This fact sheet gives information about how to deal with arrears of National Non-Domestic Rates (NNDR), commonly known as business rates. We describe the different types of action that a council may take to collect business rates arrears and how you can negotiate an arrangement to pay your debt back. We also explain how to deal with bailiffs if they are trying to collect the debt from you.

Use this fact sheet to:

- see when you might not have to pay your business rates in full;
- understand your rights if the council uses bailiffs to try to get their money back;
- find out what other types of action the council can take; and
- negotiate an arrangement to pay back business rates arrears.

How are business rates set?

The amount you pay in business rates depends on your property’s ‘rateable value’. This is set by your local valuation office. The rateable value is based on how much rent you would be able to charge for your property if it was placed on the open market. If you think that your rateable value has been set too high, you can appeal to the Valuation Office Agency (VOA). If you are still unhappy with their decision you can then refer the matter to the Valuation Tribunal. You should contact the VOA as quickly as possible as there are limits on how far back any change can go.

You can appeal if you think any of the following apply.

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

- A valuation officer’s change in value is wrong.
- The decision is wrong because of a decision of a tribunal or court.
- Your property should be exempt, or part of it should be considered as a domestic property.
- Your property should be considered as more than one property, or several properties should be considered as one property.
- There is another type of error in how your property is listed (for example, the address is wrong or the date of an alteration is wrong).

If your appeal is successful, the council will send you a revised bill telling you the new amount of business rates you have to pay. Appealing against the rateable value of a property can be complicated. Contact us for advice.

Other important points about business rates

- The person liable to pay business rates is usually the occupier of the property.

- You do not have to pay business rates for some properties because they are ‘exempt’ (for example agricultural land and places of worship). If you are unsure whether your property is exempt, contact us for advice.

- If you are tied into a lease but are no longer trading, you will still be liable to pay ongoing rent and business rates. There are different ways of trying to deal with the amount you owe under a lease agreement. Contact us for advice.

- If a long time has passed since your business rates arrears became due, the council may be limited in the action that they can take against you. Contact us for advice.

Business rates relief

Small business rate relief

Depending on the rateable value of their business premises, certain small businesses can claim ‘small business rate relief’. If you qualify for this relief, you may not have to pay all, or part, of your business rates bill. To claim small business rate relief, you will need to contact your council.

See our fact sheet:
Business property leases
Other business rate relief schemes

Several other types of business rate relief schemes are also available. Each scheme has its own rules saying which businesses qualify for relief and how much reduction can be given. It is important to check whether you may be eligible for a reduction as this can help to lower the running costs for your business. Government websites have useful information about the different schemes available and what type of businesses may qualify. For more information:

- go to [www.gov.uk](http://www.gov.uk) and search for ‘Business rates relief’ if your business is in England.
- go to [www.businesswales.gov.wales](http://www.businesswales.gov.wales) and search for ‘Business Rates Relief in Wales’ if your business is in Wales.

Business rates remission

In certain circumstances, the council can consider remitting business rates. This means they will allow you not to pay all or part of your business rates bill. They have the power to do this under section 49 Local Government Finance Act 1988. In practice, local authorities do not agree to this very often. However, it may be worthwhile making an application if you feel that you can show that you are in exceptional circumstances. In order to remit business rates, the council must be satisfied that:

- you would suffer hardship if they did not remit the business rates; and
- it is reasonable for them to remit your business rates, taking into account the interests of local people.

Exceptional circumstances may be where:

- your business is essential to the local community. This may include a rural post office, a nursery and day care facilities where there are no other similar services in the area; or
- your business has failed, you are left with arrears on business rates and your personal circumstances mean you are unable to make an offer of payment. If you now receive only benefit income and this is unlikely to change in the future, your circumstances are more likely to be considered exceptional. For example, this could apply if you are suffering from long term ill health.

Extra advice:

other exceptional circumstances

This is not a complete list of when exceptional circumstances may apply. When considering whether your circumstances may be exceptional, think about the benefit your business has to the community and contact us for advice.

Dealing with business rates arrears

If you miss a payment towards your business rates, the council will send you a reminder notice. This gives you seven days to pay your late payment. If you do not do this, or if you fail to pay after a second reminder has been sent, you will lose your right to pay in instalments. The council can then ask you to pay your business rates bill for the whole of the business rates year.
If you have missed a payment towards your business rates, contact your council as soon as possible. If you cannot afford to pay the arrears in full, ask the council to let you pay them in instalments. Remember, if your business is still trading, you will have to keep making payments for your ongoing bill as well as an amount towards the missed payments.

If you do not pay what is owed, or make (and keep to) an arrangement to pay the arrears in instalments, the council may take further action. As the council has strong powers to make you pay, you should treat your business rates as a priority debt. This means paying your business rates before paying non-priority debts such as credit cards or unsecured loans.

Liability order
The council can apply to the magistrates’ court for a ‘liability order’. This is a court order which confirms that you owe business rates and have not paid them. The liability order will be for the total amount you owe plus the cost of the council making the application.

Bailiffs
Once the magistrates’ court grants a liability order, the council may use bailiffs to try and recover the debt. They can attend your business premises or your home. These bailiffs must be ‘certificated’. This means that they must have a certificate from the County Court which allows them to act as bailiffs.

Warning: suspending bailiff action
When your business rates debt is passed to bailiffs, there is no way of applying to the magistrates’ court to suspend the bailiff action.

Information: self-help pack
We have a self-help pack that can help you work out what you can afford to offer the council. Go to www.businessdebtline.org or contact us for a copy.

Information: changes to the law on bailiffs
On 6 April 2014, the law on bailiffs changed. The information in this fact sheet is based on our understanding of the new rules. Some bailiffs may interpret the new rules differently. It is not yet clear how the new rules will be applied in practice. If you are unsure whether a bailiff’s actions are legal, contact us for advice.

Bailiffs are also commonly known as enforcement agents. In this fact sheet we use the term bailiff.
Do I have to let the bailiffs in?

- Once the council has got a liability order, they can issue a ‘warrant of control’, which authorises bailiffs to act. Bailiffs must give you seven clear days’ notice before they visit to take control of goods. This is known as the ‘enforcement notice’. This period does not include Sundays or bank holidays. This gives you a chance to negotiate a payment arrangement based on Your budget.

- If they have not been in before, bailiffs have no automatic right to enter your business premises. However, it may be hard to stop them entering depending on the type of business you run.

- You do not have to let the bailiffs into your home. The bailiffs are not allowed to force their way into your home unless
  a) you have let them in on a previous visit;
  b) they took control of your goods and you have broken the agreement you made with the bailiffs; and
  c) they have given you two clear days’ notice.

- If you have not let the bailiffs in before, keep your doors locked. It is also a good idea to keep windows closed. A bailiff can take control of goods outside your home or business premises, so if you have a vehicle, keep it in a locked garage. If you park the vehicle on your drive, the bailiffs could clamp it.

- You could park the vehicle away from your property, but if you park it on the road and the bailiff finds it, they could clamp and possibly remove it. Contact us for advice.

- Bailiffs can only enter your premises using a normal method of entry such as a door or loading bay, not by windows or using ladders.

- If they have not been in before, politely but firmly refuse to let the bailiffs in, without opening the door to them. 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.

When can bailiffs call?
Bailiffs can only call between the hours of 6am and 9pm except where your normal trading hours are outside this period. For example, if you run a bar or nightclub.
What if the bailiffs have already been inside my home?

Business rates bailiffs should not take:

- clothing, bedding, furniture and basic household items that are necessary for the basic domestic needs of you and your family; and
- domestic items you or someone else is physically using where taking the goods is likely to lead to a breach of the peace.

The goods that bailiffs are not allowed to take include the following.

- A cooker or microwave.
- A refrigerator.
- A washing machine.
- A dining table and chairs for you and your household.

This is not a complete list of what bailiffs are not allowed to take. If a bailiff takes control of goods that are exempt, you can make a court claim for the goods to be returned. If you are unsure, contact us for advice.

If you have already let a business rates bailiff into your home or business premises, it is important to bear in mind the following points.

- The bailiff will not usually take away goods on their first visit.
- They may ask you to sign a ‘controlled goods agreement’. This allows you to keep using the items listed on the agreement. However, the bailiff can return and take the goods by breaking in if necessary. If you don’t sign the agreement, the bailiffs may remove the goods straight away. As a last resort, they may lock up the goods on your premises and this can involve locking up the whole of the business premises. Contact us for advice.
- A bailiff may not be able to take goods that are worth more than you actually owe. If they threaten to do this, contact us for advice.

Can bailiffs take goods belonging to someone else?

The bailiff can only take goods belonging to the person (or people) named on the liability order. They should not take goods that belong to other people, including rented goods. If they threaten to do this, explain that the goods do not belong to you. Show a receipt or credit agreement as proof. If the owner hasn’t got a receipt, they can provide a sworn statement called a ‘statutory declaration’ instead. Contact us for advice.

Extra advice:

If you want to complain about a bailiff, contact us for advice.

Business Debtline

We have over 20 years’ experience of helping people just like you. We are the only small business debt advice charity operating in the UK.

Follow us on Twitter @Biz_Debtline

Freephone 0800 197 6026
www.businessdebttline.org
Extra advice:

court costs

If the third party loses a claim in court to get their goods back, they may have to pay a large amount of court costs.

Bailiffs can take goods that are jointly owned by you and your partner, but if you are the only person named on the liability order, they are only entitled to your share of the goods.

Can bailiffs take goods on hire purchase or conditional sale?

There are different legal views about whether bailiffs can take control of goods on hire purchase or conditional sale agreements. If a bailiff threatens this, contact us for advice.

What if there are no goods to take?

If the bailiffs come into your home, they may decide that your goods are not worth enough to cover the cost of them coming with a van to remove and sell them. If this is the case, the bailiff may return at a later date to try to take control of your goods. They have 12 months from the date of the enforcement notice to take control of your goods. If instalments are agreed with a bailiff after they have sent you an enforcement notice, the 12 month period can start from the date that any payment arrangement is broken.

If the bailiffs haven’t yet been in and you hide things by taking them somewhere else, the bailiffs may apply to court for permission to break into the place where you have put the goods. If the bailiffs have already been in and taken control of your goods, you are committing an offence if you remove goods that they have said they will take.

Bailiff procedures

If the bailiffs are collecting business rates arrears, there are certain procedures that they have to follow.

They must have identification and written authorisation from the council for them to call. They should show you this if you ask.

Under the law, bailiffs have to leave you paperwork explaining what they intend to do or what they have done. For example, bailiffs should give you a notice telling you:

- that they intend to visit you;
- when they have taken control of your goods; and
- when they intend to re-enter your premises after a previous entry.

There are strict rules about the information this paperwork must contain. If the bailiffs do not give you the correct paperwork, you can complain or consider taking legal action against them. Contact us for advice.
Business rates bailiffs fees

Business rates bailiffs can charge you the following fees if they start the type of action described.

- £75 for being instructed by the creditor, carrying out initial checks and investigations and receiving payments.
- £235 to cover visiting and entering premises and taking control of your goods. If your debt is over £1,500, the bailiffs can also charge 7.5% of the amount you owe above £1,500. For example, if you owe £1,750, bailiffs can add on 7.5% of £250 at this stage.
- £110 to cover attending to remove your goods for sale, valuing them and arranging for them to be sold. If your debt is over £1,500, bailiffs can also charge 7.5% of the amount you owe above £1,500.
- The cost of storing goods which the bailiff has removed from you.
- The cost of hiring a locksmith, if one is needed.

If your goods are sold at auction, further fees can be charged. Contact us for advice.

The bailiffs should give you information about how much you owe before and after they visit you. If you think they have charged you too much, contact us for advice. You may be able to challenge the fees through the County Court, contact us for advice.

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 may be easier to get them to accept an offer if they have not already taken control of your goods.

Bailiffs cannot send you to prison themselves. If the bailiffs have not taken control of your goods and they will not accept your offer, they may 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, keep the amount you have offered to one side. You can use this to pay the council at a later date. You can also offer it to the magistrates’ court if there is a means enquiry hearing. See Can I go to prison for not paying business rates?.

Complaining about bailiffs

Bailiffs must follow the rules, and behave properly when dealing with you. They should not enter your home or business premises illegally or charge you large fees that are not allowed under the rules. They should not take goods that do not belong to you, or that are exempt under the rules. If they do not follow the proper procedures you can complain.

- Write a letter to the bailiff company and to the council that they are acting for. You can also check if the council or bailiff company has an email address for complaints that you can use.
Warning: 
get advice first 
Bailiff law is very complex and even if you think what they have done is unfair, they may still be acting within the law.

Make sure you include details of your complaint and make a note of relevant dates and events.

Keep a copy of your letter or email.

If you don’t hear back from the bailiff company then contact them again.

If you are not happy with their reply, think about making a complaint to another body. Contact us for advice.

Taking Control of Goods: National Standards

The Taking Control of Goods: National Standards are good practice guidelines that set out general rules on how bailiffs should behave and what procedures they should follow. You can mention these standards in support of your complaint but the standards are not enforceable by law.

Certification

Bailiffs have to have a certificate granted by the court to collect business rates. You can complain to the court about the bailiffs’ actions. If the court agrees with your complaint, they may be able to cancel the bailiff’s certificate. Alternatively, they could suspend the bailiff’s certificate on certain conditions (for example, that the bailiff is re-trained). There is no fee to pay with this application. Also, you will not have to pay further costs if your complaint is unsuccessful unless the court decides you abused the complaints process. Before considering this option, contact us for advice.

County Court claim

You could make a claim against the bailiff for any loss you have suffered. You are likely to need legal advice before choosing this option. We can help you find legal advice that is right for you. Contact us for advice.

Complain to the council

You could complain to the council 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, you could talk to your local councillor who may be prepared to take your complaint up with the council.

Complain to the ombudsman

You must complain to the council first and give them the opportunity to put things right. If you have done this and are unhappy with their response, you may be able to ask the ombudsman to look at your complaint.

If your complaint is about a council in England, contact the Local Government and Social Care Ombudsman (LGSCO).

If your complaint is about a council in Wales, contact the Public Services Ombudsman for Wales (PSOW).

Both the LGSCO and the PSOW have the power to investigate your complaint and decide if they think the council has acted wrongly. They can ask the council to change their decision, apologise to you, or even to pay you compensation. See Useful contacts at the end of this fact sheet.
Complaining about the council

If you are unhappy with the way the council has dealt with you then you can raise a complaint with them. This might be because:

- you have been given wrong information;
- the council have taken a long time to deal with your case;
- payments that you have made have not been allocated to your account; or
- you are unhappy with how council staff have behaved towards you.

Mistakes and poor administration, including delays, are often referred to as ‘maladministration’.

If you are unhappy with the council’s response to your complaint, or they do not reply within 12 weeks then you can also ask the relevant ombudsman to look at your complaint. You normally need to do this within 12 months of realising that the council has done something wrong.

- If your complaint is about a council in England, contact the Local Government and Social Care Ombudsman (LGSCO).
- If your complaint is about a council in Wales, contact the Public Services Ombudsman for Wales (PSOW).

The LGSCO and PSOW have the power to investigate your complaint and decide if they think the council has acted wrongly. They can ask the council to change their decision, apologise to you, or even to pay you compensation.

The LGSCO and PSOW cannot look at complaints about the rateable value of your property. If you are uncertain whether the LGSCO or PSOW are able to look at your complaint, you can call them and discuss your case. See Useful contacts at the end of this fact sheet.

Can I be sent to prison?

If the bailiffs have been unsuccessful, the council may ask the magistrates’ court for an order to send you to prison. They should only do this as a last resort. The court is unlikely to send you to prison if you can show 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); or
- culpable neglect (you could afford to pay but did not).

You will then be asked to attend a means enquiry hearing. It is important to attend the hearing, taking with you Your budget to show what you can afford to pay. If you have put money aside previously that the bailiffs would not accept, you should offer this to show you have not refused to pay.

Be prepared to explain the reason you could not pay the debt and take along any supporting information such as trading accounts. If you cannot afford to pay, you still need to take Your budget with you to show evidence of this. Ask for the arrears to be written off on grounds of hardship.
If you are considering other ways of dealing with your debts, such as bankruptcy, a debt relief order or an administration order, bring this to the court’s attention. Ask for more time to consider these options.

At the hearing the court can decide to:

- issue a warrant of committal (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 the case (that is give you further time before another hearing); or
- make no order.

### Other recovery action

If the amount you owe on different liability orders adds up to £5,000 or more the council may try to make you bankrupt. They may have to send you a document called a ‘statutory demand’ first. This is a legal document that shows what the council claims you owe.

If your council threatens to make you bankrupt, contact us for advice.

### Useful contacts

**Local Government and Social Care Ombudsman (England)**
Phone: 0300 061 0614
Mon – Fri 8:30am – 5:00pm
[www.lgo.org.uk](http://www.lgo.org.uk)

**Public Services Ombudsman for Wales**
Phone: 0300 7901 0203
[www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

**Valuation Office Agency**
Phone:
0300 050 1501 (for England); or
0300 050 5505 (for Wales).
[www.voa.gov.uk](http://www.voa.gov.uk)

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**Business Debtline**
Freephone 0800 197 6026
[www.businessdebtline.org](http://www.businessdebtline.org)

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Follow us on Twitter @Biz_Debtline
We have over 20 years’ experience of helping people just like you.
We are the only small business debt advice charity operating in the UK.
Business Debtline endeavour to keep our fact sheets as up-to-date as possible, however, we cannot be held responsible for changes in legislation or for developments in case law since this edition of the fact sheet was issued.