

Overview and Scrutiny Committee



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Anglia Revenues Partnership Debt Recovery Process	
Report No:	OAS/SE/17/028	
Report to and date:	Overview and Scrutiny Committee	08 November 2017
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Purpose of report:	Following a request from this Committee, this report and supporting presentation provides a review of the processes that the Anglia Revenues Partnership (ARP) follow to recover debts, and includes a summary of performance in this area.	
Recommendation:	<p>Overview and Scrutiny Committee:</p> <p>It is RECOMMENDED that members of the Committee:</p> <p>(1) Consider the contents of this report and review the process that ARP follows to recover debt ; and</p> <p>(2) NOTE the performance that ARP has achieved in regard to debt collection.</p>	

Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>		<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
Consultation:		N/A	
Alternative option(s):		N/A	
Implications:			
<i>Are there any financial implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Effective collection of revenues essential for Council's finances	
<i>Are there any staffing implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
<i>Are there any ICT implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
<i>Are there any legal and/or policy implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • ARP operates within legal and policy framework relating to revenues and benefits, but this report does not suggest any changes to that.	
<i>Are there any equality implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Steps taken to recover debt have regard to individual's personal circumstances and are described in the report	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Failure to collect revenues due to the Council will impact upon The Council's budget	High*	Processes outlined in this paper maintaining performance levels	Low
Ward(s) affected:		ALL Ward/s	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		None	
Documents attached:		Appendix 1: Process Flow	

1. Key issues and reasons for recommendation(s)

1.1 Background to the report

1.2 This report has been produced by the management team at Anglia Revenues Partnership (ARP) and explains the processes that they follow to recover debt. This has rightly been identified as a matter that the Committee wanted to explore as effective collection of revenue due to the Council is essential for the Council's finances. At Full Council, Councillors are asked to approve certain debts be written off and this report provides the detail on what will have happened in a case before such a write off decision is made.

2. Overview of Debt Collection

2.1 Anglia Revenues Partnership are responsible for the collection of three debt streams, namely Council Tax, Non-Domestic Rates and Housing Benefit Overpayments. Regulations determine a statutory process which must be followed in order to recover unpaid debt and the remedies which may be taken. The Council has a debt recovery policy which sits alongside these regulations and there are additional steps which are taken to maximise the income. This report will outline the statutory process and other actions which are taken.

3. Performance

3.1 The table below shows the in-year collection performance for St Edmundsbury Borough Council for the financial year 2016/17 with comparison to the ARP partners and the national average:

Debt type	In-year collection rate %	ARP average %	National average for Shire districts %	No of Summons issued in 2016/17
Council Tax	98.26	97.67	98.1	2878
Non-Domestic Rates	98.11	98.46	98.4	308
HB Overpayments	49.52	43.12	Not available	366 invoices outstanding

3.2 The above figures show the position at 31 March 2017, however collection continues beyond this date and the percentage collected over the lifetime of the debt is in the region of 99.5% for Council Tax and Non-Domestic Rates and 91.3% for Housing Benefit Overpayments. It should be noted that we receive 40% subsidy on all Overpayments raised. For every pound of Housing Benefit overpaid, Councils receive 40p in DWP subsidy. Therefore Councils need to recover 60p from the claimant, anything above a pound is additional income. This means that over the lifetime of the debt we in effect collect 131.3%.

3.3 Based on the current year net debt this would result in the following amounts ultimately being written off:-

Debt type	Amount raised 2016/17 £	Approx. amount which will be written off £
Council Tax	58,503,226.74	292,516
Non-Domestic rates	47,524,776	237,624
Housing Benefit Overpayment	1,042,938.86	91,081.60

- 3.4 There will be occasions when a debt previously written off can be collected, for example, where a debtor absconds but later moves back into the area. In these circumstances the debt is written back on and collection resumes. In the last 6 years debt to the value of £59,931.07 has been re-instated.

4. Collection process

- 4.1 Customers are now entitled to pay their Council Tax or Non-Domestic Rates (NNDR) over twelve months of the year, however many still prefer to pay over 10 months. A bill is issued in March each year setting out the dates and amounts of the instalments which are due.
- 4.2 Instalments can be paid by Direct Debit or Cheque, by Card over the phone or internet, cash at the Post Office or Paypoint outlet or via bank transfer. Set out below is a breakdown of the method and frequency of payment.

Method of Payment	Frequency	Number - Ctax	Number - NNDR
Direct Debit	Twelve monthly	4958	428
	Ten monthly	30,030	1325
	Half Yearly	2	2
	Yearly	25	1
Cheque, Card, Cash or Bank transfer	Twelve monthly	646	398
	Ten monthly	9286	1677
	Half Yearly	16	2
	Yearly	3	135
	Weekly	136	-

- 4.3 Prior to any reminders being issued we send out text messages and emails to all those who would be due to receive a reminder where we have contact details. This has proved to be successful in obtaining payment and engaging with customers.
- 4.4 If any instalment becomes more than 7 days overdue then a reminder notice is issued. The outstanding instalment must then be paid within a further 7 days otherwise the customer loses their right to instalments and the full balance becomes payable.
- 4.5 Where this is the case a summons can be issued after a further seven days without the need to issue any further notices, however we always issue a final

notice to give the customer one last chance to settle the debt or make an arrangement to pay to avoid incurring Court costs.

- 4.6 A customer can receive two reminders in any one financial year, however on the third occasion an instalment is missed, a final notice is issued and the right to instalments is lost as above.
- 4.7 **Appendix 1** shows a flowchart of the recovery process.
- 4.8 We have recently changed the design of our reminders and final notices for Council Tax using behavioural nudge techniques which we hope will reduce the number of customers who fall behind with their instalments. These techniques seek positive reinforcement and indirect suggestions to try and influence the actions of individuals. For example, when people were told in letters from HMRC that most people pay their tax on time, it increased significantly payment rates. This technique has been used in the new design along with simplifying the layout which has also been shown to have a positive effect.

5. Enforcement

- 5.1 In the event that the Council Tax or NNDR remains unpaid then a summons to The Magistrates Court is issued for the full balance outstanding plus costs. If the amount overdue is not settled before the hearing an application is made to The Magistrates for a Liability Order. If the Magistrates are happy that the amount is outstanding then they will issue the Order together with further costs.
- 5.2 The Liability Order gives the Local Authority the ability to take various Enforcement action:
- Attachment of Earnings – amounts are deducted from a customer's salary and sent to us. (Council Tax only)
 - Attachment of Benefit. (Council Tax only)
 - Attachment of Members Allowances (Council Tax only)
 - Issue case to Enforcement Agent to take control of goods
 - Charging Order
 - Bankruptcy/Insolvency proceedings
 - Committal to Prison (only for sole traders within NNDR)
- 5.3 After obtaining the Liability Order, a letter is issued advising that the Liability Order has been obtained and requesting the customer to provide their employment details (Council Tax only) and make an offer of payment. A Council Tax customer is obliged to advise the Council of his employment details at this stage and not to do so is a criminal offence.
- 5.4 Once this letter has been returned it is reviewed and the next course of action instigated. This may in the first instance be any one of the first four remedies above but if an offer of payment is made which is acceptable then an arrangement will be set up and monitored. Any cases where the letter isn't returned are reviewed and an appropriate course of action taken. In all cases each action is monitored to check that payments are being made and if not then another option would be considered.

- 5.5 We have our own in-house Enforcements Agents which we use for all cases where the debtor is residing within Suffolk, Norfolk or Cambridgeshire. Other cases are sent to an external Enforcement Agency. One of the benefits of having our own team has been that we are able to remit the statutory fees, which are added to debt, when we consider that the debtor is in financial difficulty.
- 5.6 When we have exhausted all of the first four options then the case will be referred to our further recovery team who review cases to establish if it is worthwhile to pursue one of the remaining three options. These recovery methods are resource intensive and as the majority of the Council Tax income collected is for County Council, County Councils are currently providing funding for this work.
- 5.7 This process can take several months and is why the final collection percentage is higher than in-year collection. Only one different type of action can be taken at any one time, however each appropriate option will be attempted until the debt is either collected or written off. Debts are only written off where there is no prospect of recovery at the time, which could be, for example, where the debtor is insolvent, has passed away with no estate or where the debtor absconds. Even then, should a debtor reappear on our records at a future date the debt will be written back on for collection.

6. Housing Benefit Overpayments

- 6.1 The collection process differs from that of Council Tax and NNDR in that it is not necessary to obtain a Liability Order from The Magistrates in order to progress some enforcement options.
- 6.2 Once an overpayment has occurred an invoice is raised. Where the customer remains on Housing Benefit (HB) then the outstanding amount is collected from their on-going entitlement, however the amount that can be collected is restricted to a maximum of £11.10 per week or £29.60 in the case of a fraudulent overpayment depending on the debtor's income. As an example of the length of time it can take to recover an overpayment, we currently have an invoice outstanding created as a result of fraud amounting to £19,292.57. It is being recovered from on-going Housing Benefit at a rate of £23.50 per week which will take 15 years to collect.
- 6.3 Where the customer is not being paid Housing Benefit then the customer will need to make the payment direct. Following the issue of the invoice if payment is not made then reminders are issued to try and prompt payment. At this stage the Council then has the following options available to recover the monies outstanding without the need for County Court action:-
- Attachment to Earnings or DWP benefits - Amounts are deducted from a debtors earnings or benefit at a set rate which could take months to clear the debt.
 - Collection Agent – unlike an Enforcement Agent there is no right to remove goods for sale.
 - Blameless Tenant recovery from bulk landlord HB payments

- 6.4 If these actions are not successful then there remains the option of obtaining a County Court Judgement which would enable the following actions:
- Charging Order on the debtors property (however, it is unlikely a debtor will own property)
 - Third Party debt order
 - Warrant of Execution
- 6.5 The cost of obtaining a County Court Judgement means that these actions are only taken where the value of the debt is high and there are good prospects for recovery.
- 6.6 Again, due to the limitations on the amounts which can be collected and the limited means of recovery it may be many months before a debt is satisfied or ultimately written off.

7. Support

- 7.1 At all stages of the recovery process staff will take into consideration a debtor's ability to pay and work with them to make a suitable payment arrangement. Debtors are asked to fill in a standard income and expenditure form so that the debtor's situation can be considered fully before the arrangement is made. Staff will also ensure that any benefits or entitlements over which the Council has direct control are made available to them and that they are alerted to the availability of other benefits generally. If necessary a debtor will be referred to a debt advice agency, such as the Citizens Advice supported by the Council, who would be able to offer free debt advice.
- 7.2 All of our recovery notices and the website provide information on how a debtor can obtain free debt advice.
- 7.3 The Council has also been supporting the roll out of Universal Credit by working with the Citizens Advice Bureau, other Councils and Housing associations to provide money advice and support. Also ARP have been represented at a national DWP Universal Credit steering group which has influenced process enhancements.

8. Case Study

- 8.1 In order to illustrate the sometimes lengthy and time consuming recovery of a debt a timeline of recovery for an actual Council Tax debt is set out below. For every financial year that the customer fails to pay their bill the whole process needs to be followed each time.
- 8.2 This case relates to a Period of Liability - 30 April 2009 to 1 November 2013
- 8.3 The first bills in respect of this property were sent in December 2010. The delay happened because the previous occupant was exempt and failed to advise us that he had left the property so we were unaware the records needed updating.

8.4 A reminder was issued in February 2011 and a final notice in March 2011 for the first two financial years. The first summons was issued for a Court Hearing on 21 April 2011 and recovery action in respect of the later years followed.

8.5 Liability orders obtained:

Year	Liability Order obtained and amount	Returned from Enforcement Agent
2009/10 & 2010/11	21 April 2011 - £1668.85	2011
2011/12	16 June 2011 - £1204.07	2011
2012/13	14 June 2012 - £1215.42	2012
2013/14	27 June 2013 - £1787.00	2013

8.6 Liability Orders had all been referred to the Enforcement Agents who had later returned them, unable to collect.

8.7 In 2012 additional resource was allocated for further recovery actions as this work is resource intensive and time consuming. This case was referred to the Further Recovery team in November 2012 for the first three liability orders, and proceedings for a Charging Order commenced in December 2012.

8.8 A Final Charging order was obtained in August 2013 for a debt of £4088.34p and an arrangement of £100 per month was agreed.

8.9 The amount outstanding on the fourth liability order was paid to prevent a second Charging Order and the bill was paid up to the termination date of the account. The majority of the debt was paid up in 2016 leaving a sum of £37.35p which remains on the account. It has taken approximately three years following the granting of a Charging Order to recover the Council Tax bills outstanding.

9. Summary

9.1 There is a robust recovery system in place which is shown by a collection rate of 99.5% (91.3% for Housing Benefit Overpayments) over the lifetime of the debt. An annual audit takes place across all debt streams which ensures that the processes in place are effective and being adhered to. Monitoring of collection takes place for both the in-year collection rate and the collection fund target which is presented to Joint Committee on a quarterly basis.

9.2 We constantly strive to improve processes and engage with customers. We have recently introduced a self-serve module to encourage customers to manage their account online. Customers can view balances and payments due, view correspondence issued and sign up for Direct Debit. This will be developed further allowing more transactions to be carried out online.

9.3 The website is currently being re-designed to be more transactional and make it easier for customers to transact online. Social media films have been developed to illustrate how to apply for discounts, sign up for Direct Debit etc. These will be used on social media and published on the website when the final version is launched. Documents have been redesigned to make them

easier to understand and encourage payment at an earlier stage in the process.

- 9.4 In future Universal Credit will have an impact on our ability to maintain current collection rates. Universal Credit is being rolled out across the Country and replaces a number of DWP benefits and Housing Benefit. Payment is made direct to the customer with the expectation that they will manage their own budgets.
- 9.5 We will no longer be able to deduct amounts from on-going Housing Benefit overpayments for residual overpayments and any deductions from DWP benefits we request will not be prioritised over other deductions. In light of this, one of the ARP partners who has full roll out of Universal Credit has been lobbying its MP for DWP to take on the residual HB Overpayment liabilities. It has recently been agreed to temporarily increase resource within the Housing Benefit Overpayments team to maximise collection before Universal Credit is rolled out further
- 9.6 Delays in the payment of Universal Credit will also have an impact on Council Tax collection and we will need to work closely with customers and debt advice agencies to help customers meet their obligations.