## [Council Tax, Legal?](http://thepoliticalprison.wordpress.com/2013/07/26/council-tax-legal/" \o "Permanent Link to Council Tax, Legal?)

This is quite a long post but will be worth the time.

Letter to the Local Council, Councillors, MPs. and Police.

It has come to our attention through the research of many diligent men and women, men and women who see the present system as one of ‘forcing’ Inhabitants of the Borough of Bolton to pay for something they are not obliged to pay for.

It would appear that Council Tax is both unlawful and illegal.

The local council, ‘Bolton Council’, claim their authority for demanding council tax is from the Local Government Finance Act 1992 (LGFA 1992).

The council claim that the LGFA 1992 gives authority to demand tax on ‘Dwellings’ and that Inhabitants of the Borough live in ‘Dwellings’, so the Inhabitants MUST pay council tax for the very fact that they live in ‘Dwellings’ in Bolton.

Please take note of words in ***bold italics***.

LGFA1992 section 1 Council Tax;

##### 1 Council tax in respect of dwellings.

(1)As regards the financial year beginning in 1993 and subsequent financial years, each billing authority shall, in accordance with this Part, levy and collect a tax, to be called council tax, which shall be payable in respect of ***dwellings*** situated in its area.

**[**[**F1**](http://www.legislation.gov.uk/ukpga/1992/14/section/1#commentary-c1207281)(2)In this Part “billing authority” means—

(a)in relation to England, a district council or London borough council, the Common Council or the Council of the Isles of Scilly, and

(b)in relation to Wales, a county council or county borough council.**]**

(3)For the purposes of this Part the Secretary of State may make regulations containing rules for treating a ***dwelling*** as situated in a billing authority’s area if part only of the ***dwelling*** falls within the area.

If we look at the meaning of **‘Dwelling’** in the LGFA 1992, section 3 of the act says;

**3 Meaning of “dwelling”.**

(1)This ***section has effect for determining what is a dwelling for the purposes of this Part.***

(2)Subject to the following provisions of this section, a ***dwelling*** is any ***property*** which—

(a)by virtue of the definition of ***hereditament*** in section ***115(1) of the***[***M1***](http://www.legislation.gov.uk/ukpga/1992/14/section/3#commentary-c1207283)***General Rate Act 1967***, would have been a ***hereditament*** for the purposes of that Act ***if that Act remained in force***; ***and***

(b) is ***not*** for the time being shown or required to be shown in ***a local or a central non-domestic rating list*** in ***force at that time***; ***and***

(c) is ***not*** for the time being exempt from ***local non-domestic*** rating for the purposes of ***Part III of the***[***M2***](http://www.legislation.gov.uk/ukpga/1992/14/section/3#commentary-c1207284)***Local Government Finance Act 1988 (“the 1988 Act”);***

If we now look at the interpretation of the word ***hereditament*** in the General Rate Act 1967 (GRA 1967).

### 115 Interpretation

(1)In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

” agricultural land ” has the meaning assigned by section 26(3) of this Act;

” charges”, in Part VI of this Act, includes fees and expenses;

” clerk “, in relation to any authority or body, includes any officer of the authority or body authorised by them to act on their behalf either generally or in relation to any particular matter;

” the Commissioners ” means the Commissioners of Inland Revenue;

***” dwelling-house*** ” means a ***hereditament*** which, in accordance ***with Schedule 13 to this Act, is used wholly*** for the purposes of a ***private*** ***dwelling or private dwellings;***

(3)A hereditament which—

(a)is a composite hereditament for the purposes of Part III of the 1988 Act; and

(b)would still be such a hereditament if paragraphs (b) to (d) of section 66(1) of that Act (domestic property) were omitted, is also, subject to subsection (6) below, a dwelling for the purposes of this Part.

(4)Subject to subsection (6) below, ***none of the following property***, namely—

(a)a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation; or

(b)a private garage which either has a floor area of not more than 25 square metres or is used wholly or mainly for the accommodation of a private motor vehicle; or

(c)private storage premises used wholly or mainly for the storage of articles of domestic use,

***is a dwelling*** except in so far as it forms part of a larger property which is itself a ***dwelling by virtue of subsection (2) above***.

(6)The Secretary of State may by order amend any definition of “dwelling” which is for the time being effective for the purposes of this Part.

As of today    July 2013 this section of the LGFA1992 has not been amended.

If we now look at the above mentioned LGFA 1988 to find the interpretation of ***hereditament***, section 64;

#### 64 Hereditaments.

(1)A hereditament is anything which, by virtue of the definition of hereditament in section 115(1) of the 1967 Act, would have been a hereditament for the purposes of that Act had this Act not been passed.

(2)In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and—

(a)the right is let out or reserved to any person other than the occupier of the land, or

(b)where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.

(3)The Secretary of State may make regulations providing that in prescribed cases—

(a)anything which would (apart from the regulations) be one hereditament shall be treated as more than one hereditament;

(b)anything which would (apart from the regulations) be more than one hereditament shall be treated as one hereditament.

**[**[**F1**](http://www.legislation.gov.uk/ukpga/1988/41/section/64#commentary-c1306953)(3A)The Secretary of State may make regulations providing that where on any land there are two or more moorings which—

(a)are owned by the same person,

(***b) are not domestic property, and***

(c)are separately occupied, or available for separate occupation, by persons other than that person

(4)A hereditament is a relevant hereditament if it consists of property of any of the following descriptions—

(a)lands;

(b)coal mines;

(c)mines of any other description, other than a mine of which the royalty or dues are for the time being wholly reserved in kind;

(8)A ***hereditament is non-domestic*** if either—

(a)***it consists entirely of property which is not domestic***, or

(b)it is a composite hereditament.

(9)A ***hereditament*** is composite if ***part only*** of it consists of domestic property.

(10)A ***hereditament*** shall be treated as ***wholly or mainly*** used for charitable purposes at any time if at the time it is ***wholly or*** ***mainly*** used for the sale of goods donated to a charity and the proceeds of sale of the goods (after any deduction of expenses) are applied for the purposes of a charity.

(11)In subsection (2) above “land” includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

**[**[**F4**](http://www.legislation.gov.uk/ukpga/1988/41/section/64#commentary-c1306963)(12)In subsections (3A) and (3B) above “owner”, in relation to a mooring, means the person who (if the mooring is let) is entitled to receive rent, whether on his own account or as agent or trustee for any other person, or (if the mooring is not let) would be so entitled if the mooring were let, and “owned” shall be construed accordingly.**]**

Up until now you may have noticed, no mention of ***private ‘DOMESTIC’ property*** being liable for ‘rating’ or ‘council tax’, unless part only is used wholly or mainly for business. We can now see what the LGFA 1988 section 65 says;

#### 65 Owners and occupiers.

(1)The owner of a hereditament or land is the person entitled to possession of it.

(5)A hereditament which is not in use shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of there being kept in or on the hereditament plant, machinery or equipment—

(a)which was used in or on the hereditament when it was last in use, or

(b)which is intended for use in or on the hereditament.

(6)A hereditament shall be treated as unoccupied if (apart from this subsection) it would be treated as occupied by reason only of—

(a)the use of it for the holding of public meetings in furtherance of a person’s candidature at a parliamentary or local government election, or

(b)if it is a house, the use of a room in it by a returning officer for the purpose of taking the poll in a parliamentary or local government election.

(7)In subsection (6) above “returning officer” shall be construed in accordance with section 24 or 35 of the [**M1**](http://www.legislation.gov.uk/ukpga/1988/41/section/65#commentary-c1306976)Representation of the People Act 1983 (as the case may be).

(8)A right which is a hereditament by virtue of section 64(2) above shall be treated as occupied by the person for the time being entitled to the right.

**[**[**F2**](http://www.legislation.gov.uk/ukpga/1988/41/section/65#commentary-c1306977)(8A)In a case where—

(a) land consisting of a ***hereditament*** is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,

(b) section 64(2) above does not apply, and

(c) apart from this subsection, the ***hereditament*** is not occupied,

the ***hereditament*** shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner.**]**

Again no mention of DOMESTIC property. We now consider the ‘interpretation’ of domestic property in the LGFA 1988 section 66;

#### 66 Domestic property.

(1)**[**[**F1**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307024)Subject to subsections (2), (2B) and 2E below**]**, property is domestic if—

(a) ***it is used wholly for the purposes of living accommodation***,

(b) it is a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property falling within paragraph (a) above,

(c) it is a private garage **[**[**F2**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307025)which either has a floor area of 25 square metres or less or is**]** used wholly or mainly for the accommodation of a private motor vehicle, or

(d) it is private storage premises used wholly or mainly for the storage of articles of domestic use.

**[**[**F3**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307026)(2) Property ***is not*** domestic property if it is ***wholly or mainly*** ***used*** in the course of a ***business*** for the provision of short-stay accommodation, that is to say accommodation—

(a)which is provided for short periods to individuals whose sole or main residence is elsewhere, and

(b)which is not self-contained self-catering accommodation provided commercially.

(2B)A building or self-contained part of a building ***is not*** domestic property if—

(a)the relevant person intends that, in the year beginning with the end of the day in relation to which the question is being considered, the whole of the building or self-contained part will be available for letting commercially, as self-catering accommodation, for short periods totalling 140 days or more, and

(b)on that day his interest in the building or part is such as to enable him to let it for such periods.

(2C)For the purposes of subsection (2B) the relevant person is—

(a)where the property in question is a building and is not subject as a whole to a relevant leasehold interest, the person having the freehold interest in the whole of the building; and

(b)in any other case, any person having a relevant leasehold interest in the building or self-contained part which is not subject (as a whole) to a single relevant leasehold interest inferior to his interest.

(2D)Subsection (2B) above does not apply where the building or self-contained part is used as the sole or main residence of any person [**F5**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307028). . .**]**

**[**[**F6**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307029)(2E)Property ***is not*** domestic property if it is timeshare accommodation within the meaning of the Timeshare Act 1992.**]**

**[**[**F7**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307030)(3)Subsection (1) above does not apply in the case of a pitch occupied by a caravan, but if in such a case the caravan is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property**]**

**[**[**F8**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307031)(4)Subsection (1) above does not apply in the case of a mooring occupied by a boat, but if in such a case the boat is the sole or main residence of an individual, the mooring and the boat, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property.

(4A)Subsection (3) or (4) above does not have effect in the case of a pitch occupied by a caravan, or a mooring occupied by a boat, which is an appurtenance enjoyed with other property to which subsection (1)(a) above applies**]**

(5)Property not in use is domestic if it appears that when next in use it will be domestic.

(6 )**[F9](http://www.legislation.gov.uk/ukpga/1988/41/section/66" \l "commentary-c1307032" \o "View the commentary text for this item)**. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(7)Whether anything is a caravan shall be construed in accordance with Part I of the [**M1**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307033)Caravan Sites and Control of Development Act 1960.

(8 )**[F9](http://www.legislation.gov.uk/ukpga/1988/41/section/66" \l "commentary-c1307032" \o "View the commentary text for this item)**. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**[**[**F10**](http://www.legislation.gov.uk/ukpga/1988/41/section/66#commentary-c1307035)(8A)In this section—

“business” includes—

(a)any activity carried on by a body of persons, whether corporate or unincorporate, and

(b)any activity carried on by a charity;

“commercially” means on a **commercial basis**, and with a view to the **realisation of profits**; and

“relevant leasehold interest” means an interest under a lease or underlease which was granted for a term of 6 months or more and conferred the right to exclusive possession throughout the term.**]**

(9)The Secretary of State may by order amend, or substitute another definition for, any definition of domestic property for the time being effective for the purposes of this Part.

As of today    July 2013 this section of the LGFA1992 has not been amended.

We now consider the ‘interpretations’ given within the LGFA 1988 section 67;

#### 67 Interpretation: other provisions.

(1)Unless the context otherwise requires, references to lists are to local and central ***non-domestic*** rating lists.

(2)Unless the context otherwise requires, references to valuation officers are to valuation officers for **[**[**F1**](http://www.legislation.gov.uk/ukpga/1988/41/section/67#commentary-c1307045)billing authorities**]**and the central valuation officer.

(3)A right or other property is a hereditament on a particular day if (and only if) it is a hereditament immediately before the day ends.

(4)A ***hereditament*** is relevant, ***non-domestic***, composite, unoccupied or wholly or partly occupied on a particular day if (and only if) it is relevant, non-domestic, composite, unoccupied or wholly or partly occupied (as the case may be) immediately before the day ends.

(5)For the purpose of ***deciding the extent (if any)*** to which a ***hereditament consists of domestic property*** on a particular day,**[[F2](http://www.legislation.gov.uk/ukpga/1988/41/section/67" \l "commentary-c1307046" \o "View the commentary text for this item)**or is a Crown hereditament on a particular day,**]** or is exempt from local non-domestic rating on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.

**[**[**F3**](http://www.legislation.gov.uk/ukpga/1988/41/section/67#commentary-c1307047)(5A)In subsection (5) above “Crown hereditament” has the same meaning as in section 65A above.**]**

(6)A person is the owner, or in occupation of all or part, of a hereditament on a particular day if (and only if) he is its owner or in such occupation (as the case may be) immediately before the day ends.

(7)A relevant provision applies on a particular day if (and only if) it applies immediately before the day ends; and for this purpose relevant provisions are sections 43(6), 45(6) and 47(2) above.

(8)For the purpose of deciding what is shown in a list for a particular day the state of the list as it has effect immediately before the day ends shall be treated as having been its state throughout the day; and “effect” here includes any effect which is retrospective by virtue of an alteration of the list.

(9)***A hereditament shall be treated as shown in a central non-domestic rating list*** for a day if on the day it falls within a class of hereditament shown for the day in the list; and for this purpose a hereditament falls within a class on a particular day if (and only if) it falls within the class immediately before the day ends.

**[**[**F4**](http://www.legislation.gov.uk/ukpga/1988/41/section/67#commentary-c1307048)(9A)In subsection (9) above “class” means a class expressed by reference to whether hereditaments—

(a)are occupied or owned by a person designated under section 53(1) above, and

(b)fall within any description prescribed in relation to him under section 53(1).**]**

(10)A charity is an institution or other organisation established for charitable purposes only or any persons administering a trust established for charitable purposes only.

(11)The [**M1**](http://www.legislation.gov.uk/ukpga/1988/41/section/67#commentary-c1307049)1967 Act is the General Rate Act 1967.

(12)Nothing in a private or local Act passed before this Act shall have the effect that a hereditament is exempt as regards non-domestic rating, or prevent a person being subject to a non-domestic rate, or prevent a person being designated or a description of hereditament being prescribed under section 53 above.

(13)This section and sections 64 to 66 above apply for the purposes of this Part.

If we are not mistaken it would appear that the only property liable to Council Tax is a ‘Dwelling’ and a ‘Dwelling’ is not Domestic Property, a ‘Dwelling’, it would appear is a ‘hereditament’.

The above are not my “opinions” they are the LAW as it is ‘interpreted’ by Parliamentarians, Judges, the Courts and all agents of the Government including Bolton Council.

It would appear that a hereditament in respect of Domestic Property is a Domestic Property that part only is used, wholly or mainly, for the running of a commercial  business for profit, or, a charitable concern, or, a room used for the local prospective candidates for Public meetings, or, exhibition advertising signs, or, storage of plant and machinery, indeed anything but DOMESTIC PROPERTY used wholly for LIVING ACCOMMODATION.

In consideration of the above facts we the ‘inhabitants of the Borough’ expect you the ‘elected representatives’ to give this matter your full and undivided attention. In ascertaining whether ‘inhabitants of the Borough’ residing in ‘domestic properties’ should be ‘forced’ to contribute towards the council’s coffers. Forced by way of a tax on the ‘inhabitants of the Borough’ who are not obliged ‘by law’ to contribute.

Interpretations;

***” hereditament***” means property which ***is or may*** become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list;

” profits basis “, in relation to the valuation of a ***hereditament,*** means the ascertainment of the value of that ***hereditament*** by reference to the ***accounts, receipts or profits of an undertaking*** carried on therein;

If we are not mistaken ‘forcing’ inhabitants to pay for this insidious TAX is, dare we say it, SLAVERY. For councils to have taken by force from ignorant, yes IGNORANT, people for 20 years without once letting up on the pressure to ‘pay’. To strip people of their property, to drive them from their homes, to steal ‘unpaid’ money from wages and benefits and to send ‘non-payers’ to prison for failing to ‘pay’ is, lets be honest, just……EVIL. Many of these victims could not ‘pay’, not would not ‘pay’.

So Mr. MP., Mr. Councillor, Mr. Judge, Mr. Policeman where do we go from here, do you do your job or do we do it for you?

All of the above can and should be checked.

All of the above can be found on-line at Legislation .gov.uk and do check out

***Part III of the***[***M2***](http://www.legislation.gov.uk/ukpga/1992/14/section/3#commentary-c1207284)***Local Government Finance Act 1988***

There you will find many more definitions of HEREDITAMENT

[**Council Tax, Illegal? 2**](http://thepoliticalprison.wordpress.com/2013/08/03/council-tax-illegal-2/)

Council Tax, Illegal ?

A follow up to the previous post where we learned that Council tax is applied only to ***Dwellings***. That Dwellings are ***not Domestic Property***, that Dwellings ***are Non-domestic property*** used for the ‘realisation of profits’.

So this week we took the argument to the court.

Friday 2nd August 2013 1:45 pm

Wigan and Leigh Courthouse

The protagonists

***Wigan Council v The Angry Man***

A packed court room, seven observers, numerous lawyers, court staff, the Judge and of course the obligatory Police. Three Cops in full battle dress, Tazers, truncheons, pepper sprays and handcuffs.

Proceedings opened with the Council Tax Enforcement officer swearing on the ***Bible*** not to tell lies, but, unfortunately no sooner had she opened her mouth she started to lie.

The Enforcement officer claimed that the Council gained the Authority to ‘force’ payment via the Local Government Finance act 1992. She told the court that  the Angry Man owed £700 + costs. She claimed that payment had not been received since April 2013, that the Council had applied for a Summons to court for the Angry Man and that they wished for the Judge to  issue a Liability Order against the Angry Man.

Three lies in her first breath, the Angry Man owes nothing, the Council issued the summons and if  the Angry Man had not told the court that he wished to appear in court, the council would have issued the Liability Order.

It then got very interesting. The Judge asked the Enforcement officer if the Angry Man lives in a Dwelling and if so could she describe what type of Dwelling he lives in.

Well, Fuck me gently, the Enforcement officer began to shuffle her papers, change her weight from left to right, look around at her fellow council officers for support but none was forth coming. ***Ooops!***

Again the Judge asked; “Can you please tell the court if this man lives in a Dwelling?” “Can you please describe a Dwelling to the court?”

” This man has provided the court with his response to your claim, a  thirteen page defence” said the Judge.

“Err….. but he lives in a Band A house” muttered the Enforcement officer.

“Yes, you’ve told the court this already, now can you please tell the court if this man lives in a Dwelling” said the Judge a little more forcefully.

More shuffling of paper then.

Nothing.

The Judge then asked the Angry Man if he would explain his reasons for not ‘paying’ council tax. The Angry Man then explained that the council claim that the Local Government Finance Act 1992 gives them authority to demand money from people who live in Dwellings but,    ” I do not live in a Dwelling, so I should not ‘pay’ anything” and ” I have given my response paperwork to the council two months ago but they have failed to reply, as they fail to reply to every question put to them for the past two YEARS”

The Enforcement officer then lied again, saying ” We have not had his paperwork, then man who received it has now left the council, we have not got the response”

***Lies, Damned Lies!***

The Judge then offers his copy of the Angry Man’s response for the officers to look over, and adjourned the court to give them time to understand the Law that they ENFORCE !!!

What follows is some rather panicked too-ing and fro-ing, hushed phone calls, frequent trips to the Ladies, scratching of heads, FFS these idiots are supposed to know the Law.

ONE HOUR LATER, Yawn.

We all file back into court, this time without Plod. Don’t ask, we don’t know why. The Enforcement officer then pleads for an Adjournment,

   JESUS WEPT the Judge granted one.

No, No, No these Bullies have had the chance to understand the 1992 Act for twenty one (21) years. They are paid huge sums of our money, they steal property, they force people from their homes, they imprison “debtors” and they drive the more vulnerable to take their own lives. They should have been made to answer right there and then.

**BASTARDS**

So, now we wait till September for further lies and obfuscation, further muttering and shuffling, but, maybe we will get the truth concerning Council Tax.

We’ll keep you informed.