

Appendix 2

Draft proposals for a Bill to Align Local Authority Powers to Pursue Tax Debts with Those for Other Debts

No	Question	Response
1	Are there any reasons to justify retaining the right of local authorities to initiate court proceedings after a longer period of time has elapsed than other creditors?	Local authorities are involuntary creditors and, as such, cannot opt out of charging local taxpayers. Private sector businesses can opt to stop trading with a creditor as soon as problems arise with their account. In addition, although it is the responsibility of the taxpayer to inform the Council of any changes to their circumstances, many changes come to light long after the event and the Council will have to apply retrospective changes to a taxpayer's account.
2	In what ways do you consider restricting the period within which local authorities can initiate court actions to five years would increase overall collection rates	Studies by the Scottish Government and Audit Scotland have identified deprivation as a factor affecting council tax collection performance. In areas of higher deprivation, Councils on average will take longer to collect the charges than more affluent areas. It is anticipated that restricting the period to five years would have an adverse effect upon overall collection rates. In addition there would require to be a significant write off of older council tax debts in year one of the new proposals.
3	Are there any reasons why local authorities should be allowed longer than five years to initiate court proceedings?	Local authorities are involuntary creditors and, as such, cannot opt out of charging local taxpayers. Although it is the responsibility of the taxpayer to inform the Council of any changes to their circumstances, many changes come to light long after the event and the Council will have to apply retrospective changes to a taxpayer's account.

4	What should happen to existing local authority tax debts for which court action has not been initiated within five years?	The debts should continued to be pursued using the twenty year prescription period of the summary warrant procedure.
5	What costs and benefits will arise from scrapping summary warrant procedure for these types of debts?	There would be additional court costs associated with raising individual actions for each council tax debt and there would be concerns that the courts would be able to cope with the additional volume of actions. The benefit would be the debtor appearing in court and recognising the debt.
6	In what ways will the alignment of the prescription period as proposed and the scrapping of summary warrant procedure affect equal opportunities?	In terms of human rights, the summary warrant procedure does not allow for the debtor to be represented at court. However, in order to address this shortcoming, the creditor is required to serve a Charge for Payment notice on the debtor prior to proceeding to diligence on the warrant.
7	Do you have any other comments on the proposal?	<p>The consultation paper does not mention Non Domestic Rates or other forms of taxation recovered by HM Revenues & Customs.</p> <p>Writing off debts after five years may give out the wrong message to taxpayers.</p>