

## **COUNCIL TAX AND VOTING RESTRICTIONS**

Section 106 of the Local Government Finance Act 1992 introduced restrictions on voting by Elected Members who were two months in arrears in the payment of Council Tax.

The Department of Communities and Local Government's advice is:

Section 106 (1) and 2 (a) provide that a Member who is two or more months in arrears with payment of Council Tax must declare his/her arrears and not vote at meetings on any calculation required by chapters 111 (for setting amounts of Council Tax), (the issue of precepts) or V (limitation of Council Tax or precepts): in short on matters concerning budgetary requirements and the level of Council Tax. Sub-sections (2) (b) and (c) widen the restrictions to any decisions that might have a bearing on the calculation and to matters concerning collection, enforcement and penalties of Council Tax.

### **Extract Local Government Finance Act 1992 – Section 106**

Council tax and community charges: restrictions on voting.

**106.** (1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), if at that time

- (a) a sum falling within paragraph 1(1)(a) of Schedule 4 to this Act; or
- (b) a sum falling within paragraph 1(1)(a), (b), (d) or (ee) of Schedule 4 to the 1988 Act (corresponding provisions with respect to community charges),

has become payable by him and has remained unpaid for at least two months.

(2) Subject to subsection (5) below, if a member to whom this section applies is present at a meeting of the authority or committee at which any of the following matters is the subject of consideration, namely—

- (a) any calculation required by Chapter III, IV or V of Part I of this Act;
- (b) any recommendation, resolution or other decision which might affect the making of any such calculation; or
- (c) the exercise of any functions under Schedules 2 to 4 to this Act or Schedules 2 to 4 to the 1988 Act (corresponding provisions with respect to community charges),

he shall at the meeting and as soon as practicable after its commencement disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.

(3) If a person fails to comply with subsection (2) above, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he did not know—

- (a) that this section applied to him at the time of the meeting; or
- (b) that the matter in question was the subject of consideration at the meeting.

(4) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

(5) Subsections (1) to (3) of section 97 of the [1972 c. 70.] Local Government Act 1972 (removal or exclusion of liability etc.) shall apply in relation to this section and any disability imposed by it as they apply in relation to section 94 of that Act and any disability imposed by that section.

(6) In this section "local authority" has the same meaning as in sections 94 and 97 of the [1972 c. 70.] Local Government Act 1972.

**The Council Tax department will advise the Members' Services Manager should this be identified, who will subsequently discuss it with the individual Member concerned.**