

District Council not unreasonable to retain credit balance in rates account

Legislation	Ombudsmen Act 1975, Rating Powers Act 1988
Agency	Local authority
Ombudsman	Sir Brian Elwood
Case number(s)	W41971
Date	1999

Early payment of rates—credit balance in rates account— whether local authority has obligation to make refund on request

In order to smooth the payment of her rates over the whole rating year, the complainant arranged to pay \$20 per week by direct credit to the District Council. This proved to be more than was necessary, and a credit balance built up in her rates account. She therefore reduced the weekly payments and asked Council to refund the credit balance. The Council agreed to refund only the credit balance past 30 June 1999, the end of the then current rating year. The complainant sought a review of the Council's action.

Except in certain circumstances not relevant in this case, the *Rating Powers Act 1988* authorises a local authority to make rates for a period not exceeding one year. It is usual for a Council to make rates for the whole of the rating year in question. The Council may provide for instalment payments, but it is open to the ratepayer to make full payment of rates for the current rating year at any time, if he or she chooses to do so.

In the complainant's case, the presence of the credit balance, insofar as it did not exceed the total rates owing for the whole of the rating year, could be seen as early payment. It was not an overpayment, as the money was owed to the Council as part of her rates assessment for the rating year in question, even though the year in question had not yet ended. The Council was therefore entitled to retain the credit balance to the extent that it did not exceed the rates assessment for the current rating year.

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