



Surrey Heath Borough Council

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To: All Members of the **PERFORMANCE AND FINANCE SCRUTINY COMMITTEE**

The following item has been added to the agenda for the above meeting.

They were not available for publication with the rest of the agenda.

Yours sincerely

Karen Whelan

Chief Executive

SUPPLEMENTARY PAPERS

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To receive a report providing an update on the London Borough of Hammersmith and Fulham's approach to the collection and enforcement of Council Tax payments.

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COLLECTION OF COUNCIL TAX

Portfolio:	Finance
Ward(s) Affected:	All

Purpose

To inform Members on the collection of Council Tax arrears and the changes made in London Borough of Hammersmith and Fulham

1. **Current situation at Surrey Heath**

- 1.1 In 2018/19 the Council issued 36,363 annual bills with a total value of £72.7m. By far the vast majority of residents pay on time however a small minority are either unable or unwilling to pay.
- 1.2 The Council follow the provisions of the relevant Council Tax legislation for the collection of Council tax. An explanation of this process is set out on the Council's website. The stages are as follows once a resident has not paid the instalment due:
 - A reminder is sent giving the resident 14 days to bring the payments up to date.
 - If no payment is made then the whole balance becomes due.
 - If the account is brought up to date and then a subsequent instalment is not paid a second reminder is sent, again requesting that the payment on the account is brought up to date.
 - If no payment is made then the whole balance for the year becomes due.
 - A Final Notice is issued if a council tax payer defaults on their instalments due for a third time. At this point the right to pay by instalments has been lost.
 - If after the issue of any of the above three recovery notices the payments on the account are not brought up to date a Summons is issued.
 - The issue of a summons incurs the cost of £80.50. Of this, £80.00 relates to costs incurred by Surrey Heath Borough Council in respect of the cost of the work done to this point. The £0.50 is the charge made by the Magistrates Court for each summons.
 - The Court grants a Liability Order for the outstanding Council Tax and costs.
 - Once the Liability Order has been granted a 7 day letter is issued requesting the council tax payer makes an arrangement to pay and that not doing so will result in appropriate recovery action being taken.
 - The recovery powers granted by the Liability Order are not used if the council tax payer makes and keeps to an acceptable payment plan.
- 1.3 At every stage in the process the Council would prefer to work with residents to come up with a solution – usually an appropriate payment plan – and this is done in the vast majority of cases.
- 1.4 At all stages of recovery we ensure that any appropriate discount, exemption or Council Tax Support has been applied for and awarded.
- 1.5 If no payment plan is made, it is not adhered to or there has been no contact from the Council Tax payer there are a number of options available to the Council to enforce the order. These are as follows:

- If the resident is in employment, seek an attachment to earnings to pay the debt. The amount that can be recovered this way is prescribed in law. For example if the net pay is £135 to £185 per week then 5% of pay can be deducted. These deductions are made until the debt is cleared;
 - If the resident is on state benefits then an attachment to their benefit can be applied. The level of deduction is set by Government and applies until the debt is cleared;
 - The Council can pass the debt to an Enforcement Agent who will then seek to collect the debts. This will add additional fees to the outstanding amount so is used only in the situations where a resident has , on the basis of information known at the time, decided not to pay rather than can't pay;
 - The Council can apply for a bankruptcy order if the debt exceeds £5000;
 - The Council can seek a charge over a property to cover the debt;
- 1.6 The use of Enforcement Agents is strictly regulated and they have to abide by a Code of Conduct. For Council Tax (unlike Income Tax) an Enforcement Agent cannot force their way in to a home to seize property, nor can they visit between 9pm and 6am. They can seize property outside the home, for example a car. Enforcement Agents have access to check DVLA records and finance plans and would not seize a vehicle if it was owned by anyone other than the debtor or is subject to a finance plan.
- 1.7 As a last resort the Council can apply for a Committal hearing for the non-payment of Council Tax should all other recovery remedies have failed.
- 1.8 In the year to date the Council has issued:
- 36,336 annual bills
 - 17,351 ad hoc bills
 - 7,814 reminders
 - 2,888 summons
 - 1,628 liability ordered

Hence it can be seen that a large proportion of residents with arrears pay before the Council actually goes to court.

- 1.9 In terms of the performance of Enforcement agents they recover approximately 44% by value of the cases referred to them.

2. Hammersmith and Fulham

- 2.1 Hammersmith and Fulham (H&F) announced in March 2018 that they would not be applying to send non payers to prison (which they have not done since February 2017) and would also cease the use of Bailiffs. Despite several requests, including Freedom of Information requests, to find out how this is progressing (including talking to staff at external meetings) we have not been able to establish much meaningful information
- 2.2 From the original H&F Cabinet paper debt collection has been outsourced to a private company – 1st Credit Limited – and is not done by the Council. Originally only sundry and benefit debts were outsourced but now Council Tax has been transferred as well. As this company does not have Enforcement Agents the use of them was effectively stopped.

- 2.3 In the report it was stated that 1st Credit Ltd would pursue an “ethical” Council Tax collection policy rather than the traditional methods of enforcement. In 2016/17 7,500 liability orders were issued and 3,500 cases were referred to bailiffs with a total debt worth £2.7m.
- 2.4 As no charges were levied on residents, unlike with Enforcement Agents where the cost is added to the debt, the Council was required to fund the new recovery service. Currently H and F spend almost £0.5m on debt collection which includes officer time and court costs but the cost of the new service was not disclosed.
- 2.5 H and F’s collection rate in 2016/17 was 96.98%. The collection rate for Surrey Heath was 99.2%. Were Surrey Heath to have the same collection rate as H and F this would result in a loss of income of £1.5m of which the SHBC share would be about £180k.
- 2.6 A recent review of the H and F website indicated that on the 11th March 2019, approximately 1 year after the new pilot was announced, the Council made the decision to go out to procure Enforcement Agents through a framework agreement. These were being appointed to collect Council Tax and Business Rates and were expected to recover £1.5m in a year with the costs being covered by the debtors.
- 2.7 Despite repeated requests to H and F we are not able to evaluate how successful the “ethical” collection process has been. However it seems reasonable to surmise, given they are looking to reintroduce enforcement agents, that this may not have been as successful as more traditional methods.
- 2.8 The Council is under a duty to maximise its collection of Council Tax in order to pay for vital public services. Where known, the circumstances of each Council Tax payer are considered before the most appropriate recovery action is taken. The Council will always try and work with more vulnerable residents who find themselves in financial difficulties. The Revenues team work hard to ensure that only those able to pay are strongly pursued and take a sympathetic approach to collection with those that cannot or are having more difficulty in meeting their Council Tax payments.

3. Resource Implications

- 3.1 Non recovery of Council Tax and Business Rates means there is ultimately less money to fund public services across the County.

4. Recommendation

- 4.1 The Committee is asked to note and comment on the report.

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