

# Council tax legality - frequently asked questions

## **Provide confirmation the debt exists lawfully.**

The issuing of a council tax demand notice (the bill) creates the debt. A signature or agreement from a resident is not necessary for council tax, it is a tax based on ownership and/or occupation of a property and not a contract.

## **Provide evidence that I am lawfully obliged to pay council tax.**

The hierarchy of who is considered to be the liable party is contained in the Local Government Finance Act 1992 c14 Part 1, Chapter 1, Sections 6 -9. Individual agreement of this is not necessary.

## **Provide an autographed lawful contract with you, with both of our autographs.**

Some residents consider that council tax is a contract and requires a legal contract and signatures indicating an agreement. As already explained, council tax is a creature of statute and a contract is not required.

Therefore, any reference to the Companies Act, Contracts Act, Bills of Exchange Act or other acts regarding companies or contracts is irrelevant. A variation of this question is 'Please provide evidence that I have agreed with you that you can lawfully collect an alleged debt from me.' Again, this is inconsequential, as there hasn't been an exchange of contracts or agreement. Neither is required for the billing and recovery of council tax.

## **Provide documents containing a wet ink signature.**

As covered above, a signature is not necessary for the billing of council tax and no wet ink signature is mandatory on a court summons either. Previous case law has clarified that the use of a rubber stamp or electronic signature are both valid for the purpose of the court signing a summons.

**Please state whether you are a company or a corporation and provide your company number if applicable.**

South Gloucestershire Council is a local authority within the public sector and does not have a company number.

**Please send us your VAT details/provide a VAT invoice.**

It should be noted, council tax is deemed outside the scope of VAT and we are unable to provide a VAT invoice.

**Provide evidence that you have the lawful and contractual authority to use the legal fictional name of South Gloucestershire Council for the purposes of making money.**

Whether a name is legal or fictional is irrelevant for the purposes of council tax. Council tax is charged and is payable by whoever the liable party is, which is determined by reference to the Local Government Finance Act 1992 and Council Tax (Administration and Enforcement) Regulations 1992.

**Under data protection legislation what is the lawful basis for processing personal data relating to the administration of council tax.**

For the processing of personal data based on LGFA1992 s1(1) the relevant lawful basis are:

UK GDPR A6(1)(c) 'Legal Obligation', and

UK GDPR A6(1)(e) 'Public Task' as supplemented by DPA 2018 s8(c)

You can find out more about this, including your rights in relation to our processing of your personal data in our [privacy notice](#).

**What happens if I do not pay my council tax?**

If you do not pay your council tax in accordance with your instalments a number of things can happen. Initially, we will send you either a reminder notice or a final notice. This depends on whether you have previously had reminder notices and the balance on your council tax account.

If you do not pay a reminder or final notice we can apply to the Magistrates Court for a liability order allowing us to take additional recovery action. If we have to apply for a liability order we will send you a summons in advance of the court date.

## **Why is the summons issued by South Gloucestershire Council and not the court?**

South Gloucestershire Council, as the billing authority, makes complaint to the Clerk to the Justices/Justice of the Peace by providing to the court a list of all persons against whom we wish to apply to the court for a liability order and relevant information.

If the Clerk to the Justices or the Justice of the Peace agrees that the complaint is valid they sign the list to confirm that they authorise the issuing of the summonses in respect of all persons on the complaint list. The billing authority then produces and serves the court summonses on behalf of the court.

## **What happens if I still refuse to pay?**

Once a liability order is granted we can attach orders for payment to your benefit or your earnings. In extreme cases we could instigate committal proceedings which could lead to a prison sentence, as in the Manchester Magistrates' court vs McKenzie (2015) case, where an individual who attempted to use similar 'freeman on the land' defences in court ended up in prison for 40 days.

**If you have any concerns over the charging of council tax, you should seek proper legal advice, rather than relying on internet or social media sources which may be incorrect or misleading.**