

## **What is Council Tax?**

Council Tax is a statutory tax levied on occupiers or owners of domestic properties within the borough. It is collected to enable Eastleigh Borough Council to provide its own services and those provided by Hampshire County Council, the Office of the Police and Crime Commissioner for Hampshire, Hampshire and Isle of Wight Fire and Rescue Services, and Town and Parish Councils. For more information on Council Tax (including discounts, exemptions and valuation), please visit the '[What is Council Tax](#)' page on our website.

## **Council Tax Legislation and Liability**

In the United Kingdom, liability for council tax is determined by the Local Government Finance Act 1992, specifically s.1 which states that "each billing authority shall...levy and collect a tax, to be called council tax, which shall be payable in respect of dwellings in its area." This statute, and subsequent statutory regulations, sets out a local authority's right to demand council tax to fund essential services, and stipulates who is deemed liable to pay council tax.

The legislation that governs Council Tax is available to view and download from the UK legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). This includes:

1. [Local Government Finance Act 1992](#)
2. [Council Tax \(Administration and Enforcement\) Regulations 1992](#)
3. [Council Tax \(Demand Notices\) \(England\) Regulations 2011](#)

Some residents have queried whether Acts of Parliament and Statutes create a legal obligation on them and the differences between Statutes, Law and Legislation. An Act of Parliament is a Statute which sets out the law made by the UK Parliament. For further information, please visit the [UK Parliament](#) website. If you have any questions regarding Acts of Parliament and/or Statutes, please direct these to a legal professional.

## **Challenges to the legality of Council Tax**

It is important to note that there are many misleading articles on the internet regarding the legality of Council Tax, many of which refer to hypothetical arguments which provide no legal basis to withhold payment of Council Tax. These arguments include but are not limited to:

- a. Requiring consent from the individual deemed liable
- b. The lack of contractual relationship between the Council and those deemed liable
- c. References to irrelevant and/or outdated legislation (e.g., Bills of Exchange Act 1882, Companies Act 2006 etc.)
- d. References to a lack of authority to levy Council Tax and subsequent alleged criminal behaviour by Council Officers
- e. Being a 'freeman on the land' or a 'sovereign citizen'
- f. Distinctions between a 'real' and 'legal' person (i.e., the Straw Man theory)

The Council does not accept such arguments and will not halt or withdraw legal action to recover unpaid Council Tax following receipt of correspondence of this nature. We reserve the right to refuse to respond to lengthy enquiries that refer to pseudo-legal arguments that have no basis in law. Engaging with such correspondence is not an appropriate use of our resources and is at the expense of other taxpayers.

If you wish to challenge the legality of Council Tax, we suggest you seek advice from a legal professional prior to doing so and exercise caution when relying on information obtained on the internet. Any liable individual who refuses or fails to pay council tax will have recovery

action taken against them. For further information on recovery options available to the Council, please visit the [‘Non-Payment of Council Tax’](#) page on our website.

### **Direct Debit Indemnity Scam**

We are aware of a scam emerging whereby scammers offer to facilitate refunds via the Direct Debt Guarantee in return for up to 50% of the refunded money as a payment for their services. It is important to note that fraudulent refunds can be reclaimed by the Council in full which includes any funds paid to a third party for facilitating the refund.

To find out more about this scam, please visit the Direct Debit website and click on [‘help’](#).

### **Council Tax FAQ**

Below are some common questions or requests received in respect of Council Tax.

<b>1.</b>	<b>Please clarify what services I/we receive from the Council through Council Tax.</b>
	Council Tax funds services across the borough of Eastleigh such as collection of waste, maintenance of public open spaces, and planning and regeneration. It also funds services provided by Hampshire County Council, The Office of the Police and Crime Commissioner for Hampshire, Hampshire and Isle of Wight Fire and Rescue Services, and Town and Parish Councils.
<b>2.</b>	<b>I am a freeman on the land and therefore not liable to pay.</b>
	Liability to pay Council Tax is governed by the Local Government Finance Act 1992 (and subsequent statutory regulations). This is a statute created by a democratically elected Parliament of the United Kingdom which has received the assent of the Crown. Being a ‘freeman on the land’ doesn’t exempt anyone from paying a statutory tax.
<b>3.</b>	<b>Please provide evidence that I am lawfully obliged to pay Council Tax.</b>
	<a href="#">Section 1</a> of the Local Government Finance Act 1992 provides that Council Tax shall be payable in respect of residential dwellings. The hierarchy of who is considered liable for Council Tax is contained in sections 6-9 of the same Act ( <a href="#">Part 1, Chapter 1, sections 6-9</a> ).
<b>4.</b>	<b>Please provide evidence of my/our agreement to pay council Tax.</b>
	Misleading articles on the internet allege that Council Tax requires a legal contract signed by both parties (in this case, the local authority and the liable party). Liability to pay Council Tax is not imposed by a contract. The tax was created by the Local Government Finance Act 1992 and therefore does not require a contract nor the agreement of those liable as it is a statutory payment. A signature is also not required. Contractual law rights and concepts such as agreement, consideration and terms are not applicable to the administration and collection of Council Tax. This has been confirmed in the recent High Court judgement of <a href="#">Kofa, R (On the Application Of) v Oldham MBC</a> .  The above applies to variations of this request such as ‘please provide a copy of my/our contract with you with my/our signatures’ and ‘please provide evidence of my/our consent to pay Council Tax’.
<b>5.</b>	<b>Please provide confirmation and evidence that the debt lawfully exists.</b>
	The issue of a Council Tax Demand Notice (the bill) creates the debt. A demand notice is issued to all liable parties in accordance with section 18 of the Council Tax (Administration and Enforcement) Regulations 1992 and is evidence that the debt lawfully exists.

<b>6.</b>	<b>Please provide a VAT invoice and confirmation of your VAT details.</b>
Council Tax is deemed outside of the scope of VAT. Therefore, we are unable to provide a VAT invoice and our VAT details are irrelevant.	
<b>7.</b>	<b>Please confirm whether you are a company or a corporation.</b>
Eastleigh Borough Council is neither a company nor corporation for the purpose of Council Tax. Section 1 of the Local Government Finance Act 1992 designates the Council as a billing authority for the demand and collection of Council Tax.	
<b>8.</b>	<b>Please provide documents containing a wet ink signature.</b>
As explained above at point 3, a signature is not required for the billing of Council Tax.	
<b>9.</b>	<b>Please provide a bill that complies with the Bills of Exchange Act 1882.</b>
The Bills of Exchange Act 1882 is not applicable to the demand and collection of Council Tax. The Council issues a demand notice to all liable parties, the contents of which is dictated by the Council Tax (Demand Notices) (England) Regulations 2011.	
<b>10.</b>	<b>Please provide a copy of the liability order issued against me and evidence that a hearing against me took place.</b>
<p>Magistrates Courts do not produce or serve paper orders and are not required to do so. The only requirement is that the order is made (the Court make the order by pronouncing it) and that the order, having been made, can be proved (whether that be by producing the Council generated list or a record of what happened in the Magistrates Court). A Liability Order document is not produced for each charge payer and therefore cannot, nor is there a statutory requirement for it to be, served on the individual against whom the Order is made. This has been confirmed in the High Court judgement of <a href="#">Kofa, R (On the Application Of) v Oldham MBC.</a></p> <p>A hearing is not listed for each individual who is summonsed to attend. As such, there will not be a court hearing listed as 'Eastleigh Borough Council v X' and the court will not hold a record of a Liability Order hearing against you specifically – the record may be listed as 'Eastleigh Borough Council Liability Order Hearing' or similar.</p>	
<b>11.</b>	<b>Under the Local Government Act 1888, the Council are prohibited from exercising any of the powers of a court or to perform any judicial business or otherwise act as justices of the peace. Please confirm under which piece of primary legislation you have the authority to act as a court and issue summons.</b>
Eastleigh Borough Council, as the Billing Authority, makes a complaint under section 51 of the Magistrates' Court Act 1980 to the Clerk to the Justices/Justice of the Peace. The complaint is made by providing the court with a list of all tax payers (and other relevant information) against whom a Liability Order is sought. If the Clerk to the Justices or the Justice of the Peace agrees that the complaint is valid, the the issuance of a summons is authorised in writing in respect of all individuals on the complaint list. The summons is authorised by the court but prepared and served by Eastleigh Borough Council.	
<b>12.</b>	<b>What is the legal form of the organisation sending the bills or notices?</b>
Eastleigh Borough Council is a Local Authority and a Billing Authority for the purposes of the billing and collection of Council Tax. A Billing Authority is created under the <a href="#">Local Government Finance Act 1992</a> and the <a href="#">Local Government Act 1972</a> .	
<b>13.</b>	<b>Please provide a copy of the court summons signed in wet ink.</b>
There is no requirement for a summons to be signed in wet ink under <a href="#">rule 109 Magistrates' Courts Rules 1981</a> . A signature has not been required on summons since 1 January 2020.	

**14. A Liability Order was granted in my absence without my consent and an opportunity to present to the court evidence of the Council acting fraudulently and without authority.**

Liability Order applications are heard at the Magistrates' Court. In advance of the hearing, a summons was served on you advising you of the date and time of the hearing. The hearing was an opportunity for you to make representations to the Court. If you fail to attend the hearing and the court are satisfied that a Liability Order should be made, the court will make the Order in your absence.

If you believe that the Court was incorrect to make a Liability Order against you, please raise this directly with the Magistrates Court. You will need to make an application to the Court to have the Liability Order set aside.

**15. Please provide evidence of my consent to the Council using my personal data.**

Consent is not required where processing personal data is necessary for the performance of a task carried out in the public interest or in exercise of a function conferred by an enactment or rule of law. The billing and collection of Council Tax is conferred on the Council by the Local Government Finance Act 1992.

**16. Please provide confirmation of the companies/third parties Eastleigh Borough Council has shared my personal data with.**

Eastleigh Borough Council complies with data protection legislation and is committed to protecting your personal data. Personal data is only shared where it is necessary and proportionate to do so.

Information regarding data sharing is available on our website at:

[Main Privacy Notice](#)

[Council Tax Privacy Notice](#)

**17. Please provide a copy of my personal data including copies of any and all liability orders issued against me.**

As stated at point 10 above, a Liability Order document is not produced, nor is it required, for each charge payer. [As](#) such, it is not possible to provide you with a copy.

If you wish to request a copy of your personal data otherwise held and processed by the Council, please contact the Data Protection team at [DP@eastleigh.gov.uk](mailto:DP@eastleigh.gov.uk).

Please note that whilst section 45 of the Data Protection Act 2018 provides a right of access to your personal data (subject to any restrictions), requesting this information will not delay any recovery action taken against you in respect of council tax arrears.