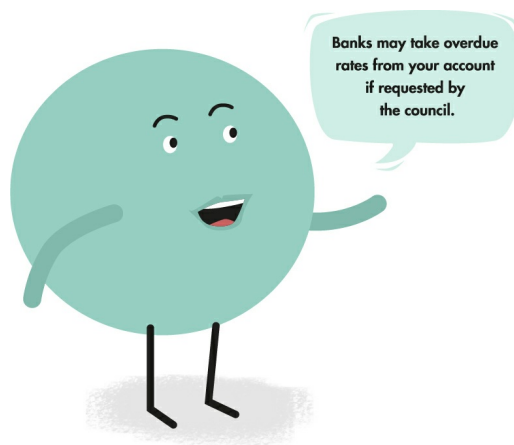


Overdue council rates

Councils have the legal power to demand that a bank pays a customer's overdue rates if the bank has a mortgage over the customer's property. The bank is, in turn, entitled to take the money from the customer's account.



Two pieces of legislation deal with Council rates:

- The Local Government (Rating) Act 2002, obliges property owners to pay their rates. It also enables the council to recover unpaid rates from the bank as mortgagee if the property owner is in default.
- The Property Law Act 2007, also obliges the borrower in a mortgage to pay rates for the property.

A council can notify a bank, as mortgagee, that a property owner has not paid his or her rates, and demand that the bank pay them instead. The bank must pay the arrears. Typically, it will recover the money from the customer by debiting the amount to his or her account. It is standard practice for the terms and conditions of property loans to include a reference to a bank's right to recover money owed by customers.

Common complaints

Customer did not authorise the debit

Some customers complain that their bank acted unlawfully by taking money from their account because they did not authorise the withdrawal. In such cases, we will review correspondence between the council and bank, and between the bank and customer. We will also check whether the terms and conditions of the customer's account allowed the bank to debit the account in such circumstances. If the terms and conditions contain such a provision, and if the bank paid the rates arrears in response to a council demand, we cannot take the complaint further.

Bank failed to notify the customer

Customers complain that their bank failed to notify them of its intention to debit their account. It is standard practice for a bank to try to contact a customer to advise that it has received a rates notice from a council, and also to explain the consequences of a rates demand being served on the bank. We review communications to check that the bank gave adequate notice. If we find the bank failed to give adequate notice, we may consider compensation for inconvenience.

Customer in a dispute with council

Customers complain that their bank should not pay rates arrears or debit their account because they are in a dispute with their council. Banks are not required to become involved in such disputes, and are entitled to rely on a council's notice that rates are in arrears. The courts are the place for ratepayer challenges.



It is standard practice for a bank to try to contact a customer to advise that it has received a rates notice from a council and explain the consequences of the demand before debiting your account.