



Saying no to the Poll Tax 1381

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Poll Tax

*YOUR GUIDE TO THE  
COMMUNITY CHARGE  
(POLL TAX)*



## THE COMMUNITY CHARGE (POLL TAX)

This section is intended as a general guide to the procedures and regulations relating to the Poll Tax.

All full-time students are required to pay 20% of the Community Charge set by the local ("charging") Authority in their area of study.

### REGISTRATION

Nottingham Polytechnic is under a legal obligation to supply the Local Authority with a register of students' names and their term-time addresses at the beginning of the Academic Year ie students will be automatically registered. The Academic Registrar (Mr A Foster) will issue exemption certificates to all full-time and sandwich students to enable them to claim the reduced charge rate of 20% certificates will be distributed by your Department -(watch your noticeboards for details) in the first few weeks of term.

Your certificate should be sent to your Local Authority (keep a copy for yourself).

If you are living in privately rented accommodation (ie not in a Polytechnic owned Hall of Residence) you may still receive a registration form, which, if completed and sent to the Local Authority, will be cross-referenced with the details obtained from the Polytechnic Register.

### \*IMPORTANT

It is a criminal offence not to register. The Magistrates' court can impose a maximum fine of £50 for the first offence and a maximum of £200 for subsequent offences (note that you will not lose your right to vote if you don't register; (the register of Electors is a different matter altogether).

### Payment

Once the Local Authority sends you a bill for the right amount you can pay it all at once or exercise your rights to pay in installments eg quarterly, monthly (The Local Authority may well send an installment payment book).

### REBATES

Community Charge rebates/benefits are not generally available to students but you could apply anyway.



### \*NOTE

"Spouses" (ie those married to students and those in heterosexual relationships living together as husband and wife (this rule therefore excludes lesbians and gay couples) might be entitled and able to claim for dependants ie student partners.

\*1) Inform your former Local Authority that you are now registered as a student in Nottingham if prior to this you were registered elsewhere (eg at your parents' address).

\*2) Check that your name and address are on the register. An extract of the register will be available for inspection by the public; at your relevant Local Authority Office.

\*3) Inform the Local Authority when/if you change address;

\*Note: If you feel you are at risk from eg violence you can apply (in writing) to your Local Authority for your name and address to be removed from the Public Register and placed on a Confidential Register.

Once an application is received, a person's details must be removed from the register pending a decision by the Local Authority.

### The enforcement process

\*1) The Bill: The charge becomes payable only when the bill ('Demand Notice') is sent to you.

The Bill sets out a date - not earlier than fourteen days after the date it was issued - by which the first installment must be paid.

\*2) The reminder: once an installment is due and remains unpaid, the Local Authority can issue a reminder. There is a minimum period of fourteen days from the date the installment was due (or the date of the original bill if payment was to be all at once) before the reminder can legally be sent to you, (in practice this process is likely to take longer).

If the missed installments remained unpaid for another seven days from the date of the reminder (and, it seems, this period includes weekends and bank holidays), the right to pay by installments is lost altogether.

After a further seven days the whole amount becomes payable and the Local Authority can then move onto the next stage to recover the money due, (see below).

\*NOTE: If, at this stage you feel that you are unable to pay the charge, then you could contact the Local Authority, offering to pay any unpaid installments over a reasonable period of time.

\*3) Issue of Summons: The Local Authority (having gone through the proper procedures explained above) may now request the Magistrates Court to issue a summons giving a date, time and place when you will be required to attend court, for a hearing at which the Local Authority will attempt to obtain a liability order (see later). The summons will usually be sent by 1st class post.

\*Note: You do not have to attend court and warrants cannot be used to compel attendance (ie you cannot be arrested if you don't attend court). However, if at all possible you should attend court and exercise your right to speak.

\*4) The Court hearing: It is entirely probable that dozens, if not hundreds of cases will be listed together for the same hearing; so, if you yourself are summoned to court you will not be alone!

The McKenzie Friends (contactable through Local Anti-Poll Tax Groups - see the Welfare Department) are willing to advise people on court procedure.

As previously mentioned you do have the right to speak. However, note that: Legal Aid is not available for representation by a solicitor in court ie: unless you pay for a solicitor to speak on your behalf in court you may have to do this yourself.

Although it is within the court's discretion to allow another person (who isn't a solicitor) to speak on your behalf, at the time of writing, Nottingham Magistrates had not allowed this. Nevertheless it is worth asking, particularly if, for some reason you are unable to properly follow the court proceedings eg. your hearing is impaired. (It might be possible to obtain financial assistance for legal advice before any court hearing).

\*5) The Liability Order: The Court must make an order 'if it is satisfied that the sum has become payable and has not been paid'. Therefore, there are only two issues to which the court can address itself:-

- a) Is the defendant liable to pay the sum claimed by the Local Authority; and
- b) Has the sum remained unpaid

If the answer to both questions is yes, then the court must make a liability order.

If at all possible you should try to avoid a liability order being made since then the control of the collection process passes to the Local Authority.

Possible lines of argument in court include:

- you are not on the register for the period claimed
- the type of charge or amount of charge for which you are registered is not the type or amount claimed.



- the demand notice/reminder notice is incorrect
- no demand notice/reminder notice has been issued
- such notices and/or summons were improperly served or not served.
- the amount due has been paid
- the client is registered on two or more registers, is appealing the second or subsequent entries and has paid the charge due to the first authority to register him/her.
- in an application for a joint liability order, you are not a spouse of the defaulter at the time the debt was incurred (see above), or
- the amount claimed is in respect of a date beyond the limitation period of two years.

\*NOTE: The court, having issued a liability order, will also make an order for costs incurred by the Local Authority at present, these amount to £10.

It may be possible to reach an agreement with the Local Authority on payment of missed installments after the date of issue of the summons. If the Authority accepts any offer you make, it might be that they will agree to request the court to dismiss their application for a liability order. (If this happens, the Authority will probably not ask that an order for costs be made).

#### THE COLLECTION PROCESS

Once a liability order has been issued against you, there is no need for any further court hearing (unless they are considering prison for non-payment: this is a last resort (see later)).

Only one method of collection can be used at one time but a local Authority can abandon one method and switch to another and then (if thought appropriate), switch back again.

Remember that none of this is regulated or supervised by any court.

Note also that even after a liability order has been obtained it should still be possible to present further action by reaching agreement with the Local Authority to pay arrears by regular installments.

#### REQUEST FOR FURTHER INFORMATION:

An Authority seeking to identify the most effective means of securing payment of outstanding Poll Tax has a legal right to request further information from the non-payer.

This request must be in writing and allow fourteen days for a reply from you.

\*NOTE: Failure to reply is a criminal offence for which the Magistrates Court can fine up to and including £100.

Knowingly or recklessly supplying information which is false is also a criminal offence (maximum fine of £400).

The Authority is entitled to request the following information:

- \*1) Name and address of employer, (students working part-time will have to supply this information).
- \*2) Source of income if not employed (eg student grant).
- \*3) Whether there is a spouse (ie someone you are married to or living with as if married: spouses are jointly liable ie Local Authority is able to attempt to receive money from either source).

\*NOTE: Any request for information should be carefully checked to ensure that it is directed at obtaining only the above information and no more. If in doubt, put any queries (in writing) to the Authority or see the Welfare Department.

#### METHODS OF COLLECTION

The Local Authority can choose from:

- \*1) Distrain: (sometimes called 'Distress'); The Authority (using bailiffs) can seize and sell your belongings to cover unpaid amounts of Poll Tax plus the costs of obtaining the Liability Order at court (£10) and costs of implementing Distress.

Whoever levies (ie carries out) distress, must carry the written authorisation. It need not be in the form of an identity card shown on the request of the householder.

Once the bailiffs have obtained peaceful entry to a dwelling (ie they cannot break down the front door or smash any windows) it seems that they can break into the rooms if necessary in order to levy distress. Therefore, it seems that having obtained peaceful entry into eg a Halls of Residence the Bailiffs can lawfully break down the door of someones room.

Further, it would seem that there is no obligation on one occupier to assist the Bailiffs to gain access in order to levy distress against a third party living in the same dwelling. The Bailiffs are entitled to search any room for the debtor's goods and seize them.

The best advice for those who do not, for whatever reason, want bailiffs on their property is to close all windows and fasten all doors and simply refuse entry, and resist any attempt by the bailiff to 'persuade' them to open the door. It should be remembered that, in this situation, bailiffs cannot obtain a court order to gain entry to any property nor can the occupier be sent to prison for merely refusing to allow bailiffs to enter.

However, once bailiffs have gained peaceful entry, with or without the consent of the occupier, withdrawing that consent or refusing them permission to enter other parts of the property are of no effect. This is so even if the bailiff claimed that they merely wanted to discuss the position and the occupier admitted them expressly for that purpose.



alone, It is only if the occupier is able to say that there are no goods of the debtor (including any goods jointly owned) anywhere on the premises that the bailiffs' position becomes unlawful. If that is the case, then the bailiffs should not only be told but also be asked to leave immediately, in order to prevent them arguing in any subsequent proceedings, in the event of their continuing with the distress, that they acted with the consent of the occupier.

\*What can be taken and sold: Goods that don't belong to you clearly cannot be taken eg goods subject to hire purchase agreements. Also: clothes, (up to the value of 100), bedding and tools of the trade including paints, brushes and textbooks (up to a value of 150) cannot be seized.

Once the process has been carried out, a sale at auction of any goods seized can be prevented by full payment of any money due prior to sale (including any court costs, although it is highly unlikely that distress will be levied to recover costs).

\*NOTE: If you believe that this procedure has been improperly carried out eg damage to property (or indeed yourself or another person) was unreasonably or unlawfully caused you could appeal to the Magistrates Court who if satisfied that this was the case, can order the return of any goods still held (or if goods have already been sold, award damages to cover their value).

You may be able to obtain financial assistance in order to obtain advice from a solicitor on this (see the Welfare Department for further information).

\*2) Attachment of Earnings: Here, the Local Authority serves a notice on the non-payer(s) employer requiring him/her to make deductions from earnings the amount specified in the order. The Employer is entitled to charge £1 per deduction to cover 'Administration costs' and any deductions made should be entered on payslips.

Deductions may be made from the employer of either the non-payer or a jointly liable spouse.

An employer failing to comply with the Local Authority's request, without taking reasonable steps to do so, commits a criminal offence.

The employee must notify the Authority (preferably in writing) of any change of employer, failure to do so is a criminal offence (punishable by a fine).

\*NOTE: Students with regular part-time work are potentially at risk from this particular method of collection.

\*3) Deductions from income support: Here, the DSS are requested to make regular weekly deductions from income support to be paid directly to the Local Authority.

\*NOTE: It is possible to appeal to a Social Security Tribunal against the amount of any deductions made particularly if deductions from benefit are made in respect of other things eg social fund loan.

\*NOTE: NO deductions can be made from a student's grant; neither is any parental contribution to maintain a student's upkeep affected.

#### COMMITMENT TO PRISON

Regulations provide that, as a last resort, an Authority can apply to the Magistrates' Court for a warrant committing a non-payer to prison. They may apply, ONLY if they have first attempted to levy distress (see earlier) but have no (or insufficient) goods to seize and sell to cover unpaid Poll Tax.

This includes cases where the bailiffs have been unable to obtain entry (although it is hoped that to oblige the Magistrates' Court, the bailiffs would have to try more than once).

Also, an Authority which has not attempted any method of recovery other than distress should first satisfy itself that none of the other available methods would prove more effective.

In response to such an application by the Local Authority they must make an appointment for a 'means' inquiry (to be carried out in your presence) in order to investigate whether the failure to pay arose from a 'wilful refusal or culpable neglect'.

\*NOTE: A warrant is issued (for the arrest of the non-payer to ensure his/her attendance).

Your first aim will be to show that non-payment is not due to 'wilful refusal or culpable neglect' (these are legal terms, the interpretation of which is left to court in accordance with the law).

Magistrates are not entitled to infer this simply from a failure to pay but must investigate the real cause eg low income (if magistrates fail to do this and issue a warrant committing some to prison, there may be grounds for an appeal to the high court).

Remember that Legal Aid is not available to pay for a solicitor to represent you in court unless, having obtained legal advice before any court hearing under the Green Form Scheme or ABWWOR Assistant by way of Representation ask your solicitor about this (similar to Legal Aid but only covering Legal Advice) that same solicitor is within the court building on other business and is willing to represent you. Therefore, if you have obtained Legal Advice and the Local Authority are seeking to commit you to prison for non-payment, tell your solicitor if you have already sought advice from him/her on the poll tax - she/he may be able to help.

The maximum period of imprisonment is three months. A person who has been committed to prison will be released if the amount outstanding is paid, part payment will reduce the term of imprisonment in



proportion to the amount paid.

The Court may suspend a warrant committing someone to prison if arrangements can be made to pay any amount due.

The court will have the power to remit (ie cancel) all or part of the amount due (although it is not clear in what circumstances they would do this).

**\*IMPORTANT:** Non payment of the poll tax is not a criminal offence therefore, even if you are sent to prison for non payment you will not a criminal record.

If, at any stage of proceedings you need further help and advice, contact the Welfare Department.

#### OVERSEAS STUDENTS AND THE POLL TAX

**IMPORTANT:** NACOSA (NOTTINGHAM AREA COUNCIL FOR OVERSEAS STUDENT AFFAIRS) AND THE STUDENTS UNION DO NOT ADVISE OVERSEAS STUDENTS NOT TO PAY THE POLL TAX: YOU MAY BE IN BREACH OF HOME OFFICE IMMIGRATION REGULATIONS IF YOU DO NOT PAY. YOUR LOCAL AUTHORITY MAY INFORM THE HOME OFFICE THAT YOU HAVE NOT PAID AND YOU MAY BE DEPORTED OR BE REFUSED LEAVE TO REMAIN IN THE UK AFTER YOUR CURENT LEAVE HAS RUN OUT.

SOME STUDENTS WHO ARE ONLY VISITING THIS COUNTRY FOR A SHORT PERIOD OF TIME ( IE 3-6 MONTHS) WILL NOT BE LIABLE TO PAY THE POLL TAX AS THEY WILL BE JUDGED TO BE MAINLY RESIDENT IN ANOTHER COUNTRY.

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