

REQUEST	RESPONSE
<p>The Council makes the statement quoted below from the link: https://clicktime.symantec.com/3RsMj5FiGoKHMN6GX4pANv s6H2?u=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2Fensuring_customers_are_not_subje_314%23incoming-1078071</p> <p>"R v Miskin Lower Justices (1953) held that where an amount so obviously relates to a specific liability, it would be an unwarranted assumption to allocate the payment elsewhere. This case establishes that if the amount of the payment identifies the debt, then it must be allocated to that debt.....</p> <p>Where the person making the payment states explicitly that the payment should be allocated to a specific debt, then the council must and will abide by that statement. Where the debtor does not make any reference as to where the payment should be allocated and the amount gives no clue, then it is up to the council as the creditor to make the choice.</p> <p>"</p> <p>The final sentence in the above does not agree with the judgment in the case of R. v Miskin Lower Justices (see below link to the judgment):</p> <p>https://clicktime.symantec.com/3MywHYqLjQxRScooDqdANxi 6H2?u=http%3A%2F%2Fs000.tinyupload.com%2Findex.php%3Ffile_id%3D38557601432495541319</p> <p>The judgment clarifies the position in cases where a creditor has to make a decision as to which account payment should be allocated when a debtor has one account more burdensome for him than another and his payment is unspecified.</p> <p>Clearly the final sentence if it were to agree with the judgment would be.....</p> <p>Where the debtor does not make any reference as to where the payment should be allocated then the creditor must allocate the payment to the account which it is most beneficial to the debtor to reduce.</p> <p>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]?</p>	<p>Our previous response does not contradict the judgement made in R v Miskin Lower Justices (1953)</p> <p>R v Miskin Lower Justices (1953) held that where an amount so obviously relates to a specific liability, it would be an unwarranted assumption to allocate the payment elsewhere.</p> <p>Thus, if the amount of the payment identifies the debt, then it must be allocated to that debt. Where the debtor states or implies that the payment should be allocated to a specific debt, then the creditor must abide by that statement.</p> <p>Where the debtor does not make any reference as to where the payment should be allocated and the amount gives no clue, then it is up to the creditor to make the choice.</p> <p>There is total discretion afforded to the creditor, but only where there is no indication by either the amount of the payment or by the indications from the debtor.</p> <p>The principles laid down in R v Miskin Lower Justices (1953) and associated caselaw are followed by Wigan Council.</p> <p>In instances where an allocation of payments are challenged by a debtor, the council would look at these on a case by case basis.</p>