

My Ref: IG-12785
Your Ref:
Contact: Freedom of Information Team
Email: FOI@nottinghamcity.gov.uk



Nottingham
City Council

Freedom of Information Team
Information Compliance
Legal & Governance
2nd Floor
Loxley House
Station Street
Nottingham
NG2 3NG

Requester

At contact address specified for request number above

10 October 2019

Tel: 0115 876 4376

Email:

FOI@nottinghamcity.gov.uk
www.nottinghamcity.gov.uk

Dear Requester

Request under the Freedom of Information Act 2000 (the Act)

The council has considered your request which was received on 12 September 2019 and our response to your questions is shown below.

Q. Where did the council obtain the information regarding the appropriation of payments case law which conflicts with the judgment in R. v Miskin Lower Justices [1953]?

The Judgment suggests that where the debtor does not request how the payment should be applied, the creditor is bound to appropriate *“the whole of such payment to that part of the total amount due which first accrued”* i.e. the oldest debt.

There are further comments that it was likely in that case the debtor would have wanted those payments to be *“utilized in discharge of the original debt”* and that that decision would depend on the particular facts of the case.

The council's understanding of the Judgment is therefore that where the debtor does not stipulate how the payment should be applied, the creditor shall determine how the payment should be applied.

The Council Tax system employs a sophisticated logic to correctly allocate payments to the appropriate debt and year where payment is made against an account with debts for multiple years and types outstanding. This includes -

- Matching payments against any instalment due, including multiples;
- Matching payments against the debt due on the most recent bill or recovery notice;
- Matching payments against any amounts due under a repayment arrangement for debts subject to a liability order;
- Matching payments against previous years arrears i.e. if payment amount matches the arrears it will be allocated against those arrears;
- Matching payment against future years instalments;



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- Matching payment based on a combination of above.

In addition any payment collected by an Enforcement Agent is allocated against the liability order for which they collected it.

If a payment made by a taxpayer is not allocated using the logic employed in the Council Tax system and the taxpayer has not indicated how the payment should be allocated then we allocate it against the oldest debt outstanding.

As such the council maintain that we do allocate payments in line with the principles of *R. v Miskin Lower Justices* [1953].

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If you are unhappy with the response provided or with the handling of your request, you can ask for an internal review in writing stating the reasons for your dissatisfaction. Your request for an internal review should be made to the council within forty working days of the date of this letter. Please quote reference IG-12785 in all communications.

You can contact the Freedom of Information Team either by email: FOI@nottinghamcity.gov.uk or writing to the **Freedom of Information Team, Information Compliance, Legal & Governance, 2nd Floor, Loxley House, Station Street, Nottingham, NG2 3NG.**

If you remain unhappy after receiving the response to your initial complaint you can request an independent review from the Information Commissioner's Office at **FOI/EIR Complaints Resolution, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF**. You may also contact the Information Commissioner's Office by telephone on 01625 545745 or by email at mail@ico.gsi.gov.uk.

Yours sincerely

Freedom of Information Team
Legal & Governance
Nottingham City Council