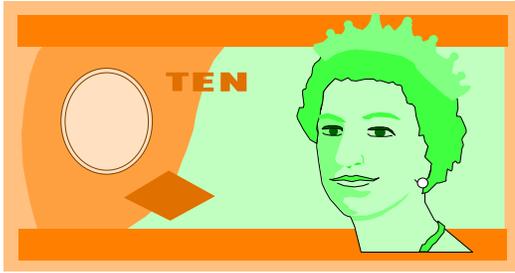


WHAT HAPPENS IF I DO NOT PAY MY COUNCIL TAX



The following pages are an explanation of what will happen if you do not pay your Council Tax in accordance with the bill and payment booklet which has been sent to you. You should always be aware that payment should be made on the most recent bill issued.



What happens if I do not pay my Council Tax?

It is appropriate to first explain that the Council expects each instalment to be paid by the 7th of the relevant month. That is to say the payment should be at the Town Hall by that date. **Delays** in payment reaching the Council offices are **not** the Council's responsibility but the **Council Taxpayers**. However, were you to opt for payment by Direct Debit this could be on the 1st, 7th or 15th of each month over ten months on 1st and 7th or ten or twelve months on 15th.

People who are paid towards the end of a month should budget from their previous months income to cover the instalment which falls due on the 7th of the month.

The annual Council Tax bills are issued around the 15th of March each year thus allowing people who are paid towards the end of the month to budget for the 7th April instalment from their March income.

Reminder Notice

If you do not pay an instalment on time a reminder notice will be issued. Whilst the legislation allows such notices to be issued immediately a payment is missed, in practice we allow around seven days grace for payment to be made. You will have seven days from the date of the notice to bring your account up to date.

If you fail to bring your account up to date then you have a further seven days to pay the full amount outstanding for the financial year.

On the back of each Council Tax reminder notice there are details of how to pay and a Direct Debit instruction.

At reminder notice stage it may be possible for a short-term hold to be placed on your account if for some reason you have difficulty in making a payment. You must, however, realise that this is the exception rather than the norm. To discuss matters of this nature you need to ring the Council's Recovery Office on Bedford (01234) 221644. (Please also see appendix A to this document regarding enforcement of the Council Tax and who to contact if you need advice/assistance because of your circumstances.

When a reminder notice has been issued and the account is brought up to date within the seven days and further instalments are then paid by the due dates no further action will be taken by the Council. However, if a further instalment is late then a second reminder notice will be issued. This notice will again allow seven days for the account to be brought up to date.

If you fail to do this you then have a further seven days to pay the full balance outstanding. In addition this notice will advise that a further failure to pay any instalment by the due date could lead to the immediate loss of the instalment facility and legal recovery proceedings for payment of the full balance outstanding.

Summons

Where a Council taxpayer fails to make payment in full fourteen days after the reminder notice the Council will issue a Magistrates Court summons for the full amount outstanding with a view to obtaining a liability order, (The granting of a liability order gives the Council certain powers to enforce the unpaid Council Tax). The Court date will be approximately three to five weeks on from the date of issue of the summons. At this stage £70.00 costs will be incurred by the taxpayer. Payment of the full balance outstanding, including the costs will result in the withdrawing of the enforcement activity.

On the front of the summons there will be an offer of a payment arrangement from Bedford Borough Council as follows;

The Council will ask the Magistrates to grant a liability order unless the full outstanding amount, including costs, is paid before the hearing date. If you are not in a position to make full payment then the Council will apply for a liability order at the hearing, however, you may avoid further enforcement action by making payment as follows:-

A payment of £xxx.xx to be made before dd.mmm.yyyy., followed by £yyy.yy to be paid on the yy of each of the following 6 months.

If you are unable to make payment as shown above then you should fully complete and return the enclosed income and expenditure form with your offer of payment straight away.

On the reverse of the summons is information relating to the summons and possible valid defences against the issue of a liability order. (See appendix B)

Enclosed with each summons is summons information leaflet which incorporates an income/expenditure form. A taxpayer is invited to complete this form and return to the Recovery Office at the Town Hall if they are unable to pay the full balance. The Council will consider any offer of payment made so long as it will deal with the Council Tax within a reasonable period of time.

Liability Order

In the absence of a valid defence against the issue of a liability order the Magistrates are bound to grant the order. This gives the Council certain powers to enforce payment of the outstanding sum.

At this point in time the Council may use information already held to enable the matter to be resolved. For example if information is available to show that the taxpayer is in receipt of income support, job seekers allowance pension credit or employment support allowance an approach may be made to the relevant office of the Department for Work & Pensions to have the outstanding balance deducted from the benefit. Alternatively if the Council is in possession of employment details it may approach the employers to have the debt deducted from earnings.

If the initial payment on the summons payment arrangement has been made or the income/expenditure form issued at summons stage previously been returned then payment arrangements may already be in force, and no further action on the liability order will be taken provided payment is made in accordance with the arrangement.

In the absence of any arrangements (as shown above) a liability order notice will be sent out with an income/expenditure form. There is a legal obligation on the Council taxpayer to return this form. The form should be returned within fourteen days, as failure to complete and return the form or to provide false information could lead to prosecution and a fine.

The Income/Expenditure form and payment arrangements

The income/expenditure form will be used to assess a person's ability to make payment of the outstanding arrears. The information held on the form will be analysed by the Recovery Unit to determine whether the offer of payment made is realistic and acceptable to the Council. If it is, a payment instruction letter will be sent out detailing how and when payment should be made. So long as payment is then made in accordance with these instructions further costly recovery action will be avoided.

The Council may consider that your offer of payment is insufficient when comparing your income and expenditure levels. You may then be offered an arrangement that is at a higher repayment level than you had offered. This would be explained if that were the situation.

Alternatively the Council may determine that it is appropriate to go for an attachment of earnings or deductions from income support, job seekers allowance, pension credit or employment support allowance. You would receive written notification of such a decision.

If a payment arrangement is accepted this would be entered onto the Council's records and monitored to ensure that payment was being made. Failure to make payment or delays in

making payment would result in a reminder letter being issued. This would advise that the arrangement should be brought up to date and kept up to date.

Failure to respond to such a notice would result in the loss of the arrangement facility without further notice and the commencement of further enforcement action, i.e. Attachment of Earnings or Bailiff activity.

Attachment of Earnings

Once a liability order has been obtained the Council does have the power to impose an Attachment of Earnings Order on an employer to collect unpaid Council Tax owed by an employee. If such action is taken then the debt is collected based on a percentage of net earnings as per the attached scale (**Appendix C**) (**weekly, fortnightly or monthly**). Council Tax legislation does dictate that two orders can run at the same time, the second attachment being based on the relevant % deduction from net earnings left after the first deduction has been taken and the Council invokes such attachments when it is appropriate.

Deductions from Income Support/ Job Seekers Allowance/ Pension Credit/Employment Support Allowance

Generally, if someone is in receipt of Income Support, JSA, Pension Credit or Employment Support Allowance they would be in receipt of 100% benefit. However, it may be that they have previous arrears of Council Tax still outstanding. Where this is the case and the Council holds a liability order then the Council has the right to approach the Department for Work & Pensions to have the debt collected direct from the person's benefit. This is currently at a rate of £3.30 per week. In the case of multiple debts, once liability orders are obtained the debts would be collected in this manner one after the other. Generally speaking the moment it comes to the Council's attention that someone is in receipt of IS/JSA/PC/ESA an approach would be made to the Department for Work & Pensions and other forms of enforcement would be suspended.

Bailiff activity

Where a person has failed to deal with a liability order by completing an income/expenditure form and making a payment arrangement and the Council does not have information to allow an Attachment of Earnings or Deductions from IS/JSA/PC/ESA then it will be appropriate for the matter to be passed to external bailiffs for collection.

External Bailiff activity

Throughout the above processes it is recognised that there are "can pay won't pay" debtors who choose not to deal with the payment of the Council Tax. Where a person fails to deal with the Council Tax liability as detailed above then the case is passed to external bailiffs for enforcement.

The basic role of the bailiff is to secure payment of any outstanding debts by way of “distress.” That is the seizing and selling of goods at public auction to realise the outstanding sum including all costs and fees incurred up to and including the sale fees.

This can be a costly exercise (details of the legislatively governed costs and fees are attached at appendix D of this document). In reality the bailiff is charged with collecting the outstanding balance either in one lump sum or by arrangement over a period of time and would be looking to secure such arrangements by taking what is known as “walking possession” of goods. That is to say he would seize and list goods but not remove them from the premises so long as payment was made in accordance with any arrangement made with the debtor.

The Council does have a code of conduct which external bailiffs are expected to adhere to (see under B in the A to Z index of this web site).

At any time a case is with an external bailiff the Council does reserve the right to direct the bailiff to deal with the case in a manner prescribed by the Council. In addition the Council reserves the right to have a case returned at its request if it considers there is a more appropriate way to have the debt collected such as Attachment of Earnings or deductions from IS/JSA/PC/ESA.

Where a bailiff is unable to secure payment of the debt then a “nulla bona” or no goods certificate is passed to the Council. This is a document detailing the actions the bailiff has taken in trying to secure the debt, finally stating that he has either been unable to find goods or gain peaceful entry to the debtors premises to enforce payment.

Such a certificate allows the Council to invoke the next steps in the recovery exercise, which may be committal to prison or insolvency proceedings.

Committal to Prison

A further sanction available to the Council in the enforcement of unpaid Council Tax is committal to prison proceedings. The local Magistrates Court does have the power to commit a Council Tax debtor to prison for up to 90 days if they consider that a failure to pay Council Tax is due to the debtors “wilful refusal or culpable neglect.”

This means that if it can be proven that the person had, at the relevant time and at the time of the hearing, the means to pay the outstanding amount then the Magistrates can consider a custodial sentence of up to 90 days for the failure to pay. Serving a prison sentence does not legally remove the debt.

The Council will issue a means enquiry summons returnable in the local Magistrates Court some three to five weeks in the future. An income/expenditure form would be enclosed with

such a summons with a view to resolving payment without the need for a Court appearance. The Council at this stage would consider a payment arrangement or go for an Attachment of Earnings or deductions from IS/JSA/PC/ESA if it was appropriate.

If it were necessary at any Court hearing an enquiry into the debtors means would be conducted to consider whether the failure to pay was due to “wilful refusal or culpable neglect.” This would take the form of a series of questions to identify the debtors circumstances at both the time that the debt was incurred and also at the time of the hearing. The Magistrates would base any decision on what was said at such an enquiry.

The decisions the Magistrate can make at such a hearing are either an immediate custodial sentence, a sentence deferred on some terms (usually to make payment over a period of time) or to remit the outstanding sum.

This can only be done with the cooperation of the Council Tax debtors and the key to the Fair Debt Collection policy is “get in touch not in debt.” Throughout all the above processes the Council welcomes dialogue with a view to resolving outstanding balances without the need to go through all the available processes.

This can, however, only be achieved with your cooperation.

Insolvency

The Council may, if it thinks appropriate, serve a statutory demand and instigate insolvency proceedings. Were this action to be undertaken then substantial costs may be incurred and could result in the loss of assets to recover the outstanding Council Tax.

Charging Orders

If a council tax payer has outstanding Council Tax of £1000 or more the Council can apply to have a charge placed on the debtors property, and subsequently apply for an order for sale.

Appendix A

Enforcement of the Council Tax

Explanatory Notes, including details of advice and/or assistance which may be available.

Introduction

This leaflet describes ways in which advice and or assistance may be made available to people who are on a low income and people who may be experiencing financial difficulties. In addition it describes the enforcement proceedings available to the Billing Authority should a Reminder or Final Notice remain unpaid.

Assistance and Advice

Council Tax Benefit. People on low income who have not previously applied for benefit should do so. Apply immediately to the Benefits Office, Town Hall, Bedford. This office is open Monday to Thursday 8.45 am to 5.00 pm or Friday 8.45 am to 4.45 pm or can be contacted by telephoning Bedford 221797.

If you are currently experiencing financial difficulties, advice may be available from certain voluntary organisations operating in the Council's area. Further information can be obtained by contacting the Local Taxation Office on Bedford (01234) 221644 or by writing to the Financial Services Division, Town Hall, Bedford, MK40 1SH.

Liability Order

If the arrears stated in a REMINDER NOTICE are wholly unpaid at the end of a 7 day period, beginning with the day on which the notice was served, the whole balance will become due. The Billing Authority may then after a further 7 days apply to the Magistrates for the issue of a SUMMONS against the taxpayer. The issue of a summons will incur the taxpayer in costs of £70.00.

Unless the tax payer has a valid defence for non-payment, the Magistrates will issue a liability order. This will give the Billing Authority powers to recover the debt as the following paragraphs describe.

The Personal Information Form

Having obtained a liability order, the Billing Authority may send a request for employment and financial details. The taxpayer has a duty to supply such information, failure to do so is a criminal offence and may result in a penalty being imposed, (up to £100 for failure to supply information and £400 for supplying false information).

Attachment of earnings

An attachment of earnings order is an order instructing the debtor's employer to make deductions from the earnings of an employee who has defaulted in paying a debt, in this case the Council Tax. This can be done automatically once a liability order has been obtained. The employer will be instructed to deduct in accordance with the order. An employer may make an additional £1.00 administrative charge for every deduction that is made.

Deduction from Income Support/Job Seekers Allowance/Pension Credit/Employment Support Allowance

Where a liability order is made against a person who is receiving Income Support, JSA, Pension Credit or Employment Support Allowance, the Billing Authority may apply to the Department for Work & Pensions office making the payments for deductions to be made from the benefit.

Distress

The Billing Authority may levy the appropriate amount by distress. This means that the authority is entitled to seize and sell possessions belonging to the taxpayer so that all or part of the outstanding amount on the liability order, including any COSTS associated with the distress, is paid.

Commitment to Prison

The Billing Authority has the power to apply to the Magistrates Court for an Inquiry into persons Means to be held at which time the Magistrates have the power to commit to prison for a period of up to 90 days.

Insolvency

Where a liability order has been obtained and the debtor is an individual, the amount due will be deemed to be a debt for the purpose of the bankruptcy proceedings under the Insolvency Act 1986.

Charging Orders

The Billing Authority can apply to a County Court for a charging order against the defaulters dwelling if the outstanding Council Tax is at least £1,000.

Costs associated with Enforcement

It must be pointed out that costs will be incurred during the recovery proceedings which will be passed on to the tax payer as follows:-

Complaint and summons £70.00, Distress £24.50 (**minimum charge**), Means Inquiry complaint and summons £240.00 (**minimum charge**).

Appendix B

Do I need to go to Court?

You do not need to attend Court unless you wish to enter a defence against the issue of a liability order, however, if you do not attend a liability order will normally be issued in your absence. Should you attend court you will be asked which defence you are using and you must satisfy the Magistrates that the defence applies in your case. If you can not identify a defence the Court will issue a liability order against you without further discussion.

The valid defences are

- The Council did not pass a resolution setting the Council Tax and it was not published in a local newspaper
- A bill was not sent to you
- The bill did not show that you could pay in instalments in accordance with the regulations
- You have paid the Council Tax to Bedford Borough Council
- You are not the person shown on the summons

The fact that you may have an appeal outstanding against the valuation band of your property or an outstanding Council Tax benefit claim is not a valid reason for withholding payment and is not a legal defence against the issue of a liability order.

How can I stop my case being taken to Court?

You must pay the amount outstanding on the summons including costs in full, prior to the hearing. This is because you have now lost the right to pay by instalments.

I can not afford to pay the amount outstanding?

There is a payment arrangement shown on the front of this Summons and providing that you pay in accordance with this you need take no further action. If you are unable to make payment as detailed overleaf you must complete and return the income and expenditure form on the enclosed leaflet so that a suitable payment arrangement can be considered. In either case the Council will still obtain a Liability Order but no action will be taken to enforce the order so long as you make payment as agreed.

How can I pay?

If you want to pay the full amount you may make payment

- by debit or credit card on the Council's 24 hour payment line 01234 221869 or on our website www.bedford.gov.uk and select 'Pay It'
- at any Post Office or Payzone outlet. In order to avoid a transaction charge for this method of payment make sure you take this notice with you when you make payment so that the bar code overleaf can be scanned.
- by posting a cheque payable to Bedford Borough Council to the Town Hall, St Paul's Square, Bedford, MK40 1SH
- in person at the Town Hall by cash, cheque, debit or credit card

If you want to pay in instalments as shown on the payment arrangement on the front of this Summons you may use any of the above methods or you can pay monthly by Direct Debit on the 1st, 7th or 15th of the month. A Direct Debit Instruction can be downloaded from our website www.bedford.gov.uk/counciltax or telephone 01234 221644 to request a form.

Appendix C

DEDUCTIONS TO BE MADE UNDER ATTACHMENT OF EARNINGS ORDER

**TABLE A
DEDUCTIONS FROM WEEKLY EARNINGS**

(1) Net earnings	(2) Deduction rate %
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

**TABLE B
DEDUCTIONS FROM MONTHLY EARNINGS**

(1) Net earnings	(2) Deduction rate %
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

TABLE C
DEDUCTIONS BASED ON DAILY EARNINGS

(1) Net earnings	(2) Deduction rate %
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 £3852	12
Exceeding £52 but not exceeding £5372	17
Exceeding £72	17 in respect of the first £72 and 50 in respect of the remainder.

Appendix D

THE COUNCIL TAX (ADMINISTRATION AND ENFORCEMENT)
REGULATIONS 1992 - REGULATION 45 (AS AMENDED)
SCHEDULE 5 - Regulation 45(2)(b) CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 39(2) shall be as set out in the following Table -

(1) <i>Matter connected with distress</i>	(2) <i>Charge</i>
A For making a visit to premises with a view to levying distress (where no levy is made):	
(i) where the visit is the first or only such visit:	£24.50.
(ii) where the visit is the second such visit:	£18.00.
B For levying distress:	The lesser of -
	(i) the amount of costs and fees reasonably incurred, and
	(ii) the relevant amount calculated under paragraph 2(1) with
respect to the levy.	
C For one attendance with a vehicle with a view to the removal of goods (where following the levy, goods are not removed):	Reasonable costs and fees incurred.
D For the removal and storage of goods for the purposes of sale:	Reasonable costs and fees incurred.
E For the possession of goods as described in paragraph 2 (2) -	
(i) for close possession (the man in possession to provide his own board):	£15.00.
(ii) for walking possession:	£12.00.
F For appraisalment of an item distrained, at the request in writing of the debtor	Reasonable fees and expenses of the broker appraising.
G For other expenses of, and commission on a sale by auction -	
(i) where the sale is held on the auctioneer's premises: not exceeding in aggregate 15 per cent of the sum realised), together with reasonable costs and fees	The auctioneer's commission fee and out-of-pocket expenses (but incurred in the respect of advertising.
(ii) where the sale is held on the debtor's premises -	The auctioneer's commission fee (but not exceeding 7.5 per cent of the sum realized), together with the auctioneer's out-of-pocket expenses and reasonable costs incurred in respect of advertising.
H Where no sale takes place by reason of payment or tender in the circumstances referred to in regulation 45(4):	Either
	(i) £24.50 or
amount in	(ii) the actual costs incurred, to a maximum of 5 per cent, of the
made, whichever is the greater.	respect of which the liability order was

2 (1) In heads A and B of the Table to paragraph 1, "the relevant amount" with respect to a visit or levy means -

(a) where the sum due at the time of the levy does not exceed £100, £22.50.

(b) where the sum due at the time of the levy exceeds £100, 20 per cent on the first £100 of the sum due. 4 per cent on the next £400. 2.5 per cent on the next

£1500. 1 per cent on the next £8000 and 0.25 per cent on any additional sum: and the sum due at any time for these purposes means so much of the amount in respect of which the liability order concerned was made as is outstanding at the time.

- (2) An authority takes close or walking possession of goods for the purpose of head E of the Table in paragraph 1 if it takes such possession in pursuance of an agreement -
- (a) to which the debtor is a signatory:
 - (b) which is made at the time that the distress is levied: and
 - (c) (without prejudice to such other terms as may be agreed) which is expressed to the effect that, in consideration of the authority not immediately removing the goods distrained upon from the premises occupied by the debtor and delaying its sale of the goods, the authority may remove and sell the goods after a later specified date if the debtor has not by then paid the amount distrained (including charges under the schedule), and an authority takes close possession of goods on any day for those purposes if during the greater part of the day a person is left on the premises in physical possession of the goods on behalf of the authority under such an agreement.
- (2a) No charge shall be payable under head F of the Table to paragraph 1 in respect of the appraisalment of an item unless the debtor has been advised of the charge, and the manner of its calculation, before the appraisalment is made.
- 3 (1) Where the calculation under this Schedule of a percentage of a sum results in an amount containing a fraction of a pound, that fraction shall be reckoned as a whole pound.
- (2) In the case of a dispute as to any charge under this Schedule, (other than a charge of a prescribed amount) the debtor or the authority may apply to the district judge of the county court for the district in which distress is or is intended to be levied for the amount of the charge to be taxed.
- (3) On any such application, the district judge may give such directions as to the costs of the taxation as he thinks fit: and any such costs directed to be paid by the debtor to the charging authority shall be added to the sum which may be aggregated under regulation 39(2).
- (4) References in the table to paragraph 1, to costs fees and expenses include references to amounts payable by way of value added tax with respect to the supply of goods or services to which costs, fees and expenses relate.