

Council Tax

Important Information – Summons and Liability Order

When the Council Tax is not paid as requested by the Bill, Reminder and Final Notice, the Council makes a complaint to the Magistrates Court, and a summons is issued. As soon as this Summons is posted the Summons costs of £58.50 are incurred. The Summons will inform you of the time, place and date of the hearing when the Magistrates will consider whether they should issue a Liability Order against you. It will also tell you the total amount owed, the period of time it refers to and the costs you will have to pay.

If you pay the amount in full (including the costs of £58.50) prior to the hearing, your case will be reported as paid in the court list presented to the Magistrates.

You do not have to attend court. The Council will make a formal request to the Magistrates to award Liability Orders for all of the cases listed on the court list whether people/company representatives attend or not.

If you dispute your liability it is very important that you contact the Council prior to the court hearing. It may not be possible to resolve your query at court and may lead to an award of a Liability Order or an adjournment to the next court hearing.

A **Liability Order** is a decision by the court stating that you have not paid, in full, the amount of Council Tax shown on the Summons. The Magistrates will also award costs against you, which you will have to pay the Council. **The amount of these costs is currently £58.50.**

There are a few reasons in law why the Magistrates may decide not to issue a Liability Order, although not exhaustive listed, below are the main defences against the issue of a Liability Order:

- The Council Tax has not been properly set
- The property is not entered in the appropriate Valuation List
- The total amount of the Summons has been paid in full – and a receipt is available and shown
- The Council has not asked you to pay in the correct way, as stipulated by law in accordance with the Administration and Enforcement Regulations of the Local Government Finance Act 1992 (for example the Council have not billed or reminded you correctly)
- Bills and reminders have not been sent (the Council provides evidence that the proper recovery process has been followed and everything has been issued by 2nd class post we do not have to prove that you have physically received notices and it is not a defence just say nothing has been received).
- You are exempt from payment of the Council Tax
- You are not the person who is liable to pay the Council Tax that you have been summonsed for, however, this does not include minor mistakes of spelling or title.
- Joint and several liability did not exist for the period of time and the Council has sent a bill in two or more names
- Bankruptcy, winding up proceedings have commenced or an Administration Order/Debt Relief Order has been made
- The application for a Liability Order was made more than six years after the first demand was issued

To save the courts time it is reasonably expected that if any of the situations listed above apply to you (or you think they may apply) that you contact the Council for clarity prior to the hearing as it may be possible to resolve your

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enquiry and therefore you will not have to attend court. Unless you are not satisfied with our response then you can still attend court and make your case to the Magistrates.

It is not a valid defence against the issue of a Liability Order if:

- You have money problems and simply cannot afford to pay or you think the tax is unfair
- You have applied for Council Tax Rebate or a discount or exemption and to date you have not heard anything
- You consider the valuation band attributed to the dwelling to be incorrect and you have appealed to the Valuation Office Agency (VOA)

The Magistrates will NOT take into account your financial situation or whether you have an outstanding appeal or benefit claim when making their decision to award a Liability Order. However, the Council will take your financial situation into account when discussing how you are going to repay this debt.

When a Liability Order has been granted it gives the Council more powers to collect the monies owed. These further actions include:

- Requesting of personal financial information. The Council will send you a form for you to complete within 14 days.
- Instructing Enforcement Agents (previously bailiffs) to visit your home to recover the debt (if no arrangement is in place the Council's will send your debt to its Enforcement Agents Ross & Roberts Ltd immediately after the court hearing. They will send you a Notice of Enforcement asking for full payment or an acceptable payment arrangement and **as soon as the Council send your case to the enforcement agent you will incur further costs of £75.00**. However, if a personal visit to your home is required in an effort to obtain payment **then additional costs of £235.00 will be incurred**).
- Contacting your employer to have money taken direct from your earnings
- Contacting the DWP to have money taken direct from your benefits (this is not possible with benefits such as Incapacity Benefit)
- Applying for a Charging Order on your property (this means we could force its sale to pay your Council Tax arrears or the arrears will be paid out of the proceeds of any future sale – this will incur further costs)
- Applying to make you bankrupt if you owe over £5,000 (once the process has started you will incur further costs)
- Applying to the Magistrates for your committal to prison

The Council can do any of these things, but only one at a time. Committal to prison will not be considered unless the enforcement agent action has been unsuccessful.

It is important to get in touch with the Council if you receive a Summons, preferably before the hearing date otherwise you will have to deal direct with the Council's enforcement agents. This is especially important if you think the Council has made an error or you have difficulties in paying. If you do we can check any queries you have and make any changes to your account should they be needed. We can also discuss the best way to collect what is owed, although you must be aware the final decision will rest with the Council.

If we can agree an arrangement for payment, we will still ask the Magistrates to issue a Liability Order, but if you keep to the arrangement we will not take any further recovery action against you. However, if you do not get in touch we will have to decide what to do without consulting you. We would prefer to help you to pay in a way that suits both of us, and not have to take decisions without knowing your full and individual circumstances.

Upon setting up this arrangement you will be sent a special payment arrangement letter detailing your instalments and the due dates. Please note these arrangements are strictly monitored and if your arrangement is not adhered to the debt will automatically be forwarded to the Council's enforcement agents and further costs may be incurred.

All enquires relating to the recovery process should be directed to West Somerset Council on 01643 703704 or via email revenues@westsomerset.gov.uk