

TITLE OF REPORT : DEBT RECOVERY

REPORT OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

1. SUMMARY

- 1.1 To provide the Finance, Audit & Risk (FAR) Committee with an update on the management of Debtors.
- 1.2 At the 28th January 2013 meeting of the FAR Committee, Members requested that this area was reviewed and an overview of the debt recovery process was reported to the Committee.

2. RECOMMENDATION

- 2.1 That the report be noted.

3. REASONS FOR RECOMMENDATIONS

- 3.1 As requested by Members, to inform the Finance, Audit & Risk Committee of the processes followed.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The options outlined are considered the most appropriate.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Consultation has been undertaken with the Portfolio Holder for Finance & IT.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 The Debt Recovery function, located within Revenue & Benefits, is responsible for the collection of unpaid debts relating to:
 - Council Tax,

- National Non-Domestic Rates (NNDR),
- Business Improvement Districts (BIDS),
- Housing Benefit Overpayments,
- Car Park Excess Charge Notices
- Sundry Debts (i.e. all other categories of sums owed to NHDC).

7.1.1 Further information regarding recovery action procedures and total debts being pursued are given in Appendix A. The Debtors Team have also provided further background and context, which is included in Appendix B.

7.2 Overdue payments are initially chased via a set of standard reminder letters. Where the sum due remains unpaid after the issue of these letters, the following steps are taken:

7.2.1 For Council Tax, NNDR and BIDS, if a debt remains unpaid, application is made to the Magistrates Court for a Liability Order. In most cases, this is a straightforward statutory process and legal input is not required. The process is run by the collection teams. This secures the Council's debt and opens up several methods of recovering the debt. This can be by way of an attachment of earnings or an attachment of certain welfare benefits. Debt can also be referred to the Councils' External Collection Agents to enforce. If this proves to be unsuccessful, the Council can apply for a Warrant of Commitment to prison, or consider making an application for a Charging Order or Bankruptcy. There has not been the need to utilise this form of recovery in the last financial Year, although there are ongoing cases that are being monitored.

7.2.2 Recovery of these debts has to follow the procedures set down in the relevant Administration and Enforcement Regulations. There is no scope to deviate from these. However, at all stages of the process, the Council is happy to discuss any payment arrangement proposed by the customer. Each case is considered on its own merits and any payment arrangement has to be both reasonable in terms of what is offered compared with the means of the customer and has to be realistically payable.

7.2.3 For Housing Benefit and Sundry Debtors, collection is mainly managed in-house. All debts follow a Corporate Recovery process and once this has expired the Revenues Team will look to further enforce recovery of the outstanding monies. This could be by way of: further telephone calls, visits to the premises and ultimately enforcement via the County Court. Any referrals for benefit fraud prosecutions are passed to the legal team for assessment and action. Repayment orders may be granted as part of a successful prosecution, which is a form of debt recovery. However, once again at all stages of the process, the Council is happy to discuss any payment arrangement proposed by the customer.

7.2.4 For Car Parking PCN's (Penalty Charge Notices), collection commences within the Car Park Management Support Unit, by way of issuing the required Statutory Notices. If the debts remain unpaid, an application is made to the Traffic Enforcement Centre for a Warrant of Execution. This Warrant is then passed to the Council's External Collection Agents to enforce. All NHDC contacts with the Enforcement Agents are managed via the Revenues Team.

7.3 The intention is, wherever possible, to reach agreement with debtors whereby sums can be recovered, even if that is by instalments. Court action is not taken lightly and is only pursued if all other options have been exhausted.

Shared Internal Audit Service (SIAS) Reports

- 7.4 The Shared Internal Audit Service (SIAS) concluded an audit on Debt Recovery in October 2012 and gave a “substantial” assurance.
- 7.4.1 The one high priority recommendation was that the process for dealing with Housing Benefit Overpayments should be finalised, and guidance procedures for both Sundry Debtor and Housing Benefit Overpayment Debt Recovery should be formally documented and distributed to the Revenues Recovery Team. This measure has been implemented.
- 7.5 A further SIAS Audit dealing with Sundry Debtors was finalised in April 2013 and also gave a substantial assurance. This audit identified no high priority recommendations.
- 7.5.1 This audit identified that the overall debtors balance as at 31 January 2013 was £692k, of which £177k was aged over six months.

Overall Levels of Debt

- 7.6 The net total invoices raised in 2012/13 amounted to just over £5.7m and, as at 15th May 2013, only 1.35% (eighty-six invoices totalling £77.5k, out of a total outstanding figure of £318k) were in need of action by the Recovery team.

8. ISSUES

8.1 Parking Services debts:

- 8.1.1 Initially the Council used one Enforcement Agent to recover these debts. However, two Agents are used for the recovery of other debts. It was therefore decided to ‘trial’ another company of Enforcement Agents that specialise in the recovery of Car Parking Debts. After a successful ‘trial’ period, it was decided that we would utilise two companies to carry out this work. This has proved a positive step and has improved collection in this area..

8.2 Sales Ledger

- 8.2.1 Sales Ledger: bad debt levels have also fallen significantly. More emphasis is now placed on obtaining payment in advance rather than providing a service and then subsequently issuing an invoice. In previous years the Council has used an outside company to collect these debts. Whilst this was successful in some areas, it was felt that the Council had very little control over how these debts were collected and enforced. About two years ago therefore this area of recovery was taken back ‘in house’. This has taken some time to implement fully, as these debts are collected and enforced in a different way to Council Tax & NNDR. The Revenues Team has focused more effort on resourcing the collection of sales ledger debts. Specific staff have been working on these debts, to ensure that we have a secure process. We have also encouraged budget holders to take a more pro-active approach to chasing up debtors in the initial stages and withdrawing services where appropriate.
- 8.2.2 One member of the debt recovery team has been focussed on calling debtors to follow up on reminder letters, and a structured Work Process is now set for the Revenues Team to follow.

8.3 Housing Benefit Overpayments

8.3.1 The Revenues Team is also currently trialling the use of High Court Enforcement Officers for the collection of overpayments of Housing Benefit. This 'trial' has produced some good results, but it was felt that the number of cases initially dealt with were not enough to prove a meaningful 'trial', so a further batch of cases have been sent.

8.5 Other categories of sundry debt:

8.5.1 The Revenues Manager has also discussed utilising other means of recovery (i.e. other than going to Court) with other Service Areas. These include:

8.5.2 **Estates/Asset Management** – leases for commercial/industrial premises (largely ground leases). The prospect of forfeiting the lease can be more effective than threat of County Court action, and only costs a letter initially rather than the Court fee to issue the Claim Form

8.5.3 Debt can accumulate as a result of upward rent reviews. These occur periodically and in certain circumstance can take some time to settle. Where parties don't agree a new rent, the lease usually allows for determination of the new rent by a third party Arbitrator or Independent Expert. The third party process does resolve matters but will take further time. In some cases, when rents are low, a decision needs to be made as to whether the additional costs of Arbitration out weigh any likely increase in rent. Once settled, the new rent owing is due from the date of the review and so a large debt can have built up in the intervening period. When this happens a schedule of payments is often negotiated with the tenant in order to recover the backlog rent in addition to the new rent figure owing. Again this can take some time to agree, although it is not in the Council's interest to make the tenant's business unviable.

8.5.4 **Planning Fees**- Again there is legislation that can be used to encourage payment and can be better than obtaining a County Court Judgment (CCJ) against debtors that would stop them trading (and therefore adversely impact future Business Rate returns). Consideration can also be given to applying for charges on the land, as a method of encouraging payment. These are debts that are raised in connection with Planning Applications, that remain unpaid.

8.5.5 The total NHDC provision in 2012/13 for all categories of potential bad debt is £1.006 million as @ 31st March 2013. This consists of:

Table 1: Bad Debt Provision

Description	Amount £000's
Council Tax	412
Housing Benefit overpayments	388
Sundry Debtors	206
Total	1,006

- 8.5.6 The policy for calculation of bad debt provisions for sundry debtors is given below, with the specific policies for other classes of debt included in Appendix A.
- Debts 3-12 months old = 25% provision
 - Debts 12-24 months = 75%
 - Debts over 24 months old = 100%

8.6 Debt Write Offs

- 8.6.1 The Head of Revenues, Benefits & IT has delegated authority to:
- approve all debts to be written off up to £5,000 in consultation with the relevant Head of Service/Corporate Manager,
 - approve all debts between £5,001 and £10,000 in conjunction with the approval of the Finance Portfolio holder and keep a record of all sums written off up and to adhere to the requirements of the Accounts and Audit (Amendment) (England) Regulations 2009.

Write off of debts over £10,000 require Cabinet approval. The most recent referral was in June 2012 in respect of a number of historic Business Rates debts, totalling £102k.

- 8.6.2 The Head of Revenues, Benefits & IT can also approve all debts to be written off where the debtor is declared bankrupt, is in liquidation or subject to an Individual Voluntary Arrangement, and where the debtor is deceased and there are insufficient funds in the estate to repay the debt
- 8.6.3 As at 31st March 2013, write-offs and costs amounting to £948k had been accounted for. Many of these debts will be more than a year old and the table below also records Summons costs of £47k.

Table 2: Debt Write Offs/Costs

Description	Amount £000's
NNDR (Business Rates)	585
Council Tax	197
Housing Benefit overpayments	100
Sundry Debtors	19
Summons costs	47
Total	948

9. LEGAL IMPLICATIONS

- 9.1 The main legal implications are covered in the main body of the report.
- 9.2 The Constitution states that the Strategic Director of Finance Policy and Governance has the service responsibility for the following (which is delegated to the Head of Revenues, Benefits & IT as described in 8.6):
- Collection and administration of Council Tax, National Non-Domestic Rates and sundry debts on behalf of the Council including
 - valuation

- the commencement, defence, withdrawal or settlement of legal proceedings
- writing off debt below £5,000; and between £5,001 and £10,000 in conjunction with the Portfolio Holder for Finance and IT
- Administration of the Housing and Council Tax Benefit Schemes including
 - investigation of benefit fraud
 - agreeing administrative penalties in lieu of legal proceedings

9.3 The FAR Committee's powers include the power to provide effective scrutiny and overview of financial matters including 'To scrutinise the financial performance of the Council in relation to its policy objectives and to make recommendations to Cabinet on any matter arising out of the finance monitoring and scrutiny process within the terms of reference of this Committee'

10. FINANCIAL IMPLICATIONS

10.1 The financial implications arising from this activity are contained in the main body of the report.

11. RISK IMPLICATIONS

11.1 The risk implications arising from this activity are contained in the main body of the report.

11.2 Failing to vigorously pursue outstanding debts would lead to lower collection rates. The measures identified in this report provide the Committee with an assurance that this risk is well managed.

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

- 12.3 By not collecting unpaid debts, this reduces the council's resource availability to provide important services to all members of the community. The council acknowledges that the current financial climate may make it difficult for some groups to meet their payments. So council assistance and debt advice is available through various media, to those who are having difficulty in meeting their payments.
- 12.4 Recovery efforts potentially affect all strands of the community. It logically follows that those who are economically disadvantaged are most likely to form the main group of people who incur debt, particularly in terms of council tax and housing benefit. National research suggests that some vulnerable groups, i.e. those with mental health issues, learning difficulties and dependency issues, are at particular risk of falling into debt and are more likely to become economically disadvantaged.
- 12.5 If an individual who exhibits a protected characteristic accrues debt, then the council is required to consider the duties as set out in the Equality Act. Therefore, when making decisions regarding the pursuit of any debt, a council would have to demonstrate due regard had been made of the individual circumstances in each case. The processes outlined at 7.2.1 - 7.2.4. should provide scope to assess an individual's circumstances, vulnerability and ability to resolve their debts. Specifically, the Equality Act states that discrimination occurs when a disabled person/s 'are treated less favourably because of something arising in consequence of their disability and the public authority cannot show that the treatment is a proportionate way of achieving a legitimate aim.'

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no direct Human Resource implications arising from this report.

15. APPENDICES

Appendix A – Debt Recovery Data for 2012/13

Appendix B - Further detail provided by the Debtors Team

16. CONTACT OFFICERS

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18. BACKGROUND PAPERS

None

DEBT RECOVERY DATA FOR 2012/13

Total of Invoices & Credit Notes raised in 2012/13

Invoices & Credit Notes	original amount	outstanding balance as @ 15May 2013	outstanding
invoices	£	£	%
Dated 1apr12 to 31mar13	5,948,367.49	318,032.60	5.3
credit notes raised			
Dated 1apr12 to 31mar13	-242,872.13		
Therefore net value of invoices	5,705,495.36		5.6

Reminders Schedule:

Standard

1. Invoice becomes due 14 days from date of invoice
2. Final notice 17 days after invoice date
3. Office letter 14 days after final notice.

Careline invoices:

1. Invoice becomes due 28 days from date of invoice
2. Reminder notice 31 days after invoice date
3. Final notice 14 days after reminder
4. Office letter 14 days after final notice

Number and Value of Reminders/Final Notices raised for 2012/2013

Invoice Terms for Careline - 28days to pay

Reminders issued		total value	£64,752.64
		total qty	200

Final notices issued		total value	£31,204.00
		total qty	78

Office letter		total value	£28,852.29
		total qty	52

Standard Invoice Terms - 14 days to pay

Final notices issued		total value	£2,578,087.43
		total qty	1644

Office letter		total value	£678,328.18
		total qty	672

Cases that are under Recovery Action as @ 15 May 2013

	No of Invoices	Outstanding balance £
With recovery	86	77,541.89
With recovery & instalment arrangements made	8	5,046.88

Bad Debt Provisions

<p>Benefit Overpayments:</p> <p>Over 12 months = 30% Over 24 months = 60% Over 36 months = 80%</p>	<p>Council Tax:</p> <p>Debts arising in 2012 = 0% Debts arising in 2011 = 25% Debts arising in 2010 = 50% Debts arising pre 2010 = 75%</p>
<p>Parking Penalty Charge Notices:</p> <p>0-3 months = 40% 3-12 months = 25% 12-15 months = 40% Over 15 months = 80%</p>	<p>Business Rates (NNDR):</p> <p>Debts arising in 2012 = 0% Debts arising in 2011 = 65% Debts arising pre 2011 = 100%</p>