

## Enquiry of the Month

### **Scheduling council tax arrears in a DRO where there has been no reminder notice issued**

Due to COVID-19 we have seen an increase in enquiries where Local Authorities (LA) have decided not to issue reminder notices in relation to council tax arrears. This has become problematic for those in arrears and wishing to pursue a DRO. We were asked for advice on scheduling council tax arrears where there has been no reminder notice.

#### **Advice and options:**

Pursuant to [s2 of the Local Government Finance Act 1992](#), council tax liability is determined on a daily basis. As explained in the High Court case of *R (Mohammed) v Southwark LBC* [2009] EWHC 311 (Admin) at paragraph 26, “thus a resident of the property is liable to pay council tax in respect of each day of his residence, and the liability accrues daily”. For that reason, the bill sent out at the beginning of the tax year is only an estimate of liability contingent on the client remaining in the property for the full year. You can read about contingent liabilities and insolvency in our [July 2019 Spotlight](#).

In accordance with [Regulation 23\(3\) of the Council Tax \(Administration and Enforcement\) Regulations 1992](#), where the LA have issued a reminder notice and a client fails to pay the instalment(s) due within 7 days, the full amount will become payable after a further 7 days. Where the client has received a reminder notice and it has been at least 14 days since receiving this, then the full balance may be scheduled in the DRO.

Where a client has not received a reminder notice because their LA has paused recovery action, advisers can still schedule any unpaid council tax up until the exact date of the application. This is because, where the client's liability accrues daily and the client is still resident, at the point of the application date, the liability calculated will be a liquidated sum due at some certain future time.

#### **Calculating liability where there is no reminder**

Firstly, we would suggest advisers contact the LA and ask that they calculate the exact amount of council tax due up until that day. Some LAs may be reluctant but they will be able to perform this calculation as it is no different from when they calculate liability for someone moving address part way through a year.

If the LA refuses, then it is possible to do the calculation. Please note advisers will need to see a copy of the yearly bill. For the purpose of this example, the DRO is going to be submitted on 21 November and the yearly bill is £1200.

Firstly, you will need to calculate daily liability. This can be done by dividing a yearly bill by the number of days in the financial year. There are 365 days in the financial year 2020/21.

So,  $1200/365 = 3.28767123288$

You can then multiply the daily liability by the number of days that have passed in the financial year. You will find several websites online that detail how many days of the financial year are left. As of 21 November, there will be 134 days remaining in the financial year.

So,  $365-134 = 231$  days that have passed.

You then multiply the daily liability of 3.28767123288 by 231 to get the liability accrued so far which would be 759.452054795. You can then round this amount as appropriate and this will be the balance to schedule.

If the client has made payments already, the total of these should be deducted from the liability you have calculated. You can then schedule this amount accordingly.

It is important to remember that as advisers can only schedule the balance accrued up until the date of the application, the client will need to make arrangements to pay the remaining liability for the year.

If you have any questions regarding scheduling council tax liability in a DRO please contact the [Specialist Debt Advice Service](#).