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Part I

Item No: 10

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Executive Member: Alan Franey

All Wards

WELWYN HATFIELD COUNCIL
RESOURCES OVERVIEW AND SCRUTINY COMMITTEE – 17 SEPTEMBER 2015
REPORT OF THE DIRECTOR (FINANCE AND OPERATIONS)

ENFORCEMENT AGENTS

1.0 SUMMARY

- 1.1 This report follows on from the last meeting of the Committee when a discussion took place on the use of enforcement agents for council tax recovery. There was a recommendation to raise this as an issue to be subject to scrutiny. The purpose of this report is to outline the current processes in place to inform the drawing up of the scope for the scrutiny item.
- 1.2 From April 2014 all existing powers to use a bailiff changed. The term bailiff was no longer used and instead enforcement agents (the new term to describe those carrying out this work) would take control of goods when debts are outstanding. Enforcement agents are regulated in order to improve public perceptions of how they operate and the rules of operation. The fees structure is clear so that the public know their rights. This has helped to mitigate the possibility of enforcement agents abusing their powers.
- 1.3 Council tax payments are due on the first day of each month. However, payment arrangements are accepted on other dates to assist our customers. Council tax bills include information asking customers to contact the council tax office should they be experiencing difficulties with their council tax payments.
- 1.4 If payment or contact is not forthcoming a reminder notice is sent and customers are advised of the amount they need to pay to bring their account up to date. If payment is made and again defaulted upon a further reminder is sent. If there is a subsequent default for a second time a final notice is sent which requests payment in full. The council tax office do request that instalments are brought up to date if contact is made, but are still able to agree to a revised payment agreement taking into account individual circumstances.
- 1.5 If payment is not received, or a suitable payment arrangement is not agreed, after the reminders or a final notice, then the council will apply to the Magistrates' Court to ask for a summons to be issued. A summons requests payment in full plus the associated costs to be paid before the hearing date. Our summonses state that the council tax office should be contacted if payment cannot be made. The court hearing gives the council the option to attach to benefit (these are for fixed weekly deductions of £3.60), attachment of earnings, (where employment details are known), apply for bankruptcy, apply for a charging order (force the sale of a property) or committal to prison (only after enforcement agent action).
- 1.6 After the court hearing a letter is sent giving 14 days for an individual to contact the council before their account is passed to the council's enforcement agent

(some 70+ days after the bill was first issued to the customer); if the options in 1.5 are not available or more suitable. The council tax payer can still contact the council and make a payment arrangement at this stage, which would include any court costs incurred.

- 1.7 Once an enforcement agent has been instructed to collect the outstanding council tax they will write to the individual asking them to arrange to make payment either in full or by instalments. If there is no response to the letter the enforcement agents will visit the person to try and obtain payment in full or agree a payment agreement.

2.0 Financial Implication(s)

- 2.1 The enforcement agent collects money on behalf of Welwyn Hatfield Council. In 2014/15 they collected £744,366.72 in outstanding council tax. Welwyn Hatfield Council collects council tax on behalf of the County Council, the Police & crime Commissioner and Parish Councils. In 2014/15 the total precept to be collected was £56.7million. The County precept on Welwyn Hatfield and it is paid on a set date. If Welwyn Hatfield has not collected sufficient money then it has to borrow to meet that commitment. The cost of borrowing then falls on all council tax payers in future years.

3.0 Recommendation

- 3.1 Resources Overview and Scrutiny Committee note the contents of this report.

4.0 Link to Corporate Priorities

- 4.1 I can confirm that the subject of this report is linked to the Council's Corporate Priority, Our Council, and specifically to continuing to improve efficiency and value for money.

5.0 Legal Implications

- 5.1 There are no legal implications with the recommendation in this report.

6.0 Climate Change Implications

- 6.1 The proposals in this report will not impact on green house gas emissions.

7.0 Risk Management Implications

- 7.1 A risk assessment has not been prepared in relation to this report

8.0 Explanation

- 8.1 The following documentation is sent out prior to any enforcement action. This is the minimal amount that goes out as additional reminders and a final notice are also sent where further defaulted payments and arrangements have been made.

- Council Tax Bill - Payment is due in 14 days
- Council Tax Reminder - Sent a minimal 14 days after missed payment
- Summons - Sent a minimal 14 days after Reminder notice
- Court Hearing - 14 days after a summons has gone out
- 14 day Letter - Gives 14 days' notice of possible Enforcement Agent action

- 8.2 There are set stages for enforcement and a clear fees strategy that customers will be able to understand. The first stage is the administration stage. This results in a fee of £75 and gives the customer notice of enforcement. The notice period before any enforcement takes place is at least seven days and this will give the customer time to negotiate a payment arrangement before enforcement action starts. The intention of this is that it will avoid unnecessary and costly visits and gives the customer fair warning of the action that may follow. Prior to enforcement action the council will send out a letter warning that unless suitable contact is made within 14 days enforcement action will be taken.
- 8.3 The second stage is the enforcement stage and this covers physical attendance at the customer's property. This does not happen with each case. It only happens if contact has not been forthcoming and further action is required. Enforcement action must take place within 12 months of the notice of enforcement and a set fee of £230.00 covers all work carried out at the enforcement stage. This will stop any enforcement company generating unnecessary visits and costs. Prior to this set fee the enforcement agent could carry out multiple visits which would increase the fees payable.
- 8.4 The third stage of enforcement is the sale of goods stage. The costs that apply here are £105.00 plus 7.5% of any debt value over £1,500. The trigger for the fee is the removal of goods. The reasonable costs of selling the goods at internet or public auction, etc., can also be added to the debt. At least seven days must have elapsed from removing the goods before they can be sold and a notice of sale must be provided to the customer.
- 8.5 When the customer is a vulnerable person, the fee due for the enforcement stage is not recoverable unless the enforcement agent has, before proceeding to remove goods, given adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power. There is no specific reference to the definition of vulnerable, but guidance from agencies around vulnerability suggest the client's ability to understand and retain information given to them; their ability to weigh up information and the choices they have and their ability to communicate should be taken into account.
- 8.6 The enforcement agents can work on any day between the hours of 6am and 9pm and must access the property by door or normal means of entry. Goods cannot be taken if the customer is a child or if the only person present is a child or vulnerable person. Goods that cannot be taken include tools of the trade up to £1,350, essential household and personal items (e.g. cooker, fridge, and washing machine) and items required for a child or disabled person.
- 8.6 The removal of goods is always a last resort and a course of action the Council and the enforcement agent tries to avoid. In 2014/15 Welwyn Hatfield Council sent 7,426 accounts to the enforcement agents.

9.0 Equalities and Diversity

- 9.1 There are none in relation to this report.

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