

**TO: THE EXECUTIVE  
17 NOVEMBER 2015**

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**COUNCIL TAX AND BUSINESS RATES RECOVERY  
Director of Corporate Services**

**1 PURPOSE OF REPORT**

- 1.1 To seek the permission of the Executive to implement a revised debt recovery policy for both Council Tax and Business Rates.

**2 RECOMMENDATION**

- 2.1 **That the Executive agree both the Council Tax Recovery Policy attached as Appendix A, and the Business Rates Recovery Policy attached as Appendix B to this report for immediate implementation.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 There are a variety of debt recovery options available for both Council Tax and Business Rates and most of these options are utilised routinely by the Revenue Services Team at the present time in order to collect outstanding debts.
- 3.2 There are, however, harsher powers of recovery (as detailed in 5.1) that are not currently exercised in Bracknell Forest and it is therefore deemed that Executive approval of these methods should be obtained in order to employ these powers going forward.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 When debts reach a stage where one of the aforementioned harsher methods is deemed to be appropriate, it is likely that the taxpayer is an evasive and serial non-payer. It will mean that the debt is a significant size and that the debtor is unwilling to make contact or to make any reasonable payments towards their debt. When a debt reaches this point the only alternative option to consider, if a harsh recovery power is not to be used, is writing the debt off. All write offs must be authorised by the Borough Treasurer or a Group Accountant under delegated powers.
- 4.2 Writing off these types of debt will give serial non-payers the impression that Bracknell Forest is unable or willing to pursue them for outstanding debts and could create a culture of non-payment. The act of writing debts off would also create bad feeling and potentially generate complaints from taxpayers who do make their payments as required and feel aggrieved that those who don't pay are not sufficiently pursued.

**5 SUPPORTING INFORMATION**

- 5.1 The harsher remedies that are not currently utilised in Bracknell Forest are as follows:
- Individual Bankruptcy

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- Charging Orders against domestic property
- Committal Proceedings through the Magistrates Court
- Insolvency Proceedings in respect of Businesses

This is not a linear process, any of these methods can be used at any one time in respect of outstanding arrears and the circumstances of the debtor will dictate which is the most appropriate. The full details of what these methods entail are detailed within the attached policies. The intention behind using these methods is to compel the debtor to making payment of their debt in full if they are able or to encourage them to make contact and agree a reasonable repayment arrangement.

- 5.2 There are currently 120 Council Tax debtors owing £3,000 or more with these debts alone totalling £525k.
- 5.3 There are currently 34 Business Rates debtors owing £5,000 or more with these debts alone totalling £906k.
- 5.4 The policies are broadly similar but there are some differences in the wording of the legislation between Council Tax and Business Rates meaning that the policies will not be a mirror image of one another.
- 5.5 The debtors referred to in 5.2 and 5.3 are mostly serial debtors who owe multiple years' worth of debt, they almost never make any payments towards their liability and are well known to us. They will have received multiple letters from Bracknell Forest encouraging them to make payment or to contact us, they will have had a Liability Order granted against them at Magistrates Court and they will have been visited by Enforcement Agents on several occasions; but despite our best efforts the debt still remains outstanding.
- 5.6 It is on the serial debtors who owe large amounts of money and refuse to make contact or agree to reasonable payment arrangements whom we intend to exercise the harsher powers listed in 5.1. These remedies will only be used in the most serious of cases; clear guidelines for the decision making process and procedures for safeguarding vulnerable adults are listed within the policies to ensure that any action taken is proportionate and reasonable.
- 5.7 It is not expected that the implementation of these remedies will achieve immediate results, but these remedies will have greater consequences to the debtor and are more likely to encourage the debtor to co-operate and make payment. It is also expected that the use of these remedies will create a deterrent to other taxpayers who wilfully refuse to pay their liabilities.
- 5.8 There are fees associated with taking such action against non-payers, but in all cases we will endeavour to recover these from the debtor where it is possible.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 Relevant legal advice has been provided and the report has been modified as a consequence. There will always be issues about enforcement in this type of case even if a bankruptcy order is made. There will also be the risk of the LGO not favouring this method of recovery that has to be balanced against the need to collect all revenue streams and parity amongst those the council seeks to serve. The

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counter to the LGO would be that it is inherently unacceptable and unreasonable to allow determined defaulters to avoid payment where the majority comply. A Council which relies for a substantial amount of its income on Council tax collection needs to collect its revenue to provide its essential statutory services. Bankruptcy proceedings, at the stage that it is proposed they will be triggered in this policy should be seen as proportionate.

### Borough Treasurer

- 6.2 Whilst the Council's council tax and business rate collection rate is very good when compared with our peers, the additional procedures outlined in the report and appendices have the potential to improve this further. The Council will endeavour to recover the costs associated with the additional recovery procedures from either the council taxpayer or the business ratepayer. There does, however, remain the risk that these costs are not recoverable and will need to be written off.

### Equalities Impact Assessment

- 6.3 A screening has been carried out and is attached at Appendix C.

### Strategic Risk Management Issues

- 6.4 Should a case be mishandled and a harsh remedy is used inappropriately there is the risk of reputational damage to the council, plus the possibility of being ordered to compensate the debtor should maladministration be found. This is addressed in the policies to ensure that there is a robust decision making process when assessing these cases and looking to take such action.

The cost to the council of taking each case to Committal stage is a minimum of £240 per case, there is a risk of making a loss on these cases should the full debt be remitted by the Magistrates or the Council is unable to collect any monies following this action. The cases will be selected carefully to ensure that Committal is deemed to be the most viable course of action and is likely to result in obtaining some form of payment.

Bankruptcy and Insolvency costs can be recovered from the debtor provided there are sufficient assets there to meet these costs. However if there are insufficient assets to cover the debt and the fees the Council will be responsible for paying these fees which would equate to approximately £1200 per case. In order to mitigate this risk cases will be reviewed and fully considered by senior members of staff and this action will only be instigated if there is a very realistic prospect of recovering the debt and the associated fees.

### Other Officers

- 6.5 Chief Officer: Customer Services

Whilst collection and recovery rates are very good, there are a number of serial non-payers, who owe the council significant sums of money relating to previous years' council tax and business rates. The Revenues Team consistently pursues recovery of these debts, and the additional powers in the revised recovery policies would give them additional methods they could use, which might enable even better recovery rates. The alternative option of writing the debts off would be unpalatable, and might serve as an incentive to other debtors to continue refusing to pay.

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 There is no requirement to consult.

### Method of Consultation

7.2 N/A

### Representations Received

7.3 N/A

### Background Papers

#### Contact for further information

Sarah Kingston, Revenue Services Manager - 01344 352097

[Sarah.kingston@bracknell-forest.gov.uk](mailto:Sarah.kingston@bracknell-forest.gov.uk)