



BUSINESS RATES

This fact sheet gives information about how to deal with arrears for National Non-Domestic Rates (NNDR) otherwise known as business rates. This includes where bailiffs have been instructed to collect the debt on behalf of the local authority.

RATEABLE VALUE

The amount you pay in business rates will be determined by your property's rateable value. This is set by your local valuation office. It is based on an assessment of what your property would fetch in rent if it was placed on the open market. If you think that your rateable value has been set too high you can appeal against it. You should do this as quickly as possible as there are limits as to how far back any change will go. You can appeal if you think any of the following applies.

- The rateable value shown in the rating list (either following a revaluation or when the property is first valued) is wrong.
- There has been a material change of circumstances which has affected the value of your property. Material changes of circumstances include:
 - i) a physical change to the building for example, if part of it is demolished or destroyed;
 - ii) a physical change in the local area, for example if there have been major road works or flooding in the area;
 - iii) a change in the use of the building;
 - iv) a change in the use of a neighbouring property.

- A valuation officer's change in value is wrong.
- A decision by a valuation tribunal (VT), lands tribunal or higher court has affected your own valuation (see below).
- Your property should be exempt, or part of it should be considered as a domestic property.
- Your property should be considered for rating as more than one property, or several properties should be considered one property.
- There is another sort of error in the list entry, for example, the address is wrong or the date of an alteration is wrong.

If your appeal is successful, the local authority will send you a revised bill with the new amount.



WARNING

Whilst waiting for a decision you must maintain the amount that has been originally set even if you think that this is wrong.

SMALL BUSINESS RATE RELIEF

Certain types of small businesses can claim small business rate relief from April 2005. If your business has a rateable value of below £15,000 or £21,500 inside London, you may be able to claim this relief by contacting your local authority.

General points on business rates

- The liable person for payment of business rates is the occupier.
- Some properties will be exempt (i.e. agricultural land and places of worship amongst others).
- From 1 April 2008 where a property is exempt you should apply for a remission which will be granted for three months (or six months in certain industrial units). After this period full business rates will become payable.
- The exemption from business rates for empty properties will be extended for one year from 1 April 2009 until 31 March 2010. During this period all empty business and non-domestic properties (with a rateable value of less than £15,000) will not have to pay business rates.
- If you are a trading business and you fall behind with instalments you will lose your right to pay by monthly payments.
- Remember if you are tied into a lease but are no longer trading, unless you assign the lease or surrender the lease (with the landlord's agreement) you will remain liable not only for rent but for ongoing business rates. Phone us for more details.
- A six year limitation period will apply to the recovery of business rates. This will run from the date that the sum falls due. Phone us for more details.

HOW TO DEAL WITH ARREARS FOR BUSINESS RATES

In the early stages you should contact your local authority and make an arrangement to pay back the arrears. If you are continuing to trade you will have to keep making payments for your

ongoing bill along with an amount towards the arrears.



WARNING

Business rates should be treated as a priority debt and you should use our self-help pack 'Dealing with your business debts' to help you work out what you are able to offer.



ADVICE

If your business premises are based in one of the England or Wales ports your business rates may change. **Phone us for advice.**

APPLICATION FOR UNIFORM BUSINESS RATE REMISSION

In certain circumstances the billing authority can consider remitting uniform business rates. The authority has the power to do this under the Local Government and Finance Act 1988 section 49.

In practice this is rare; however we recommend that you make an application if you feel that you are in exceptional circumstances. The authority must be satisfied that:

- the ratepayer would sustain hardship if the authority did not do so (remit the rates);
- it is reasonable for the authority to do so having regard to the interest of people subject to its community charge.

Such exceptional circumstances may be suggested where the business has failed, and you are left with debts on business rates, and your personal circumstances mean you are unable to make an offer of payment. Another situation may be where your business is essential to the local community; i.e. a rural post office, a nursery, day care facilities with little or no other such provision in the area.

ADVICE

These categories are not exclusive and you need to think what benefit your business has to the community.

Once a business is no longer continuing you may be on benefits with little prospect of improvements in your financial position in the future. You may suffer from ill-health. You should consider your individual circumstances and outline these to the billing authority. See the sample letter attached. (This should be amended with your particular circumstances and a financial statement should be attached to your application).

WHAT HAPPENS IF I DO NOT PAY MY BILL?

If you miss a payment, you will be sent a reminder notice giving you seven days to bring it up to date. If you do not do this or fail to pay after a second reminder, you will lose your right to pay in instalments and be asked to pay your bill for the entire year. If you still do not pay, the local authority will take the following action:

Liability order

They will apply to the magistrates' court for a liability order which will be for the total amount outstanding plus the cost of making the application.

Bailiffs

Once the magistrates' court grants a liability order, the local authority are likely to use bailiffs to try and recover the debt. They can attend your business or home or anywhere that they believe your goods to be held to try and recover the debt. These bailiffs must be certificated, meaning they must have a certificate from the county court allowing them to act as bailiffs.

Please note that at this stage there is no court procedure which could suspend bailiff action to recover the debt through a liability order.

DO I HAVE TO LET THE BAILIFFS IN?

ADVICE

If the bailiffs have not been in to your home or business before to collect this debt, they have no right to come in. They cannot break in. You can choose not to let them in.

If they have **not** previously gained entry:

- **Do not** open the door to them as they may try to push past you. If they get inside, they have a right to enter again and may break in to take your goods.
- **Do not** leave windows open or doors unlocked. Bailiffs can legally get through these at present.

ADVICE

Bailiffs **cannot** get the police to help them break in.

WARNING

Some bailiffs may leave you a phone number and arrange to come round to 'have a chat'. **Don't let them in**, even if they say it's only to use the toilet or make a phone call.

- Bailiffs may try to break into sheds, garages, greenhouses etc, even though this is illegal. Keep valuables safe. They may be able to take cars, motorbikes and other vehicles including those necessary for work.
- Politely but firmly refuse to let the bailiffs in. Offer what you can afford to pay. If the bailiffs accept your offer ask them to return to their car, and go out and pay them. Make sure you get a receipt.



WARNING

Don't sign anything. If the bailiff leaves papers for you to sign and return, you do not have to do this. You do not have to sign agreements posted through your door either. **Phone us for advice.**

The bailiffs have already gained entry to my premises

In business it can often be near impossible to prevent the bailiffs gaining entry as premises such as a shop will be open to the general public. Once bailiffs have gained entry they will usually make a list of your goods that they have levied on known as a 'walking possession'. They will then demand that you pay them the money owed or else they will return to remove the goods, **at which point they can break in** to your property.

- Contact the bailiffs straight away and make an offer to pay the debt in instalments. Use your business and household budget to support your offer. Treat this as a priority debt and remember to get a receipt for any payments that you make.
- Contact the council and ask them to take the debt back, though they may refuse to do this.

What things are the bailiffs allowed to take?

The bailiffs can only take goods that are owned by the person named on the liability order. They cannot take goods that are rented or hired, including goods on hire purchase.

Bailiffs may take goods jointly owned by the person named on the warrant and someone else. If they attempt to take goods that do not belong to you, show them proof such as a receipt or hire agreement. The owner of the goods may have to provide a sworn statement in the form of a 'statutory declaration' to say that they own the goods.

There are also some goods that are protected in regulations that they are not allowed to take. These are things such as clothing, bedding, furniture and household equipment that you need to satisfy basic domestic needs of you and your family.

For business rates the bailiffs can take tools of the trade. If the bailiffs take items that they shouldn't you can complain. See the section 'How do I complain?'.

What if I hide things or give them away?

If the bailiffs have not yet been in, you can hide things or take them somewhere else. If the bailiffs have already been in, you are committing an offence if you remove goods that they have said they will take. You can hide them on your premises but the bailiffs can search for them. However, if the bailiffs have listed exempt goods on a walking possession agreement, the agreement may be invalid as it applies to these goods. You may be able to remove the exempt goods only. If you are still unsure about what is exempt, **phone us for advice.**

BAILIFFS PROCEDURES

The bailiffs should carry written authorisation from the council and they should show this to you on request.

If they have gained entry they will not usually remove goods at this point. They will first make a list of goods that they have identified, called a 'walking possession'. They will ask you to sign this and if you then fail to pay as agreed they can come back and remove the goods, and if necessary force entry to your premises. Only the person on the liability order can sign the walking possession agreement. If a person who is not on the liability order signs then the bailiffs cannot charge the fees for the walking possession. However the levy on the goods will

still be valid if it is signed by any 'responsible adult on the premises' or even where the debtor refuses to sign. They should leave you the list of goods that have been identified.

How do I stop the bailiffs?

You can try to make an arrangement to pay the debt back at a rate that you can afford. You can offer the money directly to the bailiffs, although it is easier to get them to accept an offer if they have not gained entry to your home or business.

Bailiffs cannot send you to prison. If the bailiffs have never been in to your property and they will not accept your offer, all they do is pass the debt back to the council. You should then try to negotiate a payment arrangement with the council again.

If the bailiffs refuse your offer, you should keep the amount you have offered aside to be able to pay to the council or offer to the magistrates' court if it goes to a means enquiry hearing. See the section on 'Applications for committal to prison'.

If it has been a long time since the bailiff entered your property and you have had no further contact any future action they can take may be limited. **Phone us for advice.**

How to complain about bailiffs

INFORMATION

There are national standards for enforcement agents. These good practice guidelines set out general rules for how bailiffs should behave and what procedures they should follow. You can mention these standards in your complaint but they are not enforceable by law. Details of the standards can be found on the Department for Constitutional Affairs website listed below or **phone us for advice.**

www.dca.gov.uk/enforcement/agents02.htm

You may be able to complain about bailiff charges. The amounts that they are allowed to charge are set out at the end of this fact sheet. You are entitled to make a written request for a full breakdown of the fees and can complain in writing to the bailiffs and the council if you feel you have been charged too much.

Some of the costs allowed are what is determined as 'reasonable'. This can be difficult to argue but you may be able to make enquiries on a local basis. For example, if you have been charged £80 for attendance with a van, you could enquire how much it would cost locally to hire a van for half a day. If this is a lot less you can argue that this is unreasonable especially as they are likely to be using the van to visit a number of properties that day.

- In the first instance you should complain to the bailiffs. Ask them for a copy of their complaints procedure.
- You should complain to the local authority as the bailiffs are acting as their agent. They can ask the bailiffs to look at your complaint and change their procedures. If the council won't help you could talk to your local councillor who may be prepared to take up your complaint with the council.
- You can ask the Local Government Ombudsman to look at your complaint if the council refuse to help you.
- Complain to their professional association such as the Enforcement Services Association or the Association of Civil Enforcement Agents.
- As the bailiffs must have a certificate granted from the county court you can make a complaint to the court who issued the certificate. You can check which court this was with the Court Service, South Side, Victoria Street, London. Use a standard form (form 4) available from any county court. At a hearing the court will then consider

whether to remove the bailiff's certificate and can order compensation and the return of the goods. You should ask that the previous possession agreement is cancelled as it will continue to have effect unless the judge orders otherwise.

- You can complain to the magistrates' court. If the bailiffs have acted wrongfully the court can order the return of goods or compensation. You should make a complaint and ask for a hearing.



ADVICE

If you are considering making a complaint about conduct or fees then, **phone us for advice.**

APPLICATION FOR COMMITTAL TO PRISON

If the bailiffs have been unsuccessful the council may ask the magistrates' court for an order to send you to prison. The court is unlikely to send you to prison if you can demonstrate that you are not able to pay because you do not have enough money. To send you to prison the court would have to be satisfied that you are guilty of:

- wilful refusal (you have deliberately refused to pay);
- culpable neglect (you could afford to pay but did not).

You will then be asked to attend a means enquiry hearing. You should attend the hearing taking with you your business and household budget to show what you can afford to pay. If you have put money aside previously that the bailiff would not accept you should also offer this to show you have not refused to pay.

Be prepared to explain the reason you could not pay the debt as it fell due; and take along any supporting information such as trading accounts. If you cannot afford to pay, you still need to take your budget sheets with you to demonstrate

this. You should ask for the arrears to be written off on grounds of hardship. Case law suggests that part or all of the debt should be remitted if the arrears cannot be paid within three years. Bring this to their attention.

At the hearing the court can decide to:

- issue a warrant of commitment (send you to prison for up to three months);
- suspend the issue of a warrant on terms (usually payment by instalments);
- remit whole or part of the debt;
- adjourn;
- make no order.



WARNING

If you are committed to prison the debt becomes irrecoverable. If no order is made nor term of imprisonment fixed, the local authority can renew their application for committal if your circumstances change.

Bankruptcy, individual voluntary arrangements, and administration orders

If you are considering any of the above methods of dealing with your debt, you should bring this to the court's attention and ask for the hearing to be adjourned whilst these are considered.

Other forms of enforcement

If the amounts you owe on liability orders collectively exceed £750, the local authority may try to make you bankrupt. If this is threatened, **phone us for advice.**

SAMPLE LETTER

TO BE SENT TO THE RELEVANT BILLING AUTHORITY

(Your home address)

Date _____

To: _____

Dear Sir/Madam

Billing Ref. No: _____

I am writing to you with regards to my unpaid uniform business rates. I understand that the authority may, under section 49 of the Local Government Finance Act 1988, remit all or part of uniform business rates.

(I am no longer trading following the closure of my business and I am (my family are) now dependant upon benefits). (The business is important to the local community because.....).

I am taking this opportunity to enclose my budget sheet and schedule of creditors. You will see from this statement that I have no income with which to make an offer of payment to the authority, and that if the debt is pursued in these circumstances it would cause hardship to me (and my family). You will see we are unable to maintain basic household expenditure. I would suggest that it would be reasonable in these circumstances for the authority to remit this debt. To pursue the debt would be costly and not in the interest of the ratepayers.

- (I have no assets and live in rented accommodation)
- (I live in a jointly owned home with my wife and family with suggested equity of ...)
- (I have two dependant children who are ...and years of age.)
- (I am in receipt of disability benefit/incapacity benefit due to
- (I am attaching proof of my income (copy of benefit book)
- (Details of the equity in my home is as follows.....)

I would be happy to provide any further information you may request, and look forward to hearing from you as soon as possible.

Yours faithfully



REMEMBER

To keep copies of all letters you send to your creditors.

SCHEDULE OF BAILIFFS FEES FOR BUSINESS RATES

EVENT	FEES
Visit to your premises where no entry is made or list of goods taken.	£24.50 for the first visit £18.00 for the second visit No further charges for subsequent visits.
For making a levy (gaining peaceful entry and making a list of goods).	£24.50 or less for the first £100 of arrears 4% for the next £400 of arrears 2.5% for the next £1,500 of arrears 1% for the next £8,000 of arrears 0.25% for any additional amount
Entering into a 'walking possession agreement'.	£12 flat rate
One attendance with a vehicle with a view to removing goods after the levy has been made.	Reasonable costs incurred and for one attendance only.
Removal and storage of goods.	Reasonable costs incurred.
Valuation of goods, at your request.	Reasonable fees and costs, provided you have been told in advance that a charge will be made.
Sale	Up to 15% of the proceeds of the sale if the sale is held on auctioneer's premises, plus reasonable advertising costs. Up to 7.5% of the proceeds of sale if the sale is held on your premises, plus the auctioneer's out of pocket expenses and reasonable advertising costs. Where no sale takes place, £20 or the actual costs up to 5% of the sum due, whichever is the larger sum.

Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.

Freephone 0800 197 6026 Website www.bdl.org.uk

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