

<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET</b>  <b>5 MARCH 2018</b>		
<b>POLICY CHANGES TO THE COLLECTION OF COUNCIL TAX ARREARS</b>		
<b>Report of the Cabinet Member for Finance – Councillor Max Schmid</b>		
<b>Open Report</b>		
<b>Classification - For Decision</b>  <b>Key Decision: Yes</b>		
<b>Wards Affected: All</b>		
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## 1. EXECUTIVE SUMMARY

- 1.1. This report seeks to implement a policy to formally end the use of bailiffs (enforcement agents) relating to the collection of council tax.
- 1.2. In addition, Cabinet is asked to agree a policy that no committal proceedings shall be used against any resident who owes council tax. This will mean that, as a matter of policy, the council will not seek to imprison someone for having a council tax debt.
- 1.3. In order to comply with public law requirements, the proposed policies in 1.1 and 1.2 above will apply except where there are no other possible enforcement routes available, and that the Cabinet Member for Finance approves the use of bailiffs or committal proceedings, taking into account all relevant factors, including the public interest.
- 1.4. In order to radically improve the ethical performance of council tax arrears collection, Cabinet is asked to agree that a pilot be commenced immediately concerning council tax arrears collection by utilising H&F's ethical debt business, LBHF Joint Ventures Limited and its sub-contractor, 1<sup>st</sup> Credit Limited. This can be achieved by utilising the framework contract H&F let to LBHF Joint Ventures Limited in 2017.

## **2. RECOMMENDATIONS**

- 2.1. That Cabinet agrees to implement a policy to formally end the use of bailiffs (enforcement agents) relating to the collection of council tax.
- 2.2. That Cabinet agrees a policy that no committal proceedings shall be used against any resident who owes council tax. This will mean that, as a matter of policy, the council will not seek to imprison someone for having a council tax debt.
- 2.3. That the Cabinet agrees that a pilot on collections and management of council tax arrears (as defined in appendix 1) be commenced with LBHF Joint Ventures Limited and its sub-contractor 1<sup>st</sup> Credit Limited.
- 2.4. That Cabinet agrees funding of up to £80,000 for the pilot with the draw down of this funding delegated to the Strategic Finance Director in consultation with the Cabinet Member for Finance.

## **3. REASONS FOR DECISION**

### **3.1. Stopping using bailiffs to collect council tax arrears**

- 3.2. On 16<sup>th</sup> January 2017, the Cabinet agreed a procurement strategy for debt management in H&F. One of the key features of that strategy was “That our treatment of debtors to the council is consistent with highest possible ethical and regulatory standards”.
- 3.3. The use of bailiffs is at odds with this aim and there is a growing body of evidence that shows that the use of bailiffs can cause harm to individuals health and wellbeing and results in increased demand on other public services, such as health and housing. This is clearly neither in the interests of the individuals concerned nor the public interest more generally.

### **3.4. Stopping using committal proceedings as an enforcement tool**

- 3.5. Although H&F has not sought to imprison any residents for non-payment of council tax since February 2017, the option remains open for the Council do so. This is at odds with the positions set out in paragraph 3.2.
- 3.6. Imprisonment (or even the threat of imprisonment) for a civil debt such as council tax has a very significant impact on the individual concerned and, from national research, the threat of imprisonment is often used by local authorities even when there is no realistic prospect of the Courts imposing such a penalty. This has wider implications in respect of harm to individuals and consequential costs to the wider public purse. Use of committal proceedings are therefore neither in the interests of the individuals concerned nor the public interest more generally.

- 3.7. The Financial Conduct Authority standards that are applied to the private sector, have completely banned any threats of enforcement action that are unlikely to be carried through, such as threats of a court summons when this would not or could not happen. Firms using such tactics would be likely to have their authorisations to operate removed.
- 3.8. In Scotland, Northern Ireland and the rest of Europe imprisonment is not a remedy available for civil debt.
- 3.9. Piloting council tax arrears collection with LBHF Ventures Limited**
- 3.10. Existing arrears collection processes in H&F (in common with many other councils) have fallen behind best practice in the private sector, fail to utilise modern technology (eg SMS texts or sophisticated identification of vulnerability) and are designed simply around statutory processes. As a result, customer focus is lost and the approach is somewhat adversarial.
- 3.11. Whilst there are some checks with Adult Social Care (which need to be preserved in future operations), there is no systematic approach in H&F to identifying or addressing issues of vulnerability, understanding the most appropriate or effective collections strategy by customer nor any attempt to segment overdue accounts. There is a recent case that bears this out, where a very vulnerable resident was subject to bailiff action, initiated by the council tax team, as a result of the failure to identify specific vulnerabilities.
- 3.12. By contrast, our ethical debt business (provided to the joint venture by 1<sup>st</sup> Credit Limited) utilises cutting edge technology – for example digital analysis of all phone calls for signs of vulnerability and customer sentiment – and has highly developed processes and quality assurance systems to ensure excellent treatment of customers.
- 3.13. 1st Credit also provide a very high level of training for their staff. Last calendar year staff received an average of 15.9 days training each. The company has highly effective policies and practices and has enjoyed multiple awards including:
- Best Conduct & Compliance Culture 2016 and 2017
  - Best Customer Service 2016 and 2017
  - Investors in Customers Gold rating 2014, 2015, 2016 and 2017
- 3.14. By using the council's own ethical debt business, LBHF Joint Ventures Limited sub-contracting to 1<sup>st</sup> Credit, to pilot collection and management of a sample of council tax overdue accounts, we can identify the potential to create a step change in performance.
- 3.15. This, in turn, will provide an excellent case study to sell this service to other local authorities. At present, the sales unweighted pipeline of ethical debt services to other local authorities is worth £7m. In order to

convert the pipeline into actual sales, evidence of our success and implementation in H&F is vital.

#### 4. INTRODUCTION AND BACKGROUND

4.1. Cabinet approved the procurement strategy for debt management on 17<sup>th</sup> January 2017 and delegated the award of a subsequent joint venture framework contract to the Commercial Director.

4.2. There were four key features of the procurement strategy:

- To make sure our debt management activities effectively support the financial operations and requirements of the council.
- That our treatment of debtors to the council is consistent with highest possible ethical and regulatory standards.
- We create a joint venture to allow us to profit from the development of these services by selling them to other public bodies and social landlords.
- To exploit existing analytic products developed by our Business Intelligence team to help residents avoid debt, and to use the JV to develop these and other techniques and tools, to commercial, financial and social advantage.

4.3. After running a full OJEU competition and the evaluation of bids by a tender approval panel, 1<sup>st</sup> Credit Limited were awarded the contract. The joint venture company went live in early July 2017. The framework contract allows any public body, including H&F, to call off contracts to provide any service in scope of the original procurement.

4.4. From September 2017, the company has been collecting written off debt from former tenant arrears and penalty charge notices. The collection of housing benefit overpayments was delayed but began in January 2018. All collection activity has been carried out in accordance with Financial Conduct Authority rules – a standard that we have voluntarily applied.

#### 4.5. Current statistics for council tax

	2016-17		2015-16
	Volume	Value	Volume
Reminders (1 <sup>st</sup> and 2 <sup>nd</sup> )	42,952	£6.6m	35,000
Final Notice	19,114	£11.7m	17,825
Summons	13,444	Not available	12,141
Liability Order	7,500	£5.6m	7,500
To Bailiffs	3,500	£2.7m	4,000

In 2016-17 bailiffs succeeded in recovering £800k.

- 4.7 The cost of each summons and related customer contacts is £86, and a further £22 for a Liability Order, which costs are added to the resident's bill. Bailiffs charge residents £75 for a letter and another £235 for visiting the resident's home. From the figures above in 2016-17, the average council tax debt (excluding £108 summons and Liability Order costs) was £666. The bailiff fees add another £310 to a resident's bill. This would rise by another £110 if a resident's belongings are taken and sold.
- 4.8 As a result, unpaid arrears can increase by as much as £528 regardless of the amount owed.

## **5. PROPOSAL AND ISSUES**

- 5.1. By ceasing the use of bailiffs and the use of committal proceedings, the council will need to re-design its collection activities as they relate to overdue council tax.
- 5.2. The collection costs incurred by the joint venture are met by the Council. It follows therefore that the overall gross collections will need to exceed the current level to ensure that the net position is the same or better than current performance.
- 5.3. Our joint venture partner, 1<sup>st</sup> Credit, have a substantial and impressive track record in ethical debt collection and, through the joint venture, we can pass a sample of the collection and management of overdue council tax accounts to them as a pilot.
- 5.4. The only exception to this is where a court summons has to be issued. At this point, the case would be passed back to H&F staff for processing and, when the liability order has been granted, the case would pass back to 1<sup>st</sup> Credit.
- 5.5. At this point, there are no staffing implications.

### **Evaluation and research**

- 5.6. The Association for Public Service Excellence (APSE) and the Local Government Association (LGA) have agreed to collaborate with H&F to carry out research on the wider implications of debt collection practices in the local government sector. This will build on research carried out by H&F's Business Intelligence team which has revealed a very strong correlation (particularly in London) between councils' use of bailiffs and the numbers of families in temporary accommodation.
- 5.7. The University of Lancaster's Department of Psychology are carrying out a qualitative research project on behalf of H&F (on a cost only basis) into the impacts of bailiffs and committal proceedings on H&F residents as well as the potential benefits of using the more ethical approach.
- 5.8. Officers have been working with the National Audit Office (NAO) to help them develop a scope for a significant project looking at the

impacts of public sector debt collection on UK citizens. In particular, the NAO wishes to explore the value for money implications of current practices, focussing on effectiveness and also consequential costs borne by the public sector and the economy as a whole. Officers have been asked by the NAO to assist them with the development of their investigation and development of the report.

- 5.9. The results of our pilot will help inform all of these research projects. A further report will be brought to Cabinet with the results of the ethical collection pilot and the research studies and will provide recommendations for future options.

## **6. OPTIONS AND ANALYSIS OF OPTIONS**

- 6.1. As an alternative, the council could continue to allow the use of bailiffs and the use of committal proceedings. However, this would be very much at odds with previous commitments made in the 16<sup>th</sup> January 2017 Cabinet report and, for the reasons set out in this report, would be against the interests of the individuals concerned and the public interest more widely.
- 6.2. The Cabinet could decide not to pilot the collection of overdue council tax with the joint venture company. In that event, the work on re-designing collection processes and procedures will be undertaken separately but the standard of treatment of customers in arrears is unlikely to be at the same high standard that could be achieved by agreeing a pilot, and the current net collection rates (after costs) may be at risk.

## **7. CONSULTATION**

- 7.1. Senior officers have been consulted on this report.

## **8. EQUALITY IMPLICATIONS**

- 8.1. There will be no negative implications for protected groups in the implementation of the proposed changes to council tax collection.
- 8.2. Implications completed by Peter Smith, Head of Policy and Strategy, tel. 020 8753 2206).

## **9. LEGAL IMPLICATIONS**

### **Policy**

The Council's power to apply for a warrant committing a debtor to prison for non-payment of Council Tax is set out in Regulation 47 of The Council Tax (Administration and Enforcement) Regulations 1992. There is also guidance from the Department of Communities and Local Government in 2013, 'Guidance to local councils on good practice in the collection of Council Tax arrears'. This states that 'local authorities should ensure that clear information is provided about the enforcement

process to all residents and in particular to those in arrears'. The proposed policy is consistent with the guidance provided it allows for exceptions.

### **Proposed Contract**

Previously, the Council tendered the ethical debt service which was won by LBHF Joint Ventures Limited. Therefore, the Council can contract services to LBHF Joint Ventures Limited.

### **Existing Contract**

Any existing contract for services carried out by bailiffs does not obligate the Council to use such bailiffs to carry out enforcement services. Therefore, the proposal to cease using bailiffs does not breach any existing contract with bailiffs.

Implications completed by Angela Hogan, Senior Solicitor (interim), Tel. 020 7641 2780.

## **10. IT IMPLICATIONS**

- 10.1. The change in policy does not have IT implications.
- 10.2. However, if the proposal is agreed then there will be differences in how the residents' data is managed. A Privacy Impact Assessment and review of the Information Sharing Agreement will be required to ensure the right controls are in place.
- 10.3. Implications verified by: Veronica Barella, interim Chief Information Officer, Telephone 020 8753 2927.

## **11. HR IMPLICATIONS**

- 11.1. As a pilot there are no implications for the workforce, with existing resources supporting where necessary.
- 11.2. At the end of the pilot there will be an evaluation about the most appropriate process to follow to meet the objectives of our approach to ethical debt that may impact a small number of employees. If that is the case, the evaluation report and any future recommendations to Cabinet will include these implications.
- 11.3. Implications verified by Mark Grimley, Director of HR & OD, tel. 020 8753 1550.

## **12. FINANCIAL IMPLICATIONS**

- 12.1. Council Tax is a significant source of income to the Council and is forecast to be £78.571m for 18/19. Of this the H&F element is £55.664m and the GLA element is £22.907m. The Budget Strategy assumes a collection rate of 97.5%. The in-year collection performance for 15/16 was 96.33% and for 16/17 was 96.98%.

- 12.2. The current cost of collecting council tax arrears is estimated at £478k.

Item	Cost £k
Officer time	369
Printing and Postage	69
Court Summons	41
<b>Total</b>	<b>478</b>

- 12.3. At present the costs of the pilot are unknown but will be based on activity carried out by 1<sup>st</sup> Credit to recover council tax arrears in the sample selected.
- 12.4. Until the results of the pilot are evaluated and a decision made on the future model for collection the pilot costs will be additional, unbudgeted costs as it will operate alongside the current collection model.
- 12.5. As per paragraph 5.9 a further report will be brought to cabinet with the results of the ethical collection pilot which will include a financial appraisal.
- 12.6. Implications verified by; Danielle Wragg, Finance Business Partner, tel. 0208 753 4287.

### **13. RISK MANAGEMENT**

- 13.1 Councils have a duty to their residents to collect taxes as these fund crucial services, such as caring for the elderly, protecting vulnerable children, keeping roads and parks maintained and collecting bins.
- 13.2 Years of financial austerity imposed on Councils by National Government have increased pressure locally to collect funds so these vital services can be protected.
- 13.3 This pressure has resulted in an increased risk to people possibly being pushed even further into debt. The Money Advice Trust, which runs National Debtline, reported that more could be done for the vulnerable in debt.
- 13.4 Proposals to re-design the Council's collection activities may result in additional benefits as a proportion of current debtors may well become paying clients once again in the future.
- 13.5 By doing so, the proposals will help ensure that the debts are collected ethically. Fair debt collection practices are not only reflected in the professionalism of our collection, communication and remittance processes but also contributes to improving the impact of debt on mental health and wellbeing to potentially the most vulnerable.
- 13.6 Implications verified by: Michael Sloniowski, Risk Manager, telephone tel. 020 8753 2587.

#### **14. COMMERCIAL IMPLICATIONS**

- 14.1 The existing contracts with bailiffs for the collection of council tax put no obligation on the Council as to the volumes of work we give them.
- 14.2 The Council can contract with LBHF Joint Ventures Limited under a call-off contract relating to a framework procurement that was awarded to the Company in 2017. There are no further procurement implications.
- 14.3 Implications verified by Simon Davis, Head of Commercial Management, tel. 07920 503651.

#### **15. BUSINESS IMPLICATIONS**

- 15.1. The provider and their subcontractor will work with the Economic Development Team to explore the potential for creating local employment opportunities and opportunities for local SME suppliers.
- 15.2. Implications verified/completed by: Albena Karameros, Economic Development Team, tel. 020 7938 8583.

#### **LOCAL GOVERNMENT ACT 2000**

#### **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	None		

#### **LIST OF APPENDICES:**

Appendix 1 Pilot definition

## Appendix 1: Pilot Definition

### 1. Purpose

- a. To demonstrate that the LBHF Joint Ventures Limited Ethical Debt processes will deliver improvements on the existing H&F arrears collection processes in terms of an overall assessment of the following criteria:
  - i. The volume and cost of formal arrears notices issued (Reminders, Final Notices, Summons, Liability Orders).
  - ii. The value of collections achieved without enforcement action (i.e. payments made before issue of a summons).
  - iii. The number of residents subjected to the detrimental impacts of existing enforcement actions (summons, liability orders and bailiffs), which are known to cause distress and in some cases negative impacts on health wellbeing and to increase demand (and costs) for public sector services.
  - iv. Resident satisfaction with the way the council collects council tax.
  - v. Assurance of council tax collection levels.
  - vi. Net financial benefit (accounting for cost of collection and collection values) received by H&F.
- b. To enable the JV to test and refine the collection processes and collection strategies based on actual cases, to allow optimisation of collection efficiency and collection levels.
- c. To enable the JV to baseline collection levels, costs and customer satisfaction allowing effective comparisons and assessment of improvements.
- d. To provide evidence of improvements, which can then be used as collateral in support of efforts to sell the JV services to new customers (generating new revenue for the JV and therefore H&F as the majority shareholder).

### 2. Scope

- a. 2017/18 Council Tax arrears. Collection activities for a significant proportion of all remaining arrears to be transferred to LBHF Joint Ventures Limited as soon as possible.
- b. Collection arrears defined as: an account where there has been a default on a standard or other pre-agreed payment plan.

Transfer to take place before the next scheduled formal notice is issued (Reminder, Final, Summons etc.) and for any and all cases

with outstanding arrears returned from the bailiff as soon as practical before any further action.

- c. 2018/19 Council Tax arrears. The definition of arrears for the 2018/19 Council Tax is the same as for 2017/18 council tax. However, it is proposed that the pilot will be limited to 10% of all accounts that go in to arrears.
- d. The 10% sample will be randomly selected from all accounts, that go in to arrears at First Reminder stage and encompass all subsequent recovery activity, which may include requesting Reminder or Final notices or Summons and Liability Orders are issued by H&F systems. In the event of a summons being issued, then the case would transfer back to H&F for that, returning to the JV for on-going processing after the issue of the Liability Order.
- e. The 10% sample will be determined based on selecting random account numbers, not on the basis of any history of previous default to ensure it is possible to make a like for like comparison with the existing H&F process.

### 3. Timetable

- a. 2017/18 council tax arrears
  - i. These will be transferred immediately the JV confirms readiness to take on the accounts.
  - ii. These accounts will continue to be managed by the JV until all that year's accounts are paid or the accounts returned to H&F.
  - iii. There will be monthly progress checks for the 2017/18 council tax arrears pilot.
  - iv. The performance of the 2017/18 arrears pilot will be assessed when all of that year's accounts are paid or returned.
- b. 2018/19 council tax arrears.
  - i. These will be transferred at the time the formal 1<sup>st</sup> Reminder Notice becomes due and is added to the 'pre-list' before that formal notice is issued (i.e. when an account has been identified as having defaulted on a standard or pre-arranged payment plan).
  - ii. These accounts will continue to be managed by the JV until they are paid or returned.
  - iii. There will be monthly progress checks for the 2018/19 council tax arrears pilot.

- iv. The performance of the 2018/19 arrears pilot will be assessed after 3 months (end of June 2018) and then again after 6 months to decide if the new process should be extended to all council tax accounts.

#### 4. Evaluation criteria

- a. As part of the pilot, data on the following will be gathered in respect of both the existing council tax collection performance and of the pilot to enable a like for like comparison:
  - i. The volume and cost of formal arrears notices issued (Reminders, Final Notices, Summons, Liability Orders).
  - ii. The value of collections achieved without enforcement action (i.e. payments made before issue of a summons).
  - iii. The number of residents subjected to the detrimental impacts of existing enforcement actions (summons, liability orders and bailiffs).
  - iv. Resident satisfaction with the way the council collects council tax.
  - v. Assurance of council tax collection levels.
  - vi. Net financial benefit (accounting for cost of collection and collection values) received by H&F.