



To: Scrutiny Management Team

Date of meeting: 18<sup>th</sup> July, 2017

Notes of: Revenues Manager

## **BRIEFING NOTE**

### **ENFORCEMENT AGENT FEES AND CHARGES**

#### **Issue**

1. At the Scrutiny Team's work planning workshop in February this year, Members agreed to carry out a light touch review of enforcement agent fees and charges.
2. This topic was submitted by a local resident in response to a borough wide invitation for suggestions for the Scrutiny Team's 2017/18 work programme.
3. The resident stated that when council tax payments are missed, fees to enforcement agents increase the cost further, escalating the issue for vulnerable people.
4. It was suggested that Attachments of Benefits (AOB) or Earnings (AEO) should be implemented to avoid unnecessary fees being incurred.

#### **Background**

5. Members are reminded of the scrutiny review on the behaviour of debt enforcement officers that was carried out by the Team last year.
6. During the course of the review, the Team learnt in detail about the collection and recovery process in relation to council tax and non-domestic rate debts. This is summarised below –
  - Annual demands issued around 9<sup>th</sup> or 10<sup>th</sup> March. Taxpayers are entitled to 10 statutory instalments or 12 on request
  - If the 1<sup>st</sup> instalment due on 1<sup>st</sup> April is not paid a reminder will be issued around the middle of the month, requesting the taxpayer to bring the account up to date within 7 days
  - If, after a further 7 days (i.e. 14 days in total), the amount is unpaid, the taxpayer loses the right to pay by instalments and the whole year's debt becomes due and payable
  - This gives Liberata, on behalf of the Council, the authority to summons them for the whole year's debt
  - Summonses would then be issued 2-3 weeks after the issue of the reminder notice and a court hearing would follow approx. 3 weeks after

- Accompanying leaflets are sent with reminders and summonses promoting Council Tax Support (CTS) and signposting customers to various advice agencies
- At the court hearing, once all the attendees have been seen, a block application for Liability Orders (LOs) is made for all the names on the court list
- The LO gives power to recover the unpaid debt via a number of different remedies, i.e. Attachment of Earnings or Attachment of Benefits
- It also allows an application for Charging Orders to secure the debt (with an option to apply to the court for an order for sale in some cases) to be made or petition for the taxpayer to be made bankrupt
- To consider bankruptcy, the taxpayer would have to owe £5,000 or more and have realisable assets of around £25-30k
- On return from court, the new file of LOs is matched to previous LOs to identify cases where Attachment of Earnings or Benefits can be made or cases where the taxpayer has an arrangement on an existing order
- There is a cap on the amount that can be deducted via an Attachment of Benefits. The current amount is £3.70 per week, increasing by 5p every year. Therefore, it is not always practical to apply this remedy, particularly where the chargepayers weekly liability exceeds this amount
- The amount that can be deducted through Attachments of Earnings varies according to the net weekly or monthly earnings of the employee. The attached document at Appendix A details the percentage amounts deductible for each earnings bracket. However, it is not always practical to use this method of recovery as demonstrated in the example below –

Council Tax Debt	£1,000 (approx. £20 per week required over 12 months)
Net earnings	£ 200 per week
Attachment of Earnings at 7%	£ 14 per week
This would mean that the debt would continue to increase by £6 per week and is therefore not a suitable method of recovery.	

- When the above piece of work is completed, the file is sent to the Enforcement Agents
- With regard to Council Tax a 14 day letter is issued to the taxpayer, advising that a Notice of Enforcement (NOE) will be issued at the end of the 14 day period, unless they enter into an appropriate arrangement
- Where no arrangement is made, the NOE is issued and this is the trigger for the commencement of the Compliance period. A fee of £75 is incurred on the issue of the NOE
- The NOE signposts debtors to numerous debt agencies such as Citizens Advice Bureau, Step Change, Advice UK etc. and advises them that an Enforcement Agent (EA) will visit and a fee of £235 (plus 7.5% for anything over £1500) will be incurred if they fail to engage with the EA Company within the 30 day Compliance period
- Within that 30 day period, if necessary, 2 further reminders will be issued and the EA's will attempt 2 outbound calls
- Once the EA has done a visit to the property, the Enforcement Fee of £235 is incurred
- The Regulations allow the EA to visit any day during the hours of 6 a.m. to 9 p.m. but Pendle asks that no visits are done on Sundays
- The EA will look to collect the full amount in one payment, inclusive of their fees but this isn't often very practical
- If the EA takes control of goods, the debtor can enter into a Controlled Goods Agreement which allows them to stay in possession of goods

- If the EA removes goods for sale at auction, the debtor incurs a further £110 sale fee (plus 7.5% on anything over £1500)
- If the EA establishes that there are no goods, they return the case to the authority. This also applies if a debtor is unable to engage with the EA or understand the process

## **Conclusion**

7. The current review selected by the Scrutiny Team focusses on enforcement agent fees and charges, details of which are provided above.
8. The Team is advised that enforcement fees are set nationally in legislation and therefore cannot be changed by a decision of this Council.
9. Consequently, a scrutiny review could not result in any changes being applied.

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