

Committee: Financial Monitoring Scrutiny Task Group

Date: 23 February 2016

Subject: Council Tax Recovery Process

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Mark Alison, Cabinet Member for Finance

Contact officer(s): David Keppler, Head of Revenues and Benefits

Recommendations:

1. That the Financial Task Group considers the report and requests any further information required.
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report outlines the framework within which we carry out our responsibilities regarding billing and collection of council tax. It will explain the process through to obtaining a court order and passing this to our enforcement agents for collection.
- 1.2 As a billing authority we are responsible for the collection and recovery of the council tax and provisions are made in law for the way in which this is done.
- 1.3 In 2015/16 the amount of council tax being collected after the award of discounts, exemptions, reliefs and council tax support is £102.5 million. This figure includes the precept collected for the GLA.

2. DETAILS

2.1 Demand/Bill

- 2.2 The demand or bill must be issued at least 14 days before the date on which the first payment is due. Provisions in law allow for payment to be made by the statutory monthly instalment scheme or an authorities own scheme for council tenants or by an agreement with the liable person.
- 2.3 All taxpayers are offered the statutory monthly instalment arrangement, which will be ten consecutive instalments if billed on or before 30 April. Where the bill is issued after 1 May the taxpayer will be entitled to nine instalments and will reduce by one each month thereafter. Therefore after 30 April, the number of instalments allowed will depend on what time in the year the bill is issued. Taxpayers can opt to pay over 12 monthly instalments.

2.4 Failure to pay – Reminder notices /Final Notices.

2.5 Where an instalment is not paid as requested under the instalment scheme the authority must serve a reminder on the liable person(s).

The first reminder must state:

(a) the aggregate of the instalments due as well as any amounts that will become due within seven days of the issue of the reminder.

(b) that the amount that must be paid within seven days

(c) that failure to pay within seven days will result in the full balance for the period becoming due after a further seven days. (14 days from the issue date), i.e. the right to pay by instalments is lost and a summons will be issued.

2.6 Although there is a duty to serve a reminder, this is a duty without a time limit and can be served at any time after the sum has become due. We are not obliged send a reminder every time an installment is missed

2.7 A second reminder is issued after the taxpayer has received a reminder notice and paid in accordance with that notice and then missed a further instalment.

2.8 A final notice is issued after the taxpayer has received a second reminder and paid in accordance with that notice and then missed a further instalment.

2.9 Once the final notice is issued the unpaid balance for the whole year becomes due and payable and the right to pay by instalments is lost.

2.10 In some circumstances a final notice will be served instead of a reminder notice. Final notices will be served where there is no right to instalments where it is properly payable as a lump sum, for example we will issue a final where a bill is issued after the 31 March for a charge relating to an earlier year or where someone's liability has ceased and the payment has not been made as detailed on the closing account. A final may also be served after a taxpayer has received to reminders and has fallen behind for a third time.

2.11 At the beginning of each year a recovery timetable is set which details when the different reminder and final notices are issued, when summons are issued and the scheduled court hearings.

2.12 Reminders and final notices issued 1.4.13 – 18.1.16

<u>Year</u>	<u>No of Reminders</u>	<u>No of final Notices</u>	<u>Total notices issued</u>	<u>Total Bills issued</u>
2013	22,762	10,374	33,136	164,805
2014	26,782	9,743	36,525	176,400
2015	22,693	8,932	31,625	174,015
Total	75,649	25,982	85,646	515,220

2.13 Complaint

2.14 If an amount which has fallen due remains wholly or partially unpaid and a reminder of final notice has been issued in respect of that amount, and 14 days has passed since the notice was served, we may make application to the court for a liability order against the liable person.

2.15. To do so we must make a complaint to a justice of the peace requesting the issue of a summons directed to the liable person to appear before the court to show why the sum outstanding has not been paid.

2.16 The Summons

2.17 The summons must be authorised by a justice of the peace or by a clerk to the justices and must be served at least 14 days before the date of the hearing. A liability order cannot be made unless this condition is complied with.

2.18 Once the summons is issued costs of £115.00 are charged to the taxpayer

2.19 If after the summons has been issued, the amount due as well as any costs incurred in issuing the summons, are paid we must accept payment and not proceed with the application for a liability order.

2.16 Summonses issued 1.4.13 – 19.1.16

2.17

<u>Year</u>	<u>No of summonses</u>
2013	13,962
2014	11,610
2015	6,159

2.18 The Hearing

2.19 At the hearing we will make application to the justices to grant a liability order. The order must be granted by the court if it is satisfied that the sum has become payable by a defendant, and has not been paid. Where defendant does not appear, the court may proceed in his absence. Most are held in the absence of taxpayers, usually because there are only a few defences against an order.

2.20 Ultimately it is for the courts to decide what the valid defences are but may include

- the tax not being properly set at the start of the financial year
- the tax not demanded in accordance with the statutory provisions
- the amount demanded has been paid
- more than six years has passed since the day the charge became due
- breach of duty to serve bills “as soon as practicable”
- bankruptcy or wind up proceedings have started
- no entry in the valuation list

2.21 The Liability Order

2.22 If the court is satisfied that there is no valid defense and the amount due has not been paid in full, it is required to make an order in respect of the amount due and reasonable costs incurred in obtaining the order.

- The order allows us the power to use any of the following remedies
- Taking control of goods
- Attachment of earnings
- Attachment of local authority member’s allowances
- Deductions from income support
- Bankruptcy or winding up
- Charging orders

2.23 Once the liability order has been made we will proceed further by sending a letter warning of enforcement action that will follow 14 days after the issue of the letter.

2.24 At this stage if the taxpayer contacts the section we will try to enter into a payment arrangement without the need of further recovery action.

2.25 Where no contact is made the case will be passed to the in-house enforcement team for collection.

2.25 Liability Orders Obtained 1.4.13 – 19.1.16

2.26

<u>Year</u>	<u>L/O granted</u>
2013	11,617
2014	8,438
2015	5,552

2.27 Enforcement

2.28 We have operated an in-house Enforcement Agency Service (Bailiff Service) approximately 12 years the success of which is centred around sound practice developed over the years, detailed procedures and good customer care and practice.

- 2.29 We have worked closely with the CAB and an individual, who has objected to many London boroughs accounts due to inappropriate enforcement action by some external companies, to improve the service. This individual now recommends to authorities that they should implement in-house services based on Merton's model and quotes Merton as best practice.
- 2.30 The in-house team collect Council Tax, Business Rates and Penalty Charge Notices (PCN) for Merton and for Sutton council as part of a shared service that Merton leads on.
- 2.31 Some of the benefits of having this in-house service are:
- Ability to closely monitor collection performance and rates and adapt quickly where appropriate
 - Prioritise customer care and helping customers who have difficulty paying their debts
 - Monitor and quickly investigate complaints
 - Ability to provide a more flexible approach to our collection strategies
 - Share management and other costs with Sutton
- 2.32 The in-house service is fully self funded and has encouraged employment of additional qualified and unqualified staff. In the past two years one Modern Apprentice has been appointed and retained and currently two trainee enforcement agents are being developed and trained.
- 2.33 The in-house team collect in excess of £1 million in unpaid council tax each year. In addition to this it collects the statutory costs and fees associated with enforcement work.

2.34 **Council Tax debt collected by Enforcement team.**

<u>Year</u>	<u>£ million</u>
2013/14	£1.131
2014/15	£1.265
2015/16	£1.016 (up to 31.1.16)

2.35 **Bankruptcy and Charging Orders**

- 2.36 In the past 5-6 years there has been an increase in the use bankruptcy proceedings and charging orders to collect unpaid council tax. These methods are generally used as the last resort where all other attempts to collect the debt have proved unsuccessful.
- 2.37 Strict procedures are followed to ensure that this action is targeted against appropriate taxpayers. These collection methods have proved very successful and we have managed to target and collect large amounts of unpaid council tax from residents that have been avoiding paying their council tax.

- 2.38 As an example, in December 2015 we successfully collected over £20,000 from one taxpayer who had been avoiding paying council tax for over 10 years and all other recovery action had been unsuccessful.
- 2.39 Since 2009/10 we have collected and secured just over £1.5 million through these methods (£1.214 million collected and £285,000 secured against charging orders on properties).

3. PROPOSAL

- 3.1 None for the purpose of this report.

4. ALTERNATIVE OPTIONS

- 4.1 None for the purpose of this report.

5. CONSULTATION UNDERTAKEN OR PROPOSED

- 5.1 None for the purpose of this report.

6. TIMETABLE

- 6.1 None for the purpose of this report.

7. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1 Council tax collection rates are reported nationally and the measured performance indicator is the “% collected within the financial year”.
- 7.2 For 2014/15 we collected 97.26% of the £101.1 million in council tax within the financial year – this was the 10th highest collection rate in London.
- 7.3 As at the 31 March 2015 there remained £2.774 million of 2014/15 council tax uncollected. £136,000 of 2014/15 council tax has been written off to date as uncollectable.
- 7.4 There is on going proactive recovery action against all prior year’s debts.

8. LEGAL AND STATUTORY IMPLICATIONS

- 8.1 The Council Tax (Administration and Enforcement) Regulations 1992 are the statutory regulations for the billing and collection of council tax.

9. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

9.1 None for the purpose of this report

10. CRIME AND DISORDER IMPLICATIONS

10.1 None for the purpose of this report .

11. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

11.1 None for the purpose of this report

12. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

12.1

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