

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cllr Ree, Cabinet Member for Finance and Reform

Date:

Subject: Council Tax Ethical Debt Collection Policy

Report author: Nicola Ellis Strategic Director Chief Operating Officer Corporate Services

Responsible Director: Nicola Ellis Strategic Director Chief Operating Officer Corporate Services

SUMMARY

Since 2018, Hammersmith and Fulham Council has been committed to an ethical approach to the collection of Council Tax. This has included a commitment to not use enforcement agents in the collection of Council Tax from residents.

Whilst we remain committed to the ethical debt collection approach and using enforcement as a last resort, the Council is prevented from using all methods of recovery available due to its commitment to not use enforcement agents to collect Council Tax from residents in any circumstances. This means that we are limited in recovery action that we can take against those people who 'won't pay' rather than 'can't pay'.

The impact of the Covid-19 pandemic and the suspension of recovery action has led to increased levels of historic arrears (i.e. excluding the current year) for Council Tax (estimated at £37.9m at end 31 March 2024). There has been a significant increase over the past 3 years due to reduced recovery action during the Covid-19 pandemic and the Council's limited options to pursue 'won't payers' through every available means.

The Council has recently agreed additional resource to pursue collection of these historic arrears but a large number of these cases in arrears are attributed to residents who have not engaged with the Council and we therefore assume that a percentage of those are choosing not to pay.

This report details changes to our ethical debt collection approach to enable us to use enforcement agents to pursue Council Tax arrears in circumstances where we are satisfied that the resident potentially has the means to pay but is choosing not to. The use of enforcement agents in these cases means that we are then able to use all recovery options available to us, such as charging orders, bankruptcy etc which we are not able to pursue if we have not tried the option of using enforcement agents.

This targeted use of enforcement agents applies to both the pursuit of previous year's arrears and in year collection.

RECOMMENDATIONS

1. To note and comment on the revised Council Tax Ethical Debt Collection Policy included as Appendix One.
2. To note and comment on the targeted use of enforcement agents in circumstances where we are satisfied that the non-payment is not due to being unable to pay and that the use of enforcement agents would enable further recovery action that could secure the debt.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Continued collection of arrears enables the Council to fund essential services and projects which benefit all residents
Creating a compassionate council	We continue to lead on Ethical Debt collection by working closely with vulnerable residents and not employing Enforcement Agents for the collection of council tax from those that cannot pay
Doing things with local residents, not to them	As part of the Council's Ethical Debt Policy, we have meaningful conversations and build relationships with our residents with access to financial and debt advice
Being ruthlessly financially efficient	Collection of arrears is vital to ensure that the Council can meet its funding targets
Taking pride in H&F	The collection of outstanding arrears allows the Council to ensure that all funds recovered are reinvested into local projects and makes Hammersmith and Fulham an attractive place to live and do business in.

Financial Impact

Council Tax debt has risen significantly in the past five years, in significant part due to the impact of the Covid-19 pandemic and the Cost-of-Living crisis. An analysis of historic debt is shown in the table below.

Total CTAX at year-end:

2018/19	2019/20	2020/21	2021/22	2022/23	2023/24*
£m	£m	£m	£m	£m	£m
15.375	18.045	23.427	28.386	35.379	37.909

*forecast/subject to year-end work

The Council's Council Tax precept is based on a target collection rate (currently 97%). Assuming all other factors remain equal (tax base numbers etc.), where forecast the collection rate falls below this rate, this will give rise to a deficit on Council Tax income against the budgeted position.

The proposals in this report will allow the Council to continue to take a holistic approach to Council Tax debt management and act in an ethical manner, whilst improving the ability to collect debt where appropriate.

Prepared by: Chris Harris - Head of Finance – Corporate Accountancy, Systems and Tax, 28/03/2024

Verified by: James Newman, AD Finance, 28/03/2024

Legal Implications

The Legislation that covers Council Tax includes Local Government Finance Act 1992 and Tax (Demand Notices)(England) Regulations 2011. Liability to pay Council Tax is determined by the Council Tax (Administration and Enforcement) Regulations 1992. This gives local authorities the right to demand Council Tax which is used to fund essential local services.

Council Tax is an essential source of revenue, so authorities are given these and other powers to recover arrears from households that do not pay on time. The recommendations in the report will contribute towards the vital collection and enforcement.

Jade Monroe, Chief Solicitor, 16 May 2024.

Background Papers Used in Preparing This Report

None

DETAILED ANALYSIS

Proposals and Analysis of Options

As mentioned in the business case for the project to pursue previous year's arrears, the total historic arrears for Council Tax are £37.9m. This debt is not covered by statutory limitations and has therefore accrued over many years.

LBHF in-year collection rate for Council Tax has dropped over the past 4 years from 96% to 94% for Council Tax. In year collection is currently projected to improve in 2023/24 but these arrears will continue to accrue on a yearly basis and the project to pursue these arrears aims to target and recover as much of these arrears as possible to increase income collection and ensure fairness in local taxation. A dedicated team is being created to pursue these arrears delivering the following benefits:

- a. The collection of historic debt (above assumed levels) will enable the release of excess historic bad debt provisions as a one-off revenue benefit.
- b. Improved in-year collection rates will have a beneficial effect on the in-year revenue position by limiting the increase of new bad debt provisions.

As part of the initial set up work for the arrears project we have completed detailed analysis of the debts outstanding and a large number of these are from residents who potentially have the ability to pay but have chosen not to engage with us over a long period of time. These residents have built up significant debt and any action against them to date has not resulted in reduction in their debt. Without the ability to use enforcement agents in these cases, our prospects of recovery are lower as until all options have been pursued, including the use of enforcement agents, we are unable to consider further action such as applying for a charging order or insolvency action.

The table below shows the breakdown of accounts with debts in excess of £7,000. These include both previous and current year arrears.

Debt Range	No. of accounts
> £20k	6
£15 - £20K	18
£10 – £15k	165
£7 - £10K	361

Following changes to the Ethical Debt Policy these accounts would be the initial priority to refer to Enforcement Agents where we are certain that all other avenues have been exhausted in terms of engagement with the resident.

Council Tax ethical debt collection policy

The Council has an ethical debt collection and has publicly committed to not using enforcement agents before offering support to residents that owe Council Tax.

The Council and team remain firmly committed to ethical, transparent and fair collection processes. The new Corporate Plan commits to *Continue to take an ethical and compassionate approach to council tax debt recovery, and improve our ethical debt collection and outreach advice, whilst acting swiftly to recover taxes and retaining high recovery rates.*

The revised Council Tax ethical debt collection policy included as Appendix One continues to deliver this commitment by ensuring that no one who cannot pay and is

engaging with the Council (so we are aware of their circumstances) is not referred to enforcement agents.

The team will continue to work with residents in an ethical way to use a variety of means to support residents who are having difficulty paying their Council Tax. This will include:

- Agreeing fair and affordable repayment plans and where this isn't possible explore attachment of earnings or benefits. Payment breaks to help when finances are tighter than normal.
- Where an individual is identified as being in financial difficulty, we will ensure they are referred both to relevant internal departments and appropriate sources of support and independent advice (such as Citizens Advice Hammersmith and Fulham) to access guidance on maximising benefit entitlement, skills and prospects.
- In specific circumstances, we may consider writing-off and not pursuing all or a portion of an individual's debt in order to prevent exacerbating severe indebtedness

One of the key objectives of our ethical debt policy is to encourage residents who are struggling to pay to contact us so we can offer our support. Knowing that we have adopted this policy has encouraged residents who need help, to talk to us and as a result we have:

- **3,779** residents who have an ethical payment arrangement allowing them to pay in a way that is affordable for them.
- Adjourned **1,289** cases since June 23, to allow time for residents to find the money they need to pay and give us a chance to help them.
- Withdrawn a summons to court for **406** residents, who contacted us after receiving the summons, as we managed to find another path to help them to pay.
- Supported **1,351** residents with payments towards their arrears to help get them back on track during this cost of living crisis.
- Identified 177 residents eligible to claim Council Tax Support since December 2022, who would not have been aware of their entitlement had they not spoken to us.

The Council has a comprehensive Council Tax Support scheme which covers as much as 100% of Council Tax liability for those on the lowest income. This is more generous than the vast majority of local authorities who require that all residents pay some Council Tax, usually 20%, regardless of their financial circumstances.

The Council also introduced additional support for residents throughout the pandemic with discretionary Council Tax Support. In 2023 the Council paid an additional £145 on top of the £25 provided by Government to support residents in receipt of Council Tax Support with energy costs and additional costs due to the cost-of-living crisis. We have continued to support residents during the cost-of-living crisis with a scheme to help residents with payments towards arrears of Council Tax where they are experiencing financial difficulties due to the current crisis.

Whilst the policy refers to circumstances where a resident can be deemed as being financially vulnerable, the list is not exhaustive and each case will be considered on an individual basis.

It is anticipated that those who are referred to the enforcement agent are likely to meet one or more of the following criteria:

- No longer resident in the borough.
- A company or private landlord.
- Not in receipt of Council Tax Support or potentially other benefits.
- Have not engaged with the council to agree support.
- Have not complied with arrangements that have been put in place to support payment.

Where enforcement agents are used, they will fully comply with the code of conduct and best practice requirements.

OPTIONS AND RISKS

3. Do Nothing- If we attempt to pursue the arrears and in year collection without the use of enforcement agents our opportunity to recover from long-standing 'won't payers' will be limited as we have to attempt recovery using enforcement agents prior to taking further action. As it stands, we are not using all available means to collect arrears of Council Tax and we have a duty to local taxpayers who do pay to ensure that we pursue arrears. If we do not adjust our approach we are likely to see further growth in arrears as we do not have the deterrent of using all remedies available to us.
4. Implement the revised Ethical Debt Collection Policy and approve the targeted use of enforcement agents in specific circumstances – This is the recommended option. We will continue to adapt a holistic approach and act in an ethical manner in ensuring our residents get the right support and assistance.

REASON FOR DECISIONS

5. The current levels of arrears for Council Tax are significant at a total of £37.9m . There has been a significant increase over the past 3 years due to reduced recovery action during the Covid-19 pandemic and cost of living crisis.
6. Increasing income collection will allow for a reduction in the Council's bad debt provisions for both Council Tax and Business Rates, providing the Council with one-off income which will vary from year to year depending on the actual amount collected, but is estimated to be £5.5m for the first 36 months of the enhanced collection scheme.

Appendix One

Hammersmith and Fulham Council Council Tax Ethical Debt Collection Policy

Hammersmith and Fulham Council is committed to an ethical approach to the collection of Council Tax. We aim to support our residents to enable them to pay their Council Tax and we have adjusted our processes to do so, supplementing legislative recovery processes and looking at alternative solutions.

However, we have a legal duty to ensure the prompt and cost-effective billing, collection, and recovery of all sums due to the Council. Timely and cost-efficient collection of Council Tax is critical to ensuring that the Council can provide essential services, and the Council is committed to maximising income collection using ethical, fair, supportive, consistent, and proportionate means.

This policy seeks to set out the key principles that the Council will apply to ensure that it is supportive, efficient, and effective in its collection of Council Tax. It will make sure it strikes the right and necessary balance between dealing sensitively with those customers in genuine financial difficulty, whilst also using the full range of recovery methods with the small proportion of customers who have the means to pay but fail to do so.

The principles

Principle 1 – Clear, timely and accurate charges

- We will make customers aware of the charges at the earliest opportunity and clearly explain how they have been calculated.
- We will use the information we hold and ask residents to supply any additional information so that we can ensure the charge is correct.
- If customers disagree with the charge or feel they are unable to pay, there will be clear and easy routes to talk to the Council.
- Where residents contact us at the earliest opportunity with their concerns, we will pause recovery action whilst it is being investigated or advice is provided. (Please note some actions may have already been taken if there is a delay in contacting the council)

Principle 2 – Easy and flexible payment

- We will accept a range of payment methods and frequencies and will try to ensure that payment processes are simple for customers with the ability to pay online, over the phone, card machines or via bank/building society.
- We expect customers to take advantage of the range of payment methods available to pay on time, and to contact us quickly if they need to request greater flexibility.
- If you have a debt with the Council, we will agree affordable and appropriate repayment plans taking account of your individual circumstances and other debts you may have.

Principle 3 – We will try to prevent debt.

- Where possible, the Council aims to prevent debt occurring by requiring payment in advance or encouraging payment via Direct Debit.
- Where possible we will send digital reminders of instalments just missed so that they can avoid debt and recovery action. However, repeated missed instalments may lead to losing the ability to pay by instalments.

Principle 4 – Clear and empathic communication

- We will communicate clearly how you can make payments and how to contact us if you are struggling or disagree with the charge.
- You will have the opportunity to talk to us to discuss your situation and we will listen empathically to understand your circumstances.
- If we have made a mistake, we will acknowledge this, apologise and correct it at the earliest opportunity.
- We expect customers to keep their contact details up to date and inform us promptly of any changes.
- We will treat all our customers with respect and expect the same in return for our staff and those working on our behalf.

Principle 5 - Transparent processes

- We will explain the consequences of late or no payment and the actions the Council may take if we do not hear from the customer.

Principle 6 – Support for individuals that can't pay

- Where an individual is identified as being in financial difficulty, we will ensure they are referred both to relevant internal departments and appropriate sources of support and independent advice (such as Citizens Advice Hammersmith and Fulham) to access guidance on maximising benefit entitlement, skills and prospects.
- We will consider a range of solutions to support our residents to pay, considering individual circumstances. These could include:
 - Ethical payment arrangements – resident led payment plans with manageable goals, and longer-term payment plans.
 - Payment breaks to help when finances are tighter than normal.
 - A designated officer giving one to one support.
- In specific circumstances, we may consider writing-off and not pursuing all or a portion of an individual's debt in order to prevent exacerbating severe indebtedness.
- To ensure greater consistency in approach, we will use the standard financial statement framework and this may be shared internally to avoid the need for residents to evidence their hardship multiple times. The Council may also use other external sources of data to confirm financial vulnerability.

- We expect customers to take ownership of their finances, to engage positively with any support provided, to provide any requested information within the specified timescale, and to comply with the terms of any agreement made.
- Where someone has been identified as unable to pay, we will not refer to enforcement agents. However, the Council may still go to court to seek approval for attachments to benefits or charges to property etc.
- We will make residents with multiple/problem debts that they are unable to pay aware of the breathing space legislation where all recovery action is paused whilst they receive debt advice. It is important that customers engage fully with the debt advisor during this period of pause.

Principle 7 – We will rigorously pursue action against individuals that abuse the system and “Won’t Pay”

- Calculatingly choosing not to pay tax, while receiving council services paid for by law abiding residents, is tax avoidance. It places a burden on neighbours who must either pay more for services or accept reduced services due to the corresponding lack of resources.
- Where a resident fails to engage with us and takes advantage of the options available to support them, we have a moral duty to pursue recovery. We will use a variety of debt recovery methods to collect debts from those who can pay, but choose not to. This will include court action to seek attachment of earnings or benefits, use of enforcement agents, insolvency/bankruptcy, charging orders or obtaining possession.
- Wherever enforcement becomes necessary, any costs incurred by the Council will be passed on to the customer.
- We will ensure that all enforcement action taken is ethical, proportionate, and complies with relevant legislation; but to be fair to those who do pay, and to deter wilful non-payment, we will always seek the maximum penalty where an individual commits fraud.
- Where enforcement agents are used they will be committed to working with empathy, ethically, identifying vulnerability and in accordance the regulations. This code of practice will at least be equivalent to that of the CIVEA (<https://www.civea.co.uk/our-code-of-practice>).
- The Council will use external resources and agencies to assist in locating customers who may have left the borough or last known property.

Principle 8 - Vulnerable Customers

We recognise that some individuals may require additional support in order to be able to adequately manage their finances and repay moneys owed. There is no set definition of vulnerability in relation to poverty, and the degree to which someone is considered vulnerable can vary widely. The causes of financial vulnerability are incredibly broad and include any condition or situation which may affect a person’s ability to manage their finances for a period of time.

Some likely causes or examples of vulnerability could be:

- Disabled people, including those with learning difficulties - where their disability specifically affects their ability to manage their financial affairs.

- People suffering from serious illness, including mental health conditions - where their illness specifically affects their ability to deal with their financial affairs.
- People who have difficulty communicating in English may be considered vulnerable in some cases. While translation services are available for interaction with the Council, those who may not have the support of family members who can speak or read English may be more broadly financially excluded.
- People who have difficulty reading and writing. This may prevent them from being able to read notices or warnings in relation to their debt, and may have caused broader financial exclusion.
- People undergoing significant life changes leading to stress and anxiety – i.e. people who have been recently bereaved, homeless or those affected by war or natural disaster.

The above does not constitute a list of reasons for automatic assessment as vulnerable, nor is it intended to be exhaustive. Assessment of vulnerability, and the steps taken to support a vulnerable customer, will be assessed by the Council on a case-by-case basis, based on the specific details provided by the customer. The identification of vulnerability does not excuse someone from paying a debt which they are legally obliged to pay. It does, however, mean that the Council will provide additional support in understanding the debt, and aim to minimise undue distress.

In these situations, the Council's debt recovery staff, including those not directly employed by the Council, will provide customers with details of how they can access independent advice and support in relation to their finances. The Council's website and correspondences with debtors (letters, email) will also direct customers to independent sources to access support relating to their finances.

Where vulnerability is identified, accounts may be flagged on the relevant system to alert any staff dealing with the case and automated escalation will be halted to ensure that the case is reviewed by a member of staff before any further action is taken. The Council will also log where power of attorney or written consent has been evidenced to enable someone else to manage finances or advocate on their behalf.

Depending on the nature of the vulnerability, there are additional measures that the Council may feel it is appropriate to make:

- Allowing longer to pay
- Referral to independent advice and guidance
- Referring to the Breathing Space legislation
- Temporarily halting enforcement action
- Providing additional support to overcome the vulnerability (e.g. home visits or assistance completing forms)
- Reviewing eligibility for benefits to ensure that these have been correctly assessed
- Considering referral to alternative support: local welfare support, section 13A payments, DHP or referral to third party may be appropriate

5. Policy review

This policy will be reviewed annually to ensure it reflects best practice and developments in the Council's approach.