

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
FINANCE ASSETS AND PERFORMANCE SCRUTINY COMMITTEE**

Date April 2019

1. **REPORT TITLE** Ethical Debt Collection
- Submitted by:** Revenues Manager – Karen Hollinshead
- Portfolio:** Finance and Resources
- Ward(s) affected:** All

Purpose of the Report

To Review the Councils debt collection policies and procedures.

Recommendations

That the Use of Enforcement Agents (Bailiffs) only be used as a last resort in the Collection Council Tax

Reasons

The report follows a Council Resolution on 20th January 2019 referring this issue for Scrutiny

1. **Background**

On 20th January 2019 Council resolved :

To review its debt collection policies and implement an ethical debt collection approach by asking the Finance, Assets and Performance Scrutiny Committee to review the Councils debt collection policies and procedures and to make any recommendations

To endorse the Councils policy of not using bailiffs for the collection of Council Tax arrears

To ask the Leader to write to the Secretary of State for Justice supporting the Citizens Advice call for an independent regulator for the debt collection sector.

This report provides an overview of the Council's debt collection policies and procedures as well as information about alternative approaches adopted by some other Council's in order to assist the Committee in formulating its recommendations.

2. **Issues**

Legislative Background

The Local Government Finance Act 1992 (as amended) introduced the concept of Council Tax and imposed on Billing Authorities the duties to collect the tax on behalf of precepting and parish authorities as well as itself.

This legislation states that *'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'* and Councils also have a fiduciary duty in this matter. These regulations specify the remedies available for non-payment of the tax and include the power of distress (seizing personal goods to enforce payment of the debt).

The Taking Control of Goods Regulations 2013 updated the position with regards to the use of bailiffs (now called Enforcement Agents but different from High Court Enforcement agents) and specifies the process to be carried out and fees to be charged at each stage. Under these regulations both the individual enforcement agent and the firm for which they work have to be certified by the Courts. Under the Certification of Agents Regulations 2014 the court must be satisfied that the applicant is a fit and proper person to hold a certificate and has sufficient knowledge of the law to be competent to exercise these powers. Applicants must also undergo an enhanced DBS check. Certificates are granted for a two year period and can be challenged and suspended or cancelled by the courts where necessary.

The Council's Debt Collection Policies and Procedures

The Council currently uses Enforcement Agents as a last resort collection method. Our recovery procedures are attached at Annex A.

The Enforcement agents used comply with the National Standards and the CIVEA code of conduct and good practice guide (also attached at Annexes B and C).

At every stage of the process charge payers are encouraged to contact the Council to discuss payment arrangements and entitlements to discounts or benefits which may reduce their bill.

If a charge payer does not pay their Council Tax demand as required a Reminder Notice is issued which, if not paid or responded to, is followed by an application to the Magistrates Court for a Liability order. This order grants the authority various powers of collection.

Following the obtaining of the liability order officers attempt to engage with the charge payer to encourage them to make payment arrangements or discover if there are any reasons why payments cannot be made.

Customers can communicate with the Council via telephone, personal visit or email and can access their account details directly via the website (this facility is currently being upgraded). Letters and emails are sent out and telephone calls made where possible. Charge payers expressing difficulties or believed to require assistance are signposted to debt advice agencies such as the Citizens Advice Bureau with whom we have regular meetings.

All of our staff have been trained in how to identify vulnerable debtors and further attempts are made to engage with them, using home visits where appropriate.

If a charge payer will not engage, enquiries are made to establish whether the charge payer is working or receiving benefits and attachment of earnings orders are obtained if possible.

However there is still a significant minority of charge payers who cannot be contacted or will not engage and in these instances the cases are issued to Enforcement Agents. Often the first time we are aware of a customer's circumstances is after a visit from the Enforcement Agent. Enforcement

Agents also receive training in vulnerability and will not charge the enforcement fee of £235.00 and will return the case to us if a customer is found to be vulnerable. Whilst it is accepted that some of these charge payers will be struggling, a significant number of these cases are 'won't pays' who for various reasons choose not to pay the tax rather than being unable to do so.

In 2017-18 4118 cases (7.35%) were issued to Enforcement agents with a total value of £2,312,830.54. Of this £858,515.54 has been collected to date.

We have an arrangement with the Enforcement Agents whereby they issue a further letter to all Council Tax debtors prior to the Compliance letter required under the Taking Control of Goods regulations. This letter has no cost to the charge payer and allows them another opportunity to get in touch and make arrangements before the compliance notice is served. Of the cases mentioned above 23.6% were cleared at this stage.

Following the introduction of the Taking control of goods regulations in 2014 a review of enforcement arrangements was undertaken. This considered the possibility of bringing the Enforcement service in-house, however the costs of doing so were found to be prohibitive.

Currently the Enforcement Agents operate at no costs to the Council covering their costs from the fees which are specified in legislation.

Other debts

In addition to Council Tax the Borough Council also collects National Non Domestic Rates, Housing Benefit Overpayments and other Sundry Debts.

Enforcement Agents are used as a last resort to collect all of the above. However for business debts no pre compliance letter is issued.

Businesses in financial difficulty are also signposted to the CAB, or to our Business Development Officer to assist. We are also aware of a free business clinic provided by a local insolvency practitioner who can assist in some cases.

Regulations with regard to the overpayment of Housing Benefit are prescribed by the DWP. The guidance allows the recovery from ongoing benefit (where applicable) or deductions from DWP benefits or earnings at rates at prescribed rates (although these can be amended if agreed with the debtor). Initially all attempts are made to contact the debtor to make individual payment arrangements. If however none of these prove affective powers to engage enforcement agents or take proceedings in the county court may be used.

3. **Options Considered** (if any)

Other Authorities

London Borough of Hammersmith and Fulham (LBHF) announced in November 2017 that they were to cease their use of Enforcement Agents altogether for the collection of council tax debt. Since mid-July 2018 they have worked with a company who commit to making arrangements with customers based on their ability to pay. The collection costs of this company are met by the Council with the Council committing at least £80,000 towards the funding of the pilot. The underlying aim is to help residents to avoid getting into debt and reducing the number of cases which end up in Court.

However, it is inevitable that some customers will be unwilling or unable to pay and the approach that LBHF have taken means those debts will not be recovered. It is too early for them to predict the impact on their council tax collection rate.

Bristol CC has announced a pilot scheme for ethical debt recovery to start in the coming months but have not resolved to entirely cease the use of Enforcement Agents.

4. **Proposal**

Possible Further Actions

It is accepted that in the present day modern forms of contact should be used and we are currently considering the use of text messages as a way of communicating with customers. Timely reminders can be an effective way of ensuring that people do not fall behind with payments and building up large debts.

Other avenues that are being explored to improve collection rates include increased use of more specialised sophisticated data matching and tracing systems to enable more attachment of earnings to be created and digital analysis of all phone calls for signs of vulnerability and customer sentiment – this is being trialled by LBHF but analysis of the impacts, including costs is not yet available.

The Committee may also wish to consider introducing a local enforcement code of practice. An example of Sefton MBC's local code is attached at Annex D.

5. **Reasons for Preferred Solution**

Whilst it is desirable to consider the financial position of individual tax and not to add to their difficulties this must be balanced with the Councils duty to collect the debt and its duties to all residents.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

None

7. **Legal and Statutory Implications**

The Local Government Finance Act 1992 (as amended) imposed on Billing Authorities the duties to collect Council Tax on behalf of precepting and parish authorities as well as itself.

8. **Equality Impact Assessment**

Not Applicable

9. **Financial and Resource Implications**

Currently there are no costs to the Council for using Enforcement Agents. The Model implemented by London Borough of Hammersmith and Fulham (LBHF) currently has a budget of £80,000 although ongoing costs are unknown

10. **Major Risks**

There is a major risk that if taxpayers become aware that the Council has a policy of never using Enforcement Agents that the collection rates of Council Tax will fall.

11. **Sustainability and Climate Change Implications**

None

12. **Key Decision Information**

This is not a key decision and is not included in the forward plan

13. **Earlier Cabinet/Committee Resolutions**

The report follows a Council Resolution on 20th January 2019 referring this issue for Scrutiny

14. **List of Appendices**

Appendix A – Council Tax and NNDR Collection Policy
Appendix B – Taking Control of Goods National Standards
Appendix C – CIVIA Code of Conduct and Good Practice Guide
Appendix D – Sefton MBC Code of Practice for Enforcement Agents

15. **Background Papers**

None.