

The council has to apply to the Magistrates' Court for a distress warrant. This is just administrative procedure, so don't be intimidated if bailiffs talk about court orders or the magistrates. Neither can they call the police to enforce the warrant. If there are any police present they will be there to prevent a breach of the peace (from either side!) and have nothing to do with enforcing the distress warrant.

A bailiff can only come during the day. They can only get in with your permission. If they see an open window they can climb through it. However, you should bear in mind that these people do this for a living so they are adept at getting in. The main thing is not to allow the bailiffs to bully you.

There is a technicality that allows bailiffs once through a first door to break down a second. This means that flats with a communal door are vulnerable. Get your council to alter its code of conduct for bailiffs to equalise the treatment of all non-payers.

After gained entry once they can force their way back in a second time. It is unlikely they will try to get in if there are a crowds of people outside. The importance of belonging to your APTU (with its telephone tree) is obvious.

The small numbers of bailiffs cannot be looking forward to trying to enforce the tax. Publicity events at the offices of the bailiffs would be useful at this stage.

'Distraint' is a barbaric practice. As a matter of fact the Law Commission in 1986 recommended that it be abolished. We are still waiting for the Tories to act on this recommendation.

What can they take?

They can take everything that belongs to you except fixtures and fittings and they must leave you with £100 of clothing. Cookers etc. don't count as fixtures but fitted wardrobes do. Goods on HP or that still belong to a credit company they cannot take. The council's

code of conduct can also exempt certain items from seizure. Your APTU should campaign to make the council incorporate the exemptions that exist in Scotland (Debtors (Scotland) Act 1987). You can also hide things, it is for the bailiffs to find them. Neither can they take goods that are validly 'sold' to a third party.

It seems that cars are included in the goods they can take so you shouldn't leave them parked in front of your house!

It should be stressed that they don't usually take anything away on the first visit. What they do is 'lay claim' to something which is basically a threat to come back and take it away if you don't pay.

Your APTU should keep its eyes open for loan sharks who will operate at this moment.

The other problem is that there are not many bailiffs, which are basically just debt collectors hired by the council.

The bailiffs can charge about £25 (on a poll tax of about £400) on top of the poll tax debt. There are more charges if they actually take things away. It is therefore possible that even if they are successful in getting in (and you have taken all the necessary precautions) they will only be able to cover their own costs AND NOT THE POLL TAX!

Will I be blacklisted for not paying my 'debts'?

No. There is no reason why this should be the case. Some companies have been spreading such a rumour but this seems to have been based on incorrect reports that councils would circulate lists of non-payers to banks to ask them to freeze bank accounts. But as is reported earlier in this section, there is NO power to freeze bank accounts in England and Wales.

As the Finance Director of Tonbridge and Malling council, Derek Milner said, "The information is highly confidential. Any suggestion of a publicly available blacklist is misleading if not downright inaccurate". It would be unlawful for a council to pass this information onto a credit reference agency (an illegal use of the data).

The House of Commons library states, "There is no equivalent (for poll tax defaulters) of the central register of county court judgments which is often consulted by credit reference agencies and the like when a person's credit rating is being assessed".

Can I be made bankrupt?

Firstly the debt has to be over £750. A penny below this limit and bankruptcy doesn't apply. It is unlikely that a council would pursue this as they have to go to the County Court and legal aid would be available.

Is jail likely?

No. The first and obvious point is that they haven't got enough space to jail all the non-payers! The Council has to try every remedy and fail before they can ask that you be jailed.

But that is for the council to decide and many including Labour councils will be susceptible to pressure from the local movements.

The court issues a warrant telling you when to come. They are supposed to carry out a 'means inquiry' in your presence to see if you can pay but are refusing. If they are satisfied that you could pay and haven't they can jail you for a maximum of 3 months. Payment of the tax releases you. Payment of the tax on the day also stops the action. Magistrates are already worried about this. It is also clear that they won't be using Strangeways!

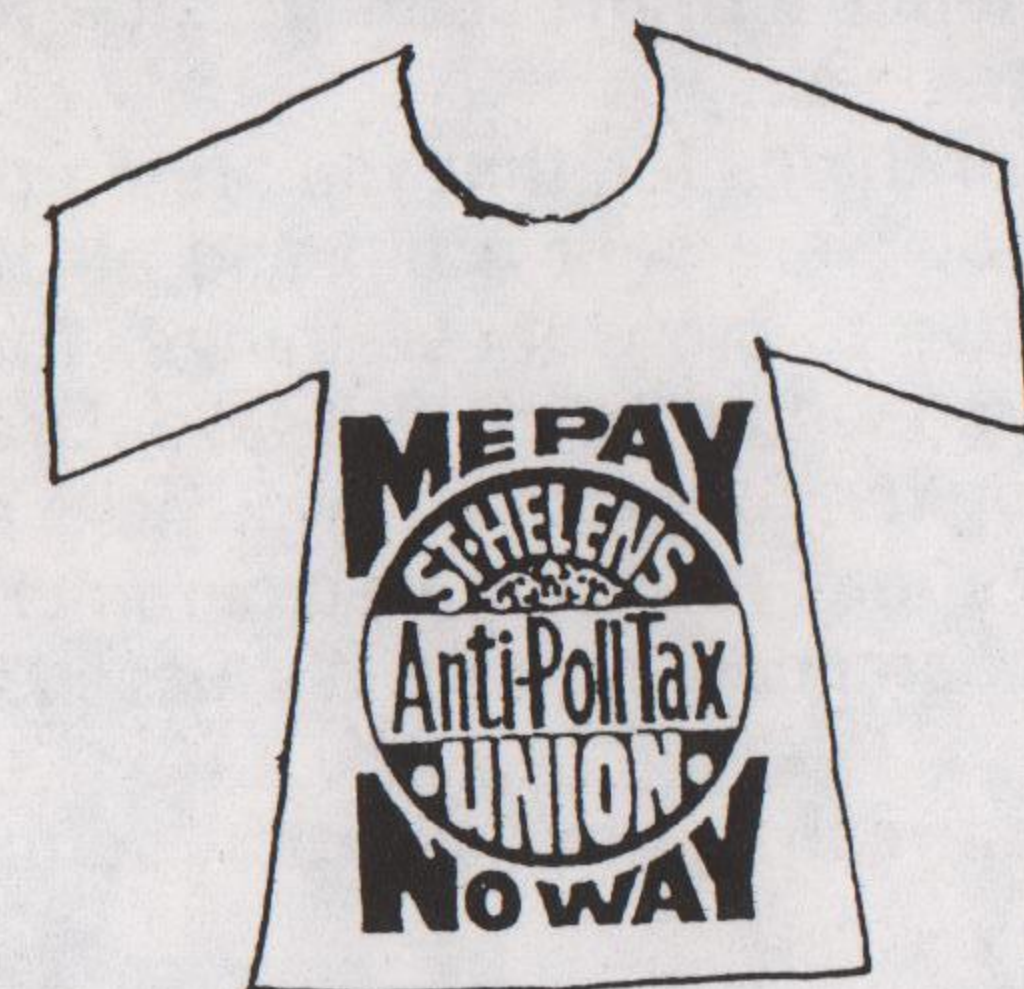
After jail there seems to be little that councils can do other than write the poll tax debt off!

By Mike Waddington

St. Helen's APTU meets each Wednesday at 7.30 Lamb Hotel, Corporation Street

comment

We have from time to time endeavoured to supply you with some answers to your questions concerning the Poll Tax and where you stand as a non-payer with respect to the law etc. It is with pleasure we can now provide you with the most comprehensive list of questions and answers at present available in the country, which have been compiled by Mike Waddington, based on questions posed by Anti-Poll Tax Unions nationwide. They form a section in a new pamphlet titled "Poll Tax - We Won't Pay" the rest of which deals with that question as well as outlining lessons learned from the Isle of Wight. The pamphlet is produced by 'Militant Publications' and its with their kind permission that a section from it is reprinted in this issue of the Bulletin. If members wish to purchase a copy of the pamphlet the price is 75p plus 25p postage and packaging and cheques or postal orders should be made payable to World Socialist Books, 3-13 Heps-cott Road, London E9 5HB.



T-shirts, badges and posters now available at Wednesday meetings or 'phone Delia on St. Helens 819 730

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BULLETIN OF St. Helens Anti-Poll Tax Union

Don't pay instalment 4

'We'll block the poll-tax bailiffs'

Federation launches summer campaign to protect non-payers

HUMAN barricades will stop the bailiffs moving in on poll tax non-payers, campaigners promised yesterday.

The All Britain Anti-Poll Tax Federation outlined its summer campaign to protect those who can not or will not pay the hated tax.

by MIKE AMBROSE

The federation said that the tactics had worked in Northampton, which had been the first council in England to call in the bailiffs.

Federation chairman Tommy Sheridan told journalists: "In Scotland, not one single warrant sale to recover poll tax debt has been successfully carried out, because of the campaign to stop the sheriff's officers."

"We promise the same protection from bailiffs for the homes of non-payers in England and Wales."

"These thugs will not be allowed to attack the homes of ordinary working-class people who cannot afford the poll tax."

He rejected claims by the Murdoch press that such a campaign would lead to violence.

There had been no violence in a year of campaigning in Scotland.

Local people were getting organised "using vodaphones now, like they used bin lids in the old days to let people know the sheriff's men were coming."

Mr Sheridan said that the 191 sheriff's officers, who had to deal with one and a quarter million Scottish non-payers, were saying that the tax

was uncollectable.

The 1,000-strong Association of Bailiffs who have to collect from up to 12 million non-payers in England and Wales have also recognised this.

Federation secretary Steve Nally said that demonstrations would be organised outside people's homes to show that the bailiffs could not enter them.

He pointed out that if people refused to allow the bailiffs into their houses, then they were not allowed to enter.

Labour MP Dave Nellist said that only about 10 out of 403 local councils had sent out summonses on non-payment affecting only 30,000 of the 12 million people who had not paid.

He noted that the federation was running day schools to ensure that people were properly protected in court.

In Labour-controlled Coventry non-payers are being taken to court daily and a special panel of advisers has been set up to help non-payers.

These are known as "McKenzie's Friends" after a judgement that people are entitled to have a friend with them in court if they do not have a lawyer.

By studying the poll tax and related laws, they have been able to slow the work of the court system.

At the present rate of progress, it is estimated that it would take until the end of the century just to deal with cases which have already been summonsed.

what we think

THE Sunday Times gave us an example of singing in the dark when it dealt with the anti-poll tax campaign. Non-payment was collapsing, it told us. Then it gave us the "evidence."

According to the Labour-controlled Association of Metropolitan Authorities, it said, non-payment ranged from 10 per cent to 35 per cent for uncapped councils, and from 20 per cent to 35 per cent for capped ones.

The Association of London Authorities reported that 60 per cent of the money due had now been collected, which means that 40 per cent had not.

The Tory-controlled Association of District Councils said that 70 per cent of money due by June 15th had been collected, which means that 30 per cent had not.

By any stretch of the imagination, such rates of non-payment must be encouraging to those organising the campaign.

The Sunday Times then expressed the view that the issuing of summonses and the ensuing publicity around all the problems this has generated will have persuaded people to start paying.

If that is so, then it presupposes that the British public is perverse in the extreme. After all, look at what has happened. The court hearings have simply collapsed in chaos with the cases being postponed by up to a month.

But there is no reason to believe that they will not collapse in chaos when they are resumed.

A simple calculation will show that if each one takes on average say 15 minutes, then a court is going to be faced with a stark choice. Either postpone the cases month after month or postpone all the other cases on its list.

The fact is that in a democratic society, laws can only be operated if they have sufficient consent from the population. If they do not, and the poll tax law does not, then they can become impossible to implement.

It would therefore seem more logical for British people to conclude from the fiasco into which the issuing of summonses has collapsed, that they most certainly should withhold payment.

The government's difficulties on this score are getting worse rather than better. Evidence - the fact that town hall chiefs now say that just to maintain services will mean an increase of 16 per cent in the poll tax.

Ministerial sources are quoted as saying that even if all the councils were capped next year, the poll tax would still go up by 10 per cent - and that of course would also mean massive cuts everywhere.

Mrs Thatcher has boxed the Tories into a corner on the poll tax. The question is: Is the Labour leadership going to help them get out of it by helping them to buy time?

Or is it going to pile on the pressure, not just in Parliament, but by giving the people outside the leadership needed?

The march from Scotland to London against the poll tax due in the autumn should get official Labour backing.

We cannot just wait for the Tories to be defeated in an election. Indeed, the anti-poll tax campaign is part of the process of ensuring that they do get defeated.

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Poll Tax
Taking on the courts

Mass non-payment — Questions and answers

I've signed the petition. I'm opposed to the poll tax, isn't that enough?

No. The government has faced many situations where the majority of people were opposed to them. Look at the NHS, the nurses or the ambulance dispute for example. The government are prepared to ride out passive unpopularity. They understand one thing only and that is organised determination. By involving the majority of people in defiance of their class law we think that non-payment can defeat this tax.

But the poll tax is the law:

We are law abiding individuals. We support the majority of laws that benefit ordinary people. But when you get a law whose whole purpose is take from ordinary people for the benefit of the rich that's a different question. The poll tax is blatant class law opposed by 80% of the population.

Can I get a rebate?

Rebates can be backdated for up to 56 days. It is always worth claiming even though as is explained elsewhere in this pamphlet the system is a con. In Bradford a single person under 25 earning £58.75 a week pays the full poll tax of £5.29. A couple with two children earning £152.85 a week pay £10.58. If everybody claims a rebate it will help to block up the system and stop the councils attacking people.

Won't 'capping' cut my bill?

Yes, by a small amount but by a huge cut in the amount of Council jobs and services. The Tories want us to choose between good services and low poll tax. We will not play the Tory game. The government has cut £46 billion from local councils since 1979. If just some of that money was returned most of the problems of councils would be solved. We want good services **AND** we're against the poll tax.

Well won't I have to pay up in the end anyway?

Victory will depend on the degree and the scale of the resistance. There are however no guarantees in any battle beyond the determination to win. Part of our fight is for an amnesty for all the people who haven't paid. The government have written off **BILLIONS** of pounds when it came to privatising Rover or the water companies. What's good enough for the sharks of the City of London is good enough for our people!

Won't the Tories just come and take the money if I don't pay?

NO. All the enforcement procedures have to be carried out by the local council and they have to follow a specific procedure. If they don't follow the procedure, like happened in the Isle of Wight, the APTUs will get them stopped or reversed through political pressure on the councils or through legal action in the courts.

Surely this means that I should pay something?

No. The government will want to say that people are co-operating and hope to undermine the anti-poll tax movement in that way.

Shouldn't we bring back the rates?

The rates were really unpopular, but the poll tax makes them look really good. We support the idea of immediately going back to the rating system linked to 100% rebates and an injection of government money. We also demand the return of the £46 billion taken from local government by the Tories that could lead to a drastic reduction in rates. We would support the idea of an inquiry into alternatives to the rates based on the ability to pay.

Well what if I pay my rates plus inflation?

The government will announce this as paying your poll tax

So what happens if I don't pay?

There will be a delay at first. Around June your local council will have to decide what it is going to do. Your APTU should lobby those meetings so that the voice of the local people is heard.

When an instalment is missed they will send you a reminder. This reminder will be a legal document that will stress the 'awesome' powers that they have got. This is done deliberately to frighten people into paying. **Ignore this document after discussing it with your APTU.**

If you do not respond, it seems the Council should send you a second notice warning that you have lost the right to pay by instalments and giving you a further seven days to pay the whole year's tax. But it is a point of contention whether this notice is absolutely required as the regulations are unclear. It seems that Medina (on the Isle of Wight) and Southend Councils have taken the view that this second notice isn't required. This needs to be challenged in the courts, either at Magistrates or the High Court (an application for legal aid could be made to seek a judicial review).

The council will probably offer you debt counselling. This is to get you to pay something so that they can take you off the non-paying list. They will take a harder line later.

What happens next?

When you don't respond to the council's demands they can go for a 'Liability Order' from the Magistrates' court. How soon this happens depends on the chaos and administrative delay that exists in the local council. The APTU campaign of pressure will exacerbate this and add to the delay.

Does this mean I will get a criminal record?

No. Enforcement is merely a civil procedure and you will not get a criminal record.

Do I have to go to court?

No, but we would strongly recommend it. Under the rates the council was able to proceed on the basis of hundreds of orders going through on the nod. If in your town you can get 5,000 people to contest their actions for only 20 minutes that's nearly 1,667 hours of court time, that's 278 days of the court's time. Excluding weekends there are only 261 days in a year! The system would collapse if that was the case.

One problem is to find out when cases are coming up. It is possible that some councils, like with rates, will take action and the person having the action taken against them, doesn't find out. It is important that the APTUs approach councils now to find out what the procedure will be. 'Forearmed is forewarned'.

As a solicitor writing in *The Guardian* (11.4.90) said, "The system for rates relied upon the fact that no-one turned up to argue.

"Only a few need to raise some arguable dispute on each hearing and the courts will be clogged up within days". The experience of Medina Council confirms this. So don't panic, don't pay — and turn up in court!

Well, wouldn't that result in a big fine?

No. There are NO fines for non-payment. All you can be charged is the poll tax that you owe plus a small charge of about £25 for costs.

Doesn't contesting it mean more costs?

Contesting gives you the opportunity to challenge certain things. Local lawyers may be prepared to operate free for you. You should also check out the legal aid scheme (which is very restrictive but might help).

What can I challenge in the court?

A number of Magistrates are councillors themselves. It may be worthwhile seeking information from them that there is not a conflict of interest, which there certainly would be if they were councillors in your authority and may be worthwhile arguing in general on the grounds that they may be pursuing other non-payment cases themselves.

The councils will hope that, as with the old rates, non-payers will not turn up for the court hearing. A Magistrates' Court would endorse a list presented to it by the council. But if you turn up they **have to prove a number of things against you.**

You can insist that the Council has to show a number of things (eg that you are on the register; that the poll tax has been properly set; that you were sent a bill and all the reminders) and you being there makes sure that they have to prove those things. They should not go through on the nod. In fact you will be surprised at the time it takes! You could also challenge the actual amount that they are asking for, for example if you have an outstanding rebate claim that is unresolved. Such things may result in a adjournment, which in itself is a useful event. Tactics about court appearances must be discussed at every APTU.

Your APTU should draw up a statement that people can read out in court that details some of the points that can be made.

Maximum publicity must be given to your tactics as many may not know what to do and could find themselves feeling forced to pay despite their opposition to the tax.

What happens after the Council gets a liability order?

A Liability Order gives the council permission to proceed with a number of remedies but it is up to the council to decide what to do next. The court has no role at this time. Again, the council will hope that people will pay up just because they have been taken to court.

Some councils have set up 'hardship committees' to consider each case on its merits. Your APTU should approach the council about such a method now.

We should never forget that the council will be in great difficulties. Not only with the huge numbers of people involved or the campaigning work of the APTU but also with their own staff. Many who are administering the poll tax are very low paid workers. The bosses are highlighting threats of violence against the poll tax workers as a way of trying to keep them unsympathetic to the non-payment movement. Your APTU should take special initiatives to approach these workers.

The council will probably send you a notice saying they have been granted a Liability Order and they will demand that you give them some information, like your employer. This information will enable them to proceed with an attachment of earnings order (see next question). Failure to provide this information in fourteen days means that the council

could take you back to the magistrates' court. You could be fined up to £100 and it is a criminal offence. You could be fined up to £400 for providing false information. You could send the form back to ask for certain information but this could just result in the council referring it straight away to the court.

If you don't pay that fine the Magistrates Court holds a 'fine default hearing'. They find out why you haven't paid and issue an order. They cannot increase the fine but they can make an attachment of earnings order, or issue a bailiffs warrant or send you to prison (7 days for up to £50, 14 days for up to £100 and 30 days for a fine of £400).

There will be many people who will refuse to co-operate by providing this information. Many of these could face prison when they refuse to pay fines, but the more non-payers refuse to comply with these orders, the more the legal system will seize up. The authorities would by playing with fire with threats of imprisonment. Given the charged atmosphere around the poll tax and the massive support for non-payment, any imprisonment, even for seven days, could trigger off widespread solidarity action on the workplaces. The APTU would obviously support these people in every way possible, primarily through publicity and putting pressure on the local council to drop the action. It is possible that some employers could try to sack anybody who is sent to jail (as this is a criminal offence, unlike non-payment of the poll tax). Others will therefore feel that they are not in a position to face prison and under the duress and intimidation provide the information that the council have demanded. That, of course, is not the end of the matter. The fight goes on in the workplaces. Also it may be that they are self-employed and therefore attachment of earnings wouldn't apply, so why not tell them that?

Can the council take it from my wages?

They can serve an ATTACHMENT OF EARNINGS ORDER on your employer. Your boss then deducts it from your wages. There are strict limits on what can be taken from NET (ie after tax and NI) pay. If your net pay is less than £90 per week the most that can be deducted is £6 a week, less than £100 the deduction is £8 and so on. The government are likely to update these amounts (for inflation). The self-employed obviously cannot have their wages attached in this way. It is also felt by some council managers that they can't arrest the wages of their own employees (on the grounds that they cannot use a power to order themselves to do something).

If an AEO is taken out, the APTU must approach the workers at that workplace to see if any action can be done to stop the AEO. Remember, there will be thousands of workers in the same position, so the atmosphere could be right for some action.

An employer can be taken to the court and fined for not complying with an AEO but it is a defence for him to say that he has taken all reasonable steps. This would suggest that if workers refuse to process the AEO he may not be liable for a fine.

Incidentally, an employer has to give notice to an employee when a deduction is made otherwise he can be fined for not doing so.

Well, won't they just take it from my partner's wages?

They can only try that once they have gone through the whole procedure and failed. But they then have to rebill one of the partners and follow the whole procedure again including reminders and another Liability Order. The amounts that can be taken from wages are strictly limited. Just because you are made liable for two people's poll tax doesn't mean they can take any more from wages beyond what they can take if they have a Liability Order against an individual.

Can I be sacked for not paying?

No. Non-payment does not constitute industrial misconduct.

Can't they take the money from my benefits?

There is power to attach income support. The council has to apply to the Secretary of State, in practise the local DSS office, and REQUEST that they make the deduction. The decision is made by an 'Adjudication Officer'. There is an appeal to a tribunal over a decision the officer makes. The amounts that can be deducted are currently £1.85 a week for a single person and £2.90 a week for a couple (5% of income support). They cannot take from any other benefits.

Benefit arremstments are amongst the most contentious because there is great feeling around the issue. Civil servants should be approached to boycott this work. A council can decide legally that it is not worth the effort and the social consequences that could follow from hitting the least well off.

Can they take it out of my housing benefit?

No. To do so would be illegal. Nor can you lose your right to a poll tax rebate if you do not pay.

Could I get evicted?

No. Non-payment does not effect your tenancy. Unlike Scotland there is no power to freeze bank accounts in England and Wales, so mortgages would not be affected.

What about the bailiffs?

Each Council can send the bailiffs in but they are supposed to lay down guidelines that bailiffs must follow. If you get any evidence that these guidelines are not being followed it must be taken up immediately with the council so that they can be stopped.

There is an appeal to the Magistrates' Court if the attempt to 'levy distress' or the 'levy' itself was 'irregular'.