

Citizens Advice Scotland

Scottish Association of Citizens Advice Bureaux



1939-2009: 70 years
of Scottish CAB advice

Community Charge and Council Tax

Collection Periods

By Keith Dryburgh, Social Policy Officer

Citizens Advice Scotland and its CAB offices form Scotland's largest independent advice network. CAB advice services are delivered through service points throughout Scotland, from the islands to city centres.

The CAB service aims:

to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities, or of the services available to them, or through an inability to express their need effectively

and equally

to exercise a responsible influence on the development of social policies and services, both locally and nationally.

The CAB service is independent and provides free, confidential and impartial advice to everybody regardless of race, sex, disability or sexuality.

Citizens Advice Scotland
Spectrum House, 2 Powderhall Road
Edinburgh EH7 4GB
Telephone: 0131 550 1000
Fax: 0131 550 1001
Email: info@cas.org.uk
Web: www.cas.org.uk

The Scottish Association of Citizens Advice Bureaux - Citizens Advice Scotland
(Scottish charity number SC016637)

Copyright © Citizens Advice Scotland, 2010

No part of this publication may be reproduced without prior permission except for purposes of review or referral.

Table of contents

Introduction.....	4
Liability	5
Proving liability.....	5
Benefits and liability.....	7
Enforcement	9
Lack of communication	9
Bank account arrestments	9
Unreasonable demands of repayment.....	11
House sales.....	11
Conclusion.....	13

Introduction

1. In 2008/09, Citizens Advice Bureaux in Scotland dealt with almost 25,000 tax debt issues, with a further 8,301 council tax issues that were non-debt related. Around 1 in 10 debt issues brought to bureaux relates to council tax arrears. In 2009, almost a third of CAB debt clients had an outstanding council tax or community charge debt, compared with a quarter of clients in 2004.
2. Community Charge (or poll tax) was introduced into Scotland in April 1989, and in England and Wales one year later. Although replaced by council tax in 1993, the unique Scottish collection system means that community charge arrears are still being collected up to 18 years later. Local authorities can apply for a summary warrant to collect outstanding monies from both community charge and council tax up to 20 years after the amount has become due, and then have up to a further 20 years to collect thereafter.
3. In England and Wales, arrears for community charge and council tax were pursued through the court system, resulting in a six year lifespan in which to collect these debts. This means that while old council tax and community charge arrears are effectively defunct in England and Wales, they are still very much a live issue in Scotland.
4. Scottish bureaux dealt with more than 400 issues concerning community charge last year, despite more than 16 years passing since it was replaced by council tax. Clients report experiencing many problems concerning old outstanding community charge **and** council tax debts including:
 - Local authorities erroneously claiming a client is in arrears, where clients can prove that they did in fact make payments or that they weren't living in the tenancy in the relevant time period
 - Clients having difficulty in proving that they are not liable for debts that are 15 or 20 years old, as they are unlikely to still hold receipts or financial records for those time periods
 - Clients who were in receipt of benefits at the time but are unable to prove this due to records no longer being kept by the DWP for the relevant time period
 - Clients are usually unaware that they owe these sums, and can suddenly be faced with large bills with no apparent warning
 - Clients are facing severe recovery action, such as bank arrestments and threats of bankruptcy, with little or no prior warning.

Liability

5. Under the current system of debt collection, the onus is put on the client to prove that they did pay community charge and council tax, rather than on the local authority to prove that they did not. If the local authority does not have a record of payment – and this could be due to poor record keeping, a mistake on their part, or simply that records are not accurate after up to two decades – they will ask for repayment of arrears.
6. In a number of cases, the client may not have paid their community charge or council tax for the relevant period. While it is right in principle that they repay their arrears, it is confusing and upsetting for a client to suddenly have to repay a long forgotten and unexpected debt so many years later.
7. In other cases, the client will have paid the community charge or council tax at the time, but will struggle to prove this. Few people keep records of payments 15 to 20 years after the event. Most sheriff officers do not keep records this long, making it is even more difficult for clients to obtain proof of payment.
8. Whether the client owes the arrears or not, it is unreasonable for local authorities and sheriff officers to wait for so long before pursuing the debt. Many clients receiving demands are now retired or suffering from ill health, and will experience difficulties in meeting demands for payment.

Proving liability

9. In many community charge and old council tax cases brought to bureaux, the client is adamant that they paid the charge at the time. However, most clients do not keep records of payments that extend back 15 years or so, and are unable to prove that they made the payments.
10. However, a minority of clients *have* kept records and receipts. These clients have been able to prove that they did make payments and that the local authority was mistaken in their demand for payment. Given the small minority of clients that have kept records this long, it is difficult to know how many demands for arrears are erroneously sent to clients.

A West of Scotland CAB reports of a client who was able to prove that she didn't have any community charge arrears after receiving a demand for over £500. The bureau wrote to the council requesting a break down of the arrears and relevant time period. Once this had been passed to the client, she was able to provide proof of all payments made. The client had kept all receipts in her loft, and was able to show that she was not in arrears. The bureau noted that few clients would be able to provide proof of payments 15 years after making them.

A West of Scotland CAB reports of a client who brought in community charge debt letters from the local authority which detailed outstanding debts from 1990/91, 1991/92 and 1992/93. The client was unsure why the amount being asked for was now around £475, when he had provided evidence that he had paid up to date except for one payment of £109. This was due to the client leaving work and applying for benefit at the time. The local authority advised that the amount was for community charge debts for two different addresses during the period of 1990 – 1993.

11. Other clients who believe that they have paid community charge or council tax may not have kept the records of payment. This is particularly the case for clients who paid their bills in cash and did not keep receipts of payment.

A West of Scotland CAB reports of a 76 year old client who has received a demand for nearly £250 of community charge arrears related to 1991/92. The client did not receive any prior notification of the arrears and was always of the belief that this was paid. The client made payments in cash at the time and no longer has receipts.

An East of Scotland CAB reports of a client and his wife who have both received demands for unpaid community charge of over £1,000 for the period 1989 to 1993. The client states that the amounts were paid in cash to sheriff officers at their office, but does not have any receipts to prove this.

12. In other cases, the local authority can incorrectly claim that a client was in a tenancy and that they owe arrears, when in fact the client was not living there and should not be liable.

A West of Scotland CAB reports of a client who received a letter from sheriff officers stating that she owed money from the year 2000, despite receiving no notification of arrears from the local authority. The client is very worried that her bank account will be arrested as the client has four young children and her only income comes from benefit payments. The client queried the demand and found that she was not the tenant at the address at the time of the arrears.

An East of Scotland CAB reports of a client who has received a demand for community charge arrears relating to a period when he did not live in Scotland. The local authority had initially raised proceedings for the arrears in 1994, but accepted their mistake and that the client did not live in Scotland in the period in question. However, the local authority is pursuing the same arrears again and the client no longer has the correspondence admitting the local authority's mistake.

13. A number of clients who have received demands for payment report that they had previously been assured that they had no council tax or community charge arrears. This is particularly the case for clients who bought their council home on the proviso that all arrears had to be repaid before the sale

could go through. Having met this condition, however, clients are reporting that they have been told later that they did have arrears after all.

A West of Scotland CAB reports of client who has been sent demands for community charge arrears.. The client bought her council house four years ago after meeting a requirement that she paid all outstanding council tax arrears prior to the purchase. The client paid back £2000 in arrears, and was assured that this was the full amount of all outstanding arrears owed by her. However, upon moving house, the client has been sent two demands for community charge arrears.

A West of Scotland CAB reports of a client whose joint bank account with her husband has been arrested for community charge arrears originating 17 years previously. The client maintains that they were up to date with payments at the time, and that when they bought their council house later had been told that they would not be allowed to do so unless they were up to date. The client has disposed of all her records of payments from this period, The client is upset that their bank account has been arrested, leaving them with little funds to live on.

A West of Scotland CAB reports of a client who overpaid council tax for the year 2008/09 and was told that the overpayment would be put towards existing community charge arrears. The client's wife has now also received a demand for payment of arrears. The client is upset that the local authority took two decades to get in touch regarding this debt, and that he was informed when he bought his council house that he did not have arrears.

Benefits and liability

14. A number of clients have reported that they were in receipt of benefits at the time of the arrears, which should have meant that they were not liable for the full amount of community charge. However, many clients lack documentation to prove this, nor have they been able to source it from the relevant government agency.

A West of Scotland CAB reports of a client receiving a demand for just over £850 community charge arrears for the periods 1989 -1993. The client claims to have been in receipt of benefits during the period in question and therefore not liable for the full amount. She cannot however evidence her benefit status for the relevant period.

A West of Scotland CAB reports of a client who received a demand for £415 community charge arrears from 1993. The client was a lone parent whose only income came from benefits; however, she lacks any documentation to prove her status and income in this period.

An East of Scotland CAB reports of a couple with disabilities who were notified of community charge and council tax arrears of over £3,000 when they moved to a new local authority tenancy. The arrears go back to 1989/90, but the client states that they have never received correspondence regarding any arrears. The client stated that they had an arrangement with the social work department who would make direct payments for council tax on their behalf.

15. Clients who are or had previously been in receipt of benefits are often unaware that there is an ongoing liability in respect of payment of water charges. This can result in a debt occurring, without the client being aware of the sum outstanding. When collection is sought many years later after the debt became due, clients can also be confused as to why this has occurred.

A North of Scotland CAB reports of a client who has been in receipt of JSA for a period of time. He has never paid any council tax, and brought a series of letters into the CAB from a firm of sheriff officers which stretch back to 1994 referring to arrears totalling just under £2,500. He is unable to pay these arrears, and they appear to be mainly made up of outstanding water charges.

Enforcement

Lack of communication

16. Many clients faced with community charge and old council tax arrears complain that had received no warning or notification of arrears prior to being pursued for the debt. It can be unclear to clients why the local authority or sheriff officer has waited for more than 15 years to pursue these sums.

A West of Scotland CAB reports of a client who has received a letter from sheriff officers relating to community charge arrears in 1991/92. The client states that he paid all bills timeously and has received no notification of arrears in the past. The bureau challenged the local authority on the arrears, who stated that all relevant notices had been sent to the client and the file had been passed to the sheriff officers more than 14 years ago.

A West of Scotland CAB reports of a retired client who has been sent a demand for outstanding community charge arrears relating to 1991/92. The client states that he has never had any notice of arrears or requests to pay, and has long disposed of receipts from this period. The local authority states that all relevant notices were issued and that the matter had been passed to the sheriff officers 15 years ago.

A West of Scotland CAB reports of a client who received a visit from sheriff officers regarding outstanding council tax arrears from ten years ago. The client had no advance warning of the visit and had heard nothing from the local authority for nine years regarding the debt. The sheriff officers also advised the client that she has outstanding community charge debt from 17 years ago.

Bank account arrestments

17. For many clients, the first they hear of their community charge arrears is when their bank account has been arrested. This gives the client little chance to contest their liability for the arrears – they may not in fact be liable for the debt – and takes away the opportunity to negotiate an affordable repayment plan. Bank account arrestments can also put a client unexpectedly in financial strife, leaving them with little money to meet basic needs or make other essential payments.

A West of Scotland CAB reports of an 80 year old client who had his bank account arrested for community charge arrears originating in the years 1989-93. The client contacted the local authority who stated that another £600 would shortly be taken from the client's account to put towards the arrears. The arrears had apparently been passed to the sheriff officer in 1993 and that the clients should have received a letter at this time. The client believes he paid all community charge requests, but has no proof of this.

A West of Scotland CAB reports of a client who has had two of her bank accounts arrested for a total of over £350 to put towards community charge arrears. This was the first that the client had heard regarding the arrears. The client believes that she paid all the community charge at the time.

A West of Scotland CAB reports of a client who had his bank account arrested for over £681 of community charge arrears. The client had provided bank details for a standing order, and was surprised to find that such a large amount of money was taken from his account without warning. The client enquired about when the arrears had developed, and was told that the debt had originated sometime between 1990 and 1992. The client asked the sheriff officers to consider a repayment schedule – which was never offered to the client – but was informed that no discussion would take place as the arrestment had been successful.

18. In other cases, joint bank accounts can be arrested for community charge arrears when one of the account holders is not liable for the debt.

A West of Scotland CAB reports of client who had her bank account arrested for community charge arrears dating back to 1991-92. The account that the arrestment had taken money from was a joint account, and her husband didn't have any liability for the arrears. The client stated that she had not heard anything from the local authority between the time of the arrears and the present day.

Unreasonable demands of repayment

19. Clients can be informed of liability for community charge or old council tax arrears and then be pressed for unreasonable repayment rates or be threatened with bankruptcy. This sudden demand for repayment can be stressful and upsetting for a client who was, up until then, unaware that they had arrears.

A West of Scotland CAB reports of a client who received a demand for council tax arrears originating in 1992-93. The client maintains that she paid council tax in this period, but the local authority says there is no proof of payments, and the client has no paperwork from this time. The client agreed to pay £18 a month towards the arrears, which will clear the debt in six months. However, the local authority has now asked for her bank account details so that they can take the full amount from her account. The client is considering taking out a loan to clear the debt.

A West of Scotland CAB reports of a client who has received a demand for over £900 of community charge arrears at the address he has lived at for over 16 years. The client is adamant that bills were paid in full at the time, but the demand stated that he has seven days to pay in full or action would be taken. The client is a single parent and is worried that his bank account or wages are going to be arrested.

A West of Scotland CAB reports of a client who has been threatened with bankruptcy unless she repays in full council tax arrears from over a decade ago. The client has been repaying £200 of arrears at £15 a week, but has now been told that she owes £5,000 in arrears from 1999. The local authority advised that they want the arrears paid in full or they will go for sequestration.

House sales

20. A number of clients have reported that they have been prevented from selling their homes due to community charge arrears of which they were previously unaware. Local authorities can place an inhibition on a house, which effectively blocks the sale until the client either pays the arrears in full or signs a mandate undertaking to pay from the proceeds of the sale.
21. This action can potentially put a client in a difficult position, especially where the client needs to sell their house to meet other debt obligations. In certain circumstances, this could leave the client vulnerable to sequestration or repossession.

A West of Scotland CAB reports of a client who is being prevented from selling his house due to community charge arrears of £600 dating from 1989/90. The local authority intends to place an inhibition on the house, effectively preventing the sale from going ahead. The client disputes the arrears, but does not have documentation proving payments.

An East of Scotland CAB reports of a client who has received a demand for over £2,000 of community charge arrears after putting their house up for sale. The local authority stated that they would block the sale unless the clients either paid the arrears in full or signed a mandate undertaking to pay from the proceeds of the sale. The client is adamant that the community charge was paid, but no longer has proof of payment. The client contacted the sheriff officers for verification of payment, but they stated that they do not keep records from 15 years ago. The client is unhappy that she is expected to keep records to prove payment for 15 years, when sheriff officers are not required to do so but can still demand payment.

An East of Scotland CAB reports of a client who is being prevented from selling his home due to community charge arrears. The local authority has applied for an inhibition in order to prevent the sale of the property. The bureau reports that the same situation has occurred for a number of their clients who are trying to sell their homes.

Conclusion

22. While debtors should be responsible for their debts, nevertheless there is an inherent unfairness in a system that allows debts to be collected with little warning, and many years after they become due. This disadvantages debtors in that:-
- a. They are unable to challenge the debt effectively, due to the time delay in collecting the same
 - b. They are unprepared for large payments becoming due at little notice
 - c. They are often unaware that these sums were outstanding
 - d. Harsh enforcement action with little warning can upset delicate budgeting arrangements for people on low incomes
23. The collection periods that apply in Scotland for both community charge and council tax are at odds with other debt collection periods, such as rent arrears and consumer debts, and should be reviewed to reflect a more reasonable time period, such as five years.

Citizens Advice Scotland

March 2010