

Southend-on-Sea Borough Council

Report of Corporate Director for Corporate Services
to
Cabinet
On
17 September 2013

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Agenda
Item No.

Council Debtors Position 2013/14
Policy and Resources Scrutiny Committee
Executive Councillor: Councillor Nigel Holdcroft
A Part 1 Public Agenda Item

1. Purpose of Report

1.1 The purpose of this report is to apprise Cabinet of the following:

- the current position of outstanding debt to the Council;
- debts that have been written off or are recommended for write off in the current financial year;
- formalise an agreed recovery policy that confirms the Council may instigate Bankruptcy proceedings as a recovery method where appropriate;
- to update the Corporate Debt Management Strategy to reflect the recovery of Social Care Debts and other minor changes.

2. Recommendation

That Cabinet notes;

2.1 The current outstanding debt position as at 31st July 2013 and the list of debts written off to date in 2013/14 as set out in Appendices A & B.

That Cabinet approves;

2.2 The individual write-off's greater than £25,000 as set out in Appendix B;

2.3 The revisions to the Corporate Debt Management Strategy in Appendix C;

2.4 The Recovery Policy in Appendix D.

3. Background

- 3.1 It was agreed by Cabinet on 19th March 2013, following a report of debts over £25k to be written off, that the Head of Finance and Resources will submit a report on a regular basis to Cabinet on all aspects of the Council's outstanding debt, along with the required write off position. This is the first of those reports.
- 3.2 Southend-on-Sea is made up of a number of service areas responsible for the collection and administration of outstanding debt. The main areas are Accounts Receivable and Revenues which are linked to the billing and collection of the vast majority of debts that fall due to be paid to the Council for chargeable services, such as social care (see 4.5) and statutory levies such as Council tax and Non Domestic Rates (Business Rates).
- However there are other areas of debt that will be included in this report, namely recovery of Housing Benefit Overpayments, Parking and Enforcement penalties and library fines. In addition, there are also debts for the Housing Revenue Account for rent arrears and service charges.
- 3.3 The Council has a good success rate in collection of debt, and the collection targets are agreed annually as part of the Council's service planning process.
- 3.4 Debts are only considered for write off where all other courses of recovery available have been undertaken or explored and the debt is considered irrecoverable.
- 3.5 No specific statute exists to give guidance on the circumstances under which debts in general can be written off, other than the statute of limitation. Any debt for which recovery action has not been successful within 6 years still remains, but legal recovery action cannot be taken.
- 3.6 As a matter of law, the Council is under an obligation to take reasonable steps to collect debts owed.
- 3.7 It does this by a variety of means, depending on the debt type. This includes court action, bankruptcy, winding up and committal warrants. However, there are some cases where debtors simply leave their properties with arrears, with no forwarding address, or are declared bankrupt, are deceased with insufficient funds in the estate or cease trading.
- 3.8 While the Council does have the option of winding up companies themselves, this is an expensive and time consuming option and if there is no possibility of the costs being reimbursed; the Council is reluctant to add to the debt already outstanding by taking this course of action.

However, in certain circumstances bankruptcy proceedings may be both an effective means of recovering the debt and also as a deterrent for non-payment. It is important that strict guidelines are followed as this is an extreme method of recovery, and a published debt recovery policy must be agreed and available to ensure the Council is not liable to claims of maladministration.

- 3.9 Write-off of debt does not mean the debt is never collected. For instance, where a debt has been recommended for write off because the debtor has gone away and all attempts to trace their whereabouts have proven unsuccessful, should they subsequently be traced the debt will be reinstated.
- 3.10 Similarly where write off has been recommended because there appears little or no prospect of a dividend to unsecured creditors, should a dividend subsequently be paid, the amount will be written on to reduce the debt.
- 3.11 Cabinet approved the existing Corporate Debt Management Strategy in March 2011. Following an internal review of recovery of social care debt the strategy now needs updating to reflect the latest position but also in line with good practice to refresh minor points of the strategy since it was last adopted. An updated version is shown at Appendix C.

4. Council Debt Types

4.1 Council Tax

Council tax is a local tax that councils must charge to part fund approved budgeted net expenditure. The remainder is mostly met by government grants which include some of the rates for commercial properties that councils collect for the government and for which the Council now retains up to 49% to part fund its budgeted service requirements. Council Tax is payable generally for any property you can live in. It is also payable, in certain circumstances, for unoccupied properties. Every property in England, Wales and Scotland is allocated a band A-H which is based on its value at April 1991.

£74.652m of Council tax is due to be collected in 2013/14, of which £62.831 is due this Council and the balance to our preceptors, and the Council has an in year target collection rate of 97%. The reduction in target from last year's collection rate of 97.9% is due to the anticipated effect on collection of the Local Council Tax Support Scheme. Last year 97.9% of the outstanding Council Tax due was collected in year and collection continues for the outstanding arrears. The chart below shows the actual in year collection rate over the past 4 years, and the collection rate of each year's charge to date.

	Council Tax	
	As at 31st March of relevant year	As at 23rd August 2013
1st April 2009 - 31st March 2010	97.70%	99.30%
1st April 2010 - 31st March 2011	97.90%	99.30%
1st April 2011 - 31st March 2012	98.00%	99.20%
1st April 2012 - 31st March 2013	97.90%	98.60%

The Council has a good success rate in the ultimate collection of arrears with a relatively small amount ever being written off, in comparison to other Essex authorities as shown in the table below;

Write-offs as % of previous years arrears in 2012/13	
Chelmsford	3.6
Rochford	3.7
Southend	4.4
Brentwood	6.9
Braintree	7.0
Castle Point	7.4
Basildon	9.4
Epping Forest	11.3
Tendring	12.8
Thurrock	29.3

4.2 Non Domestic Rates (Business Rates)

Business Rates or Non-Domestic rates are collected by Local Councils and are the means by which businesses and others who occupy non-domestic properties make a contribution towards the costs of local services.

Business rates are worked out by multiplying the 'rateable value' of the property (set by the Valuation Office Agency) by the business rates multiplier (set by Central Government each year).

The Council is due to collect approximately £46.936m of Business Rates in 2013/14 and has set a collection target of 97.5%. Last year the Council achieved an overall collection of 97.4% with collection continuing for outstanding arrears.

The chart below shows the actual in year collection rate over the past 4 years, and the collection rate of each year's charge to date.

	Non-Domestic Rates	
	As at 31st March of relevant year	As at 23rd August 2013
1st April 2009 - 31st March 2010	97.70%	99.10%
1st April 2010 - 31st March 2011	98.80%	98.7%*
1st April 2011 - 31st March 2012	97.70%	98.20%
1st April 2012 - 31st March 2013	96.50%	97.20%

***Irregular results in 2010/2011 year due to it being a revaluation year, where consequential appeals of new rateable value having an effect on the collection rate throughout the whole five year period**

4.3 Housing Benefit Overpayment

This is any entitlement to a rent allowance or rent rebate that a person has received but is not entitled to. Most commonly this accumulates when there is a change to a person's circumstance and they fail to notify us in good time. There is a dedicated Overpayment Recovery team within the Benefits Team. One of the main recovery methods is to make a deduction from any on-going benefit, even if the debt is historic and currently over £2m is being recovered in that way. Other recovery options involve use of debt recovery agents and legal action through the County Court.

4.4 Libraries

Library debt is made up of overdue fines and replacing lost or non-returned books. The recovery methods involve telephoning customers and issuing reminder notices and, since 2011, the use of debt collection agencies which has proved effective and seen an increase in revenues to the service area.

Although library assistants can waive fines up to £15.00, debts are not written off unless all recovery routes have been followed and the debt is over 3 years old. Debts rarely exceed £150.00.

4.5 Department for People - Adult Services (formerly Social care)

4.5.1 Adult Services make charges for the following services

- Contributions to residential accommodation
- Charges for non-residential services i.e. Home Care, Community Support, Day Services and transport to services
- Charges to Health Authority
- Charges to other local authorities

The Department for People provide services to support the most vulnerable people in society and their debts for residential or non-residential services may need to be pursued with a differing approach.

4.5.2 Residential Care and Non-Residential Care Services

- All service users undergo a financial assessment to calculate how much they need to contribute towards the services they receive. Invoices are raised by officers and if invoices remain unpaid the debt is managed by Adult Services for further action.
- All cases are looked at individually and actions will vary from case to case.
- If all actions have been taken it may be that the debt is considered unrecoverable as below;
 - An estate may not have sufficient funds to pay invoices after death.
 - Safeguarding investigation results in referral to the SBC Court of Protection Team for protection of finances.
 - Legal advice that cost of legal action would make it uneconomical to pursue.

4.5.3 Charges to Health Authority

Following formal notification of eligibility for health funding Invoices are raised. Non-payment will be picked up by the Senior Payments Officer and resolved in conjunction with the Group Manager.

4.5.4 Charges to Other Local Authorities

If another Local Authority places residents in Southend Borough Council establishment's invoices are raised at the full cost of care. Collection of income is the responsibility of the Finance Manager.

4.5.5 Recording

- Monthly report is kept electronically
- Report is noted with actions taken
- Officer will note Civica system with actions taken
- Monthly meeting with Debt Officers, Finance Manager and Group Manager
- Monthly summary of outstanding debt, identifies real debt not amounts involved in direct debits.

4.6 **Parking**

4.6.1 The recovery of unpaid Penalty Charge Notices is undertaken by semi-judicial process under the current Traffic Management Act 2004. The process starts 56 days after issue of the notice for the Debt is registered at the Traffic Enforcement Centre at Northampton County Court.

4.6.2 There are different levels of charge:

- £25.00 if paid in 14 days £50.00 after 56 days (charge certificate) £75.00
- £35.00 if paid in 14 days £70.00 after 56 days (Charge Certificate) £105.00
- There are 50 offence codes currently in use

4.6.3 The Civil Enforcement officers work on and off street. They are supplied by the Council's enforcement contractor, APCOA, but the notice processing is carried out by Southend staff.

The notice in question and Order of Recovery will be sent to one of the 3 bailiff companies 21 days after debt first registered. It is to be remembered this is a rolling figure as the collection rate and issue rate changes daily.

There are 27 categories for write offs and currently the value of notices written off are £183,323. The majority of write-offs are for £35.00 which is undertaken by the noticing processing officer, with any large sums being actioned by the section leader.

The debt commences from the day of issue of the PCN; it is the sections job to obtain payment as soon as the notice enters the system. The collection can be very fast where the appellant takes advantage of the discount rate (£35.00) if paid in 14 days. If this payment is received in time then the balance is written off (£35.00).

Since 1st April 2013 15,737 notices have been issued totaling £590,000. The value of cancelled notices is £23,870.

4.7 Miscellaneous Income

This will include a range of services that the Council will charge for ranging from rental income on commercial properties to recharges to other bodies for services we have provided to recovering overpaid salaries from staff that have left.

4.8 Housing

Under the management of South Essex Homes there are the arrears of outstanding debt of Rent and Service Charges. The cost of any write-offs for this category of debt are specifically charged to the Housing Revenue Account and not to Council Tax Payers.

5. Write Off Levels

5.1 Write off approval levels currently in place are shown in the tables below, which are in accordance with the Financial Procedure rules set out in the Constitution and the corporate debt recovery policy.

Debt Type: Council Tax/ Accounts Receivable/Social Care/ Housing and Council Tax Benefit

Designation	Amount
Assistant Manager/Manager	under £5,000
Head of Service	Between £5,000 and £25,000
Cabinet	£25,000 and above

Debt Type: NNDR (Non Domestic Rates)

Designation	Amount
Assistant Manager (-£5k)	under £5,000
Manager (£5k-10k)	Between £5,000 and £10,000
Head of Service (£10-£25k)	Between £10,000 and £25,000
Cabinet (Over £25k)	£25,000 and above

Debt Type: Parking

Designation	Amount
Notice Processing Officer & Section Leader.	under £5,000
Section Leader	Between £5,000 and £10,000
Group Manager	Between £10,000 and £25,000
Cabinet	£25,000 and above

Debt Type: Housing Rents and Service Charges

South Essex Homes, as managing agent, submit proposed write-offs to the Council, following which the following approval levels are exercised.

Designation	Amount
Head of Service	Under £25,000
Cabinet	£25,000 and over

6. Collection of Debts

- 6.1 The recovery of outstanding debt may vary according to the debt type and the regulations that pertain to collection.
- 6.2 The recovery process for Council Tax and Non Domestic Rates is prescribed within the Local Government Finance Act (Admin and Enforcement) Regulations 1992.
- 6.3 Before a debt is considered irrecoverable for Council tax and Non Domestic Rates the following steps have been taken.
- A bill
 - at least one reminder after 7 days
 - and a summons will have been issued after further 14 days
 - Following this, application is made to the magistrate's court for a liability order, normally within a month.

This gives the Council further powers of collection such as:

- sending in bailiffs normally within 7 days of Liability Order being granted, or
- Attachment of wages or benefits for (Council tax only)
- applying to wind up the company or
- Issue bankruptcy proceedings or committal action if it is an individual.

6.4 For other sundry debts owed to the Council ultimately legal action through the County Court is possible. For Housing benefit Overpayments the debt can be collected from on-going benefit payable to a claimant. The standard sundry debt recovery process for non-commercial debts is as follows:

- An invoice for the due amount is issued as soon as the debt is raised
- A reminder notice is issued after a period of 14 days
- A further reminder after 14 days
- A final notice after further 14 days
- A list is then prepared for Debt Collection
- Passed to legal for an application through the County Court

6.5 To enable appropriate recovery action to be taken and to enable the Council to instigate any bankruptcy proceedings where necessary and formal recovery procedure has to be in place. Attached at Appendix D is the proposed recovery policy for adoption by the Council.

7. Council Debtor Position (as at 31/7/13)

Appendices A and B show the current debtor position within each service area, and the amount that has been written off so far in the current year.

For Council tax and Non Domestic rates there is a net collectable debt at the beginning of the year. Although this can change depending on changes to liability or property being removed or introduced to the lists, it is fairly consistent.

However others service areas may see greater fluctuations as new debts are created during the financial year.

8. Other Options

This is a report notifying members of the current position of the Council's debt and related write offs, and therefore there are no other options.

9. Reasons for Recommendations

- All reasonable steps to recover the debt have been taken, and therefore where write off is recommended it is the only course of action available.
- If the Council wishes to pursue debts for bankruptcy proceeding, it should have an agreed and published recovery policy that covers this.

10. Corporate Implications

10.1 Contribution to Council's Vision & Corporate Priorities

Efficient write off of bad and irrecoverable debts, where appropriate, is good financial practice and reduces the bad debt provision and financial impact in the Authority's accounts.

10.2 Financial Implications

- Debts that are written off will have been provided for within the Councils bad debt provision and as such there should be no specific financial implications. However it is possible that unforeseen and unplanned additional write offs occur, which lead to the value of debts written off in any year exceeding the bad debt provision.

Where this is likely to happen, this report will act as an early warning system and will enable additional control measures to be agreed and taken to either bring the situation back under control, or to make appropriate adjustments to the bad debt provision.

- Relevant service areas have to bear the cost of other debts that are written off within their budget.

10.3 Legal Implications

If there are debts to be written off that exceed the level at which officers have delegated powers to deal with the matter, authorisation is required from the Cabinet.

10.4 People Implications

The people implications have been considered and there are none relevant to this report

10.5 Property Implications

The property implications have been considered and there are none relevant to this report

10.6 Consultation

Consultation is not required for write off of debt

10.7 Equalities and Diversity Implications

Each write off is considered on an individual basis, there is no equalities and diversity implication to consider

10.8 Risk Assessment

There is a financial implication to the bad debt provision if write offs are not dealt with within the current financial year

10.9 Value for Money

It is a matter of good financial practice and good debt management to report value of debt and write off regularly.

10.10 Community Safety Implications

There are no Community Safety Implications

10.11 Environmental Impact

There is no environmental impact

11. Background Papers

Full details of recovery action against each recommended write-off are held within the services computer systems

12. Appendices

Appendix A Summary of outstanding debt

Appendix B Summary of Write offs

Appendix C Corporate Debt Management Strategy

Appendix D Recovery Policy