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<b>REPORT TO:</b>	<b>OVERVIEW AND SCRUTINY COMMITTEE</b>	<b>AGENDA ITEM: 9</b>
<b>DATE OF MEETING:</b>	<b>9th DECEMBER 2015</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF FINANCE and CORPORATE SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>KEVIN STACKHOUSE (Ext.5811)</b> <a href="mailto:Kevin.stackhouse@south-derbys.gov.uk">Kevin.stackhouse@south-derbys.gov.uk</a>	<b>DOC:</b> u/ks/revenues and benefits/council tax arrears/OS Dec 15
<b>SUBJECT:</b>	<b>A REVIEW OF COUNCIL TAX ARREARS</b>	<b>REF</b>
<b>WARD (S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: 6.03 (b)</b>

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## **1.0 Recommendation**

1.1 That the situation regarding Council Tax arrears is noted and that consideration is given to any further review.

## **2.0 Purpose of Report**

2.1 To review the performance in collecting Council Tax arrears. This is contained within the Committee's work programme for 2015/16 and is part of the Committee's work on scrutinising the Council's budget position for 2016/17.

## **3.0 Detail**

### **Background**

3.1 As the statutory Billing Authority for South Derbyshire, the Council is responsible for the collection of Council Tax for all preceptors in its area. The preceptors are:

- Derbyshire County Council
- Police and Crime Commissioner for Derbyshire
- Derbyshire Fire and Rescue Service
- South Derbyshire District Council
- 31 Parish Councils who levy a Precept in the District

3.2 The biggest preceptor is the County Council who account for over 75% of the Council Tax charge in the area; the District Council's proportion is 11%.

3.3 The cost of collecting Council Tax falls wholly on the District Council. This includes billing, collection, administering accounts, dealing with queries and the collection of arrears. The associated costs cannot be passed onto the other preceptors, although the Council is able to offset any income it

receives, such as court costs, to cover expenditure. The overall cost of collection is shown in Section 4 later in the report.

- 3.4 The overall cost of collection is a charge on the General Fund and not the Collection Fund. However, the cost of any debts not collected, i.e. where they are written off, is shared amongst the preceptors (excluding parishes) in proportion to their part of the Council Tax bill. Therefore, this is 75% to the County and 11% to the District Council.

### **Council Tax Arrears**

- 3.5 Very few (if any) councils collect all Council Tax in anyone year. This is due to non-payment which can occur for several reasons.
- 3.6 Most households do pay their Council Tax on time. The Council's in-year collection rate is currently over 98% which is above average for a shire district. Over time, the Council eventually collects well over 99% of Council Tax due for a particular year, although this can take many years in some cases.
- 3.7 As the full amount of Council Tax is not collected in any one year, arrears build up for which the Council has to pursue. The processes the Council applies are detailed later in the report.
- 3.8 Based on a collection rate of 98%, there is only 2% of Council Tax uncollected in any one year. However, the monetary amounts involved are significant. The current Council Tax collectable in South Derbyshire for 2015/16 is approximately £47.5m, of which 2% is over £900,000.
- 3.9 The Council continues to collect Council Tax from previous years. Therefore, although it is reducing its arrears, it is also adding to them each year. The cumulative effect can fluctuate from year to year depending on overall collection performance.
- 3.10 As at 31<sup>st</sup> March 2015, Council Tax arrears for South Derbyshire stood at £4.4m. The figure nationally across all billing authorities was £2.6 billion as at 31<sup>st</sup> March 2015.
- 3.11 If and when arrears are collected, they will not provide extra resources to spend as the Tax has already been levied and used to finance the budgets of preceptors in that year. However, if it is not collected, it becomes an additional cost as it has to be written off and provided for through a Bad Debts provision. This is detailed later in the report.
- 3.12 Although this cost is effectively shared across all preceptors, for the Council, as the billing authority, it has to manage the cash flow implications. It will have paid the preceptors their levies but has not collected the full Council Tax due to pay for it, including for its own services.

## Analysis of Arrears Outstanding

3.13 A breakdown of Council Tax arrears as at 31<sup>st</sup> March 2015, by year, is shown in the following table.

	Arrears Outstanding £	Amount Collectable £	Overall Collection Rate
2014/15	1,029,488	47,496,240	97.83%
2013/14	749,496	45,728,210	98.36%
2012/13	498,771	44,150,720	98.87%
2011/12	419,575	43,013,281	99.02%
2010/11	367,585	42,215,255	99.13%
2009/10	363,759	41,899,684	99.13%
2005 to 2009	980,245	186,232,542	99.47%
	<b>4,408,920</b>	<b>450,735,932</b>	

## Collection Targets

3.14 The responsibility for the collection of Council Tax ultimately lies with the Council. Operational performance is included in the Corporate Services Contract with Northgate Public Services. Northgate are responsible for all aspects of revenue collection on a day-to-day basis.

3.15 As part of the Contract, they are incentivised to maintain and indeed increase collection rates as they can benefit from additional income generated. As regards Council Tax collection, the performance of Northgate in recent years against their targets is shown in the following table.

	In year Collection	Arrears Collection
2007/08	96.00%	NR
2008/09	96.70%	NR
2009/10	97.30%	26.70%
2010/11 (Northgate)	97.80%	22.70%
2011/12	97.90%	22.30%
2012/13	97.90%	23.40%
2013/14	97.80%	22.10%
2014/15	98.10%	18.50%
2015/16 (Projected)	98.40%	17.50%

<b>TARGETS</b>	<b>97.40%</b>	<b>26.70%</b>
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**Notes: Northgate became responsible for collection in 2010/11**  
**NR – not recorded.**

3.16 The targets are based on the performance of the Council immediately prior to the Contract with Northgate commencing in 2010/11. The table shows that the performance in collecting arrears has dipped in recent years, although in-year collection has increased.

- 3.17 When assessing the performance of Northgate against their contractual obligations, it is the combined income figure that is used. The positive performance on in-year collection offsets any deterioration in the performance of arrears collection.
- 3.18 The percentage performance on arrears is based on the amount of arrears brought forward less write-offs.

### **Approach to Collection**

- 3.19 The Council's policy is to concentrate on in-year collection to prevent the build-up of arrears. As the Council did before, Northgate only have a limited resource in which to collect Council Tax.
- 3.20 The collection of arrears can be costly and time consuming, but this has to be balanced against the Council's overall collection responsibilities, in fairness to the community as a whole. In addition, Northgate have to be mindful of their contractual obligations.
- 3.21 Northgate employ a dedicated in-house debt recovery team at the Council which covers all council debts apart from Housing Rents. The cost to the Council of recovery in 2014/15 They operate within set procedures and apply processes that have to be fair and reasonable to those who struggle to pay their Council Tax, whilst being more robust to those that avoid payment. This unfortunately includes cases of potential fraudulent activity.
- 3.22 Where anyone falls into difficulty, they are encouraged to contact the Council immediately. There are many cases where a revised instalment plan is agreed to help a household to pay Council Tax to prevent significant arrears building up. In addition, they may qualify for a Council Tax discount through the Local Council Tax Support Scheme, or in more serious cases are referred through a partnership arrangement to money advice services at the CAB.

### **The Process for Collecting Arrears**

- 3.23 When a Council Tax payment, usually due to an instalment not being met, is missed, a reminder is sent after 7 days. This gives the Council Tax payer 14 days to pay. If no payment is made or an alternative agreement entered into, the instalment arrangement is revoked and the Council will apply to the Magistrates Court to issue a summons for a hearing to lay complaint, against debtors, for non-payment of Council Tax.
- 3.24 This will in most cases be for the amount due to the end of the financial year. The application once approved by the Court at the hearing provides the Council with a Liability Order that allows it to recover the debt.
- 3.25 This gives the Council the power to use a number of remedies such as an attachment of earnings, or to pass the debt to an external recovery agency, i.e. an Enforcement Agent (formerly known as a bailiff).

- 3.26 The Council has a monthly hearing in the Derby magistrate's court where summonses are returned. The volume of summonses can vary from month to month, but usually number a few hundred.
- 3.27 Debts passed to an Enforcement Agent are normally those where the Council cannot agree an attachment of earnings or other payment terms, together with those where the debtors may have moved, cannot be traced or are generally more difficult debts to collect.
- 3.28 The ultimate sanction for non-payment of Council Tax is prison. However, this sanction has been very rarely applied in any council since the introduction of Council Tax in 1992, as courts have been unwilling to take such a draconian approach. It can also be costly for a council to pursue.

### **The Use of Enforcement Agents**

- 3.29 All Enforcement Agents are highly regulated under a national code of conduct. This sets out the practices on how and when they contact debtors, together with their general approach and standards expected. This is in addition to the Council's own Code of Conduct.
- 3.30 There were significant changes to the regulations in April 2014 governing the then bailiff industry. These were considered by the Council's Finance and Management Committee at that time. The associated report is shown in **Appendix 1**.

### **Costs of Enforcement**

- 3.31 The fees charged by Enforcement Agents apply nationally. These are paid directly by the debtor to the company in addition to the amount of Council Tax outstanding. The Council does not incur any direct cost.
- 3.32 In addition, the Council also charges debtors up to £70 for court costs. This is also added to the amount of Council Tax owing. This is a discretionary charge and can vary between councils, although the current rate of £70 is applied across most Derbyshire authorities.

### **Status of Arrears**

- 3.33 A further analysis of the arrears outstanding as at March 2015 detailing the various stages of recovery is shown in the following table.

	<b>£</b>
Awaiting further information	1,104
At Reminder Stage	547,545
Arrangements and Payment Plans	191,310
Attachment of Earnings	101,939
Attachment of Benefits	62,155
Attachment of Property	106,624
Insolvency - Awaiting Decision	2,690
With Enforcement Agents	1,062,457
At Summons Stage (awaiting Court)	36,301
Liability Orders	186,253
Deceased - awaiting Estate	407
Absconded - No current trace	176,473
Summons Costs	306,053
Statute Barred	1,188,977
Pre-enforcement	438,634
<b>Total Arrears 31st March 2015</b>	<b><u>4,408,920</u></b>

3.34 The situation is fluid and the debt can change category. In addition, the amount relating to Absconded (no trace) will usually be passed to the Enforcement Agents to pursue.

3.35 The amount pending with Enforcement Agents was over £1m at March 2015 and this has a good chance of being collected either in full, or through a longer term arrangement.

3.36 Overall, a fair amount of that outstanding is being paid, for example, where there are arrangements/payment plans and attachment of earnings. However, this can take some time to collect as the amount involved is based on the ability to pay.

3.37 The pre-enforcement figure relates to relatively new debt awaiting more formal action if not paid. The largest figure however, relates to amounts that are "statute barred" as the debts are over 6 years old. It is unlikely that much of this debt will be collected.

### **Providing for Non Collection**

3.38 The Council is required under accounting standards, to make a provision for arrears that may not be collected. This becomes a cost in the Collection Fund. Consequently, the Council operates a Bad Debts Provision for doubtful and uncollectable debts.

3.39 The calculation is completed once a year as part of the closedown process for the statutory statement of accounts and is subject to audit. The calculation is based on a formula which takes into account the age of the debt and in which category it sits in. Generally, the older the debt, the greater the proportion that is set-aside in the Provision.

3.40 For example, pre-enforcement debt will only have a small provision as it is relatively new debt, whereas, all debt that is statute barred will be provided for at a rate of 100%, i.e. it is assumed that this will not be collected and will need to be written-off. However, where payments are being made towards arrears outstanding, this will attract a lower percentage.

### **Writing-off Debt**

3.41 Debts are written off where it becomes uneconomical to pursue. This particularly applies to accounts where there has been no activity for 6 years and they are statute barred. Debts written off are charged against the Bad Debts Provision.

3.42 If a debt is collected which had been provided for in the Provision, this is positive and the Provision can be reduced, therefore releasing resources back into the Collection Fund. This happens, for example, when a further dividend payment from an individual bankruptcy is received.

3.43 The value of the Bad Debts Provision as at March 2015 was approximately £2.86m against total arrears outstanding of £4.4m.

3.44 Under delegated powers, the Director of Finance and Corporate Services has authority to write off individual debts against the provision which are less than £2,500. Any debt above this level has to be approved by the Finance and Management Committee.

3.45 The total amount of debt written-off in recent years is shown in the following table.

£	
2006/07	129,696
2007/08	184,178
2008/09	61,126
2009/10	125,450
2010/11	91,413
2011/12	83,864
2012/13	525,798
2013/14	67,060
2014/15	88,219
	<b><u>1,356,804</u></b>

3.46 Debt written-off to-date in 2015/16 is approximately £65,000.

## **4.0 Financial Implications**

4.1 As detailed in the report.

4.2 In addition, the cost of administering and collecting Council Tax is shown in the following table.

Billing, Collection and Administration	£133,000
Recovery	£125,000
<b>Gross Cost</b>	£258,000
Less Court and other Costs awarded	(£200,000)
<b>Net Cost</b>	<b>£58,000</b>

4.3 The Council actively encourages people to pay their Council Tax by Direct Debit, which is the easiest and less costly payment method. Approximately 65% of payments are currently made by Direct Debit; this percentage has steadily increased from year-to-year.

## **5.0 Corporate Implications**

5.1 None directly.

## **6.0 Community Implications**

6.1 As detailed in the report.

## **7.0 Background Papers**

7.1 None

<b>REPORT TO:</b>	<b>FINANCE AND MANAGEMENT COMMITTEE</b>	<b>AGENDA ITEM:</b>
<b>DATE OF MEETING:</b>	<b>24<sup>th</sup> APRIL 2014</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF FINANCE AND CORPORATE SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>KEVIN STACKHOUSE (01283 595811)</b> <a href="mailto:Kevin.stackhouse@south-derbys.gov.uk">Kevin.stackhouse@south-derbys.gov.uk</a>	<b>DOC:</b> u/ks/revenues and benefits/policies and procedures/changes to debt recovery processes
<b>SUBJECT:</b>	<b>REFORMS TO DEBT RECOVERY PROCESSES</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: FM 08</b>

## 1.0 Recommendations

- 1.1 That new rules and regulations governing the action of bailiffs, including the collection of debts, are considered and noted.

## 2.0 Purpose of Report

- 2.1 To advise the Committee of the impact of changes to, and new regulations that affect the bailiff industry that came into effect on 6 April 2014; these will impact on some residents within South Derbyshire.

## 3.0 Detail

- 3.1 The reforms follow a lengthy period of consultation which had a clear objective of strengthening protection to debtors against rogue bailiffs and the unsound, unsafe or unfair methods that they were allegedly using, while at the same time making sure that debts could still be collected fairly.
- 3.2 The Council has in place a Service Level Agreement with bailiffs that it currently uses. This sets out a clear code of conduct for both the Company and the individuals employed by each organisation. The framework for setting the overriding standards and protocols for debt enforcement activity is provided by the Council's Corporate Debt Recovery and Management Policy; this has been established for several years.
- 3.3 To put the matter of bailiff activity into perspective, in the District, the following table summarises the number of Council Tax cases passed over to a collection agency in the past three years where, despite best efforts by officers, the sum due had not been paid.

Year	Value of Debt £	Cases	Amount Collected £	Amount on Arrangement £
2013/14	742,865	1,445	197,326	164,256
2012/13	617,372	1,295	343,011	73,701
2011/12	603,343	1,479	387,404	1,702

3.4 The nature of the bailiff's work inevitably results in concerns being raised by debtors and/or their representative regarding either individual bailiffs and/or the process. However, over the above period no complaint has been found, on closer examination, to be justified although in a handful of cases a change in process has been made subsequently to improve transparency and clarity.

#### 4 Main Changes

4.1 The key changes are summarised as below:

- New rules and regulations for all debts (both High Court and non-High Court) surrounding:
  - Exemptions
  - Means and hours of entry
  - Distress (seizing goods for sale) replaced by taking control of goods
  - Bailiff replaced by Enforcement Agent
  - Minimum of 7 day notice prior to enforcement
  - 12 month time limit
- Uniformity of fees for all debts
  - Introduction of new fee structure
  - Annual increase in fees by reference to CPI
- Newly defined training and certification process, including competency and CPD

4.2 The major change in process is around the introduction of a compliance stage with a set fee of £75. This allows non-enforcement activity such as telephone calls, emails, arrangements etc. before visits take place. This interim stage will facilitate the identification of cases that should be returned to the Council for alternative action. A standard fee of £235 will subsequently apply to all visits considered necessary, prior to removal (the latter being very much a last resort).

4.3 It is expected that overall costs of enforcement activity should reduce, as should the number of visits made by agents to enforce payment.

4.4 Transitional arrangements will ensure that debtors are not treated unfairly. They have been advised of the changes and have been given a further opportunity to make an arrangement to clear any outstanding debts before enforcement action under the new rules takes place.

4.5 Consequential changes to the Council's own processes have been completed.

## **5.0 Community Implications**

- 5.1 The specific nature of debt recovery means that Council Officers and Enforcement Agents will continue to be vigilant to identify the vulnerable and maintain liaison with welfare and advice agencies. A presentation by the Council's bailiff will be made to the Committee at the meeting in June.

## **6.0 Financial Implications**

- 6.0 There is no change to existing financial arrangements between the Council and Enforcement Agents acting on its behalf. The Council is responsible for VAT only.

## **7.0 Background Papers**

- 7.1 Bailiff Code of Conduct
- 7.2 Corporate Debt Recovery and Management Policy December 2008
- 7.3 Taking Control of Goods Regulations 2013
- 7.4 Taking Control of Goods Fees Regulations 2013
- 7.5 SI 2014 No 600 Taking Control of Goods (Consequential Transitional and Saving Provision) Order 2014