The rules of service - electronic

For tax years starting from 1 April 2004, demand notices can be served electronically if the prescribed conditions have been met. These are that:

- the billing authority and that person have agreed for that purpose that any document containing that notice or information may be accessed by that person on a website
- the document is a document to which that agreement applies
- the billing authority has published the document on a website and
- that person is notified, in a manner for the time being agreed for that purpose between him and the billing authority of:
 - the publication of the document on a website
 - the address of that website and
 - the place on the website where the document may be accessed.

If the taxpayer does not pay, enforcement action can be taken by issuing a paper reminder and final notices before proceeding with court action.

Instalment schemes

Legislation dictates that Council Tax is payable by instalments. There is a statutory instalment scheme which is detailed as follows:

- where the notice is issued on or before 30 April of that year, the number of instalments shall be ten
- where the notice is issued on or after 1 May in the relevant year, the number of instalments shall be one less than the number of whole months remaining in that year
- where the notice is issued on or after 1 January in the relevant year, the amount is payable in a single 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

Twelve monthly instalments

With effect from 1 April 2013 council tax payers in England may request to pay their council tax over 12 monthly instalments rather than the statutory ten months. The request must be in writing and may be made either before or after the demand notice has been issued:

- Where the notice is issued before the beginning of the relevant year or at any time in the period beginning on the first day of that year and ending on 15 April of that year the number of instalments shall be twelve.
- Where the notice is issued on or after 16 April in the relevant year, the number of instalments shall be the number of whole months remaining in the relevant year after the issue of the notice.

Instalments – discretionary schemes

Lump Sum payment discount

A local authority may accept a lump sum payment in satisfaction of a liability to pay an estimated amount under a demand notice. The lump sum must be less than the estimated amount, and the number of instalments due must be more than two.

Non –cash payment discount

A local authority may accept an amount ("discounted amount") in satisfaction of any liability of a person to pay any instalment or other payment due under a demand notice. This is an incentive to billing authorities to encourage their Council Tax payers to pay their bills by direct debit or bankers order rather than opting to pay by cash or postal remittance, thereby reducing the "cost of collection" to the authority.

Failure to pay instalments

Where a 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 had 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, again 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 Magistrates 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.

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 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 in accordance with the relevant statutory provision
- 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 seven days of the reminder or final notice being issued and the full amount has become payable
- the summons has been served for the amount outstanding at least seven days after the sum became payable; and
- the full sum claimed (including costs) has not been paid.



The hearing

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 authority with a range of enforcement options which can be used without further recourse to the court, which will be discussed in the next session.



Questions?

Feel free to contact me direct:

T: 01253 478836

E: david.holmes@blackpool.gov.uk