

EAST RENFREWSHIRE COUNCIL14 DECEMBER 2022Report by Director of Business Operations and PartnershipsCOUNCIL TAX COLLECTION**PURPOSE OF REPORT**

1. To provide an update on Council Tax collection for East Renfrewshire Council and clarify the process of Council Tax arrears recovery and mitigations in place to support those in financial hardship.

RECOMMENDATIONS

2. Council is asked to:
- a) Note the steps of the debt recovery process for Council Tax;
 - b) Recognise the key supports already in place to support vulnerable customers experiencing Council Tax arrears, especially noting the role of MART and CAB in assisting customers with advice, financial assessments and income maximisation;
 - c) Support the suggested further mitigations for cases of exceptional financial hardship, recognising that there may be impact to deliverability of proposed savings if demand outstrips staff capacity or there are additional system development costs to be incurred on a cost/benefit basis.

BACKGROUND

3. East Renfrewshire Council has a statutory duty, under the Local Government Finance Act 1992, to bill and collect Council Tax. These are national processes where councils have little discretion.

4. In 2022/23 £62.2m has been billed for collection from approximately 40,000 households. This income provides 18.3% of the funding required to run the Council. Collection rates for East Renfrewshire are consistently among the highest in Scotland and demographics of an area do play a strong part in collection levels (e.g. lower deprivation tends to correlate with higher collection). In 2021/22 collections were 96.76%, which is in the top quartile of performance in Scotland. The Council budget for a 98% collection rate, with debt pursued beyond the financial year end. 4,500 low income households receive £4.2m of support with Council tax bills through Council Tax Reduction (CTR).

5. Pre-pandemic East Renfrewshire ranked either 3rd or 4th in Scotland for collections, but during the pandemic that dropped to 6th in Scotland. Whilst all councils in Scotland were impacted by the pandemic, the impact in East Renfrewshire was worsened by implementation of a new Council Tax and Benefits ICT system in December 2020. Recovery activity recommenced in November 2021, with 2022/23 collections expected to be back to pre-pandemic levels.

6. The Council faces two contradictory requirements: firstly to ensure that the statutory duty is fulfilled following national processes, income collection maximised and debt minimised; and secondly a duty to do everything possible to support vulnerable customers. Given the Council's budgetary pressures the first is a priority and, given the wider cost of living crisis, so too is the second. These are not always easy duties to reconcile.

7. In line with councils across the country, we aim to maximise collection of debt, whilst taking into account the individual circumstances of the customer. In so doing, the desired outcome is to break the customer's cycle of debt and minimise debt recovery costs. Legislation dictates how the Council should recover unpaid Council Tax – these are nationally prescribed.

8. East Renfrewshire Council does all it can to assist its customers with their financial circumstances. This can include referring customers onto the Council's Money Advice and Rights Team (MART) who can assist the customer to maximise income and potentially reduce levels of arrears through forms of debt relief. The team can also provide budgeting skills to residents. There are close working relationships between the teams collecting income and the financial assistance services in the Council. These connections also extend to the Citizens Advice Bureau (CAB) and DWP. All teams work together to get the best outcome for the customer and financial statements are prepared by MART to ensure any payment arrangement is realistic in terms of the customer's income and other outgoings.

9. In the case of a small number of debts, all viable means of collection can be exhausted with no or less than full payment being received. Therefore the Cabinet will consider annually writing off debts which are considered irrecoverable. These include situations where the:

- Debtor is deceased and has left no estate
- Debtor is no longer resident at the address where the debt occurred, and all available tracing options have been exhausted
- Debtor has been sequestered
- Sheriff Officer advises low probability of debt recovery
- Small balance outstanding under £20
- Some exceptional circumstances, such as an approach by HSCP regarding a nursing home resident or terminally ill customer with no assets.

REPORT

Debt Recovery Process

10. Council tax bills are sent to households (or accessed via Council Tax online) from March each year. Bills include details of the various discounts and exemptions possible; where to phone for help with the bill or to discuss Benefits; details of the range of payment methods possible; and the various follow-up steps that will be taken in the event of non-payment.

11. Council Tax collection is monitored closely throughout the year. As at October 2022, there were 2,500 households, £2.5m of debt, where payments have either not been made at all, or the expected payment has not been received for 2022/23 Council Tax. This equates to approximately 6.3% of households, with an average debt of £1,000 per household. The Council has a legal duty to pursue this debt with the aim of maximising income collection from Council Tax within the financial year.

12. There are several stages to debt recovery and these are outlined in legislation. East Renfrewshire's process involves 3 reminder letters prior to any further action being taken. Several other councils take fewer steps and move to take formal action more quickly to secure

recovery of debt. Our process is however designed to give additional chances to encourage customers to interact with us about their circumstances.

13. Council Tax bills outline the following steps, which are aligned to the requirements of the Local Government Finance Act 1992:

If you ignore this notice and don't pay the outstanding balance by the due date, you will receive a reminder to pay within 7 days. If you do not pay the amount owing within 7 days your entitlement to pay by instalments will be withdrawn and the full amount will be due within a further 7 days. Where 2 reminders have been issued and you have not paid a Final Reminder will be sent to each liable person. We will also take further action to recover the full amount owing on your Council Tax. This may require Sheriff Officers being involved in recovering the debt which would make you liable for any expenses incurred including an extra 10% added to the amount you owe. We may also take action through bank or earnings arrestment or deductions being made from your benefit entitlement.

14. It can be a significant challenge to get customers to engage with the collection and recovery process and often customers ignore bills and reminders until the final stages of debt recovery.

15. The Council regularly prepares a certified list of Council Tax debtors and this is sent to the court for sign off by the Sheriff. The signed document is known as a "summary warrant" and is a form of court order authorising enforceable recovery of debt. It authorises recovery of a further statutory 10% administration fee on top of the arrears owed. This summary warrant is then notified to the customer and, failing payment or a satisfactory arrangement, a Sheriff Officer then pursues the debt in line with the relevant legislation and the Council's instructions. The Council appoints a firm of Sheriff Officers to act on their behalf. The cost of any enforcement mechanisms used by the Sheriff Officers (known as "diligence") is added in legal fees.

16. Customers are strongly encouraged to engage with our services and pay what they can, and to seek support from either MART or Citizens Advice Bureau (CAB) if they are struggling to pay their bills. MART and CAB consider the individual circumstances and review all applicable discounts/exemptions and whether the customer is receiving appropriate benefits.

17. If customers make contact with the Council, by whatever means (e.g. via the Council Tax or Benefits teams, MART, Customer First or via councillors), we have the power to pause the debt recovery process to seek further information on the customer's circumstances or to give time for the customer to make the necessary payments.

18. Unless paused by the Council Tax team, failure to pay at the Final Reminder stage results in cases either being referred to Sheriff Officers (as per paragraph 15 above) or to the Department of Work and Pensions (DWP) in cases where the customer has a deductible benefit.

19. Under the Council Tax (Administration and Enforcement) Scotland Regulations 1992, regulation 30, the Council regularly prepares a list of Council Tax debtors and this is sent to the court for sign off by the Sheriff. This Summary warrant is then served on the customer and a Sheriff Officer then pursues the debt in line with the relevant legislation, with legal fees set down in statute. Sheriff Officers are officers of the court and can be employed by private firms

or are self-employed and they take instructions to enforce a court order. The Council appoints a firm of Sheriff Officers to act on their behalf.

20. The Sheriff Officers' set process includes writing to the customer and calling (where contact information is known). They then serve a 'charge for payment'. This legal document is served at the customer's address by a Sheriff Officer, accompanied by a witness, and is used as a further opportunity to engage with the customer and provide them with the opportunity to put forward proposals for payment. A Debt Advice and Information pack (DAIP) is served at the same time as the 'charge for payment' and includes information to help the customer seek financial assistance.

21. After a period of 14 days, should the customer still fail to engage, enforcement action can be taken. A variety of legal processes or diligences exist and the use of one as opposed to another will depend on the circumstances of the case. An earnings arrestment or a bank arrestment can be lodged. Both of these actions have in-built protection for the customer in that there is a protected minimum sum which cannot be arrested.

22. Legal powers also allow for what is known as an 'attachment'. This is very seldom used and this requires the approval of the Council. This allows for assets outwith the home to be attached (e.g. a caravan or a vehicle). Other potential action would be to petition for the customer's bankruptcy. In this case the debt owed must be over £5,000 and Sheriff Officers require the Council's permission to pursue that course of action.

23. For avoidance of doubt, the legal system for debt recovery in Scotland is different to that in England. The term 'bailiff' does not apply in Scotland and Sheriff Officers do not remove goods from people's homes or force evictions.

24. In respect of Council Tax debt for 2022/23, 1,430 cases have been referred to Sheriff Officers; 1,017 will be referred to DWP; and there are a further 90 debt recovery cases that have been paused pending further engagement on the customer's financial circumstances. There are also a further 1,937 cases of 2021/22 debt, with 1,171 at Sheriff Officer stage and 748 which will be referred to DWP. A total of 1,371 cases have debt across both years (54% of cases).

Recent Changes

25. In December 2020 the Revenues and Benefits ICT system was replaced, with a market leading system, procured following a robust tender exercise. This replaced a long-standing legacy system which had been used for many years and was at end of life. The new system has a number of benefits, with improved functionality and data reporting, bringing East Renfrewshire into line with industry standard processes followed by other councils. Sixteen other councils in Scotland now use the same system to collect Council Tax.

26. The new system has also enabled the introduction of Council Tax online in May 2022, which allows residents to view bills online; make changes (e.g. address details); and apply for discounts, which all contributes to faster turnaround times. Approximately 3000 households have already signed-up to Council Tax online. This has efficiency benefits for the Council in terms of reduced paper-billing and less re-keying and is enabling us to manage with the current staffing complement following several years of cuts to the processing teams in order to meet budget targets and efficiencies.

27. Whilst there are substantial benefits of the new system, there are however challenges in terms of how the system joins-up data on prior years' debt for each customer and also the functionality for monitoring payment arrangements made in-house. Such payment arrangements would have been by officers made at any point in the Council Tax collection process, where a customer needed to make a specific arrangement to vary the amount they paid, with the goal of maximising collection across the year. These are time-consuming to administer and can often result in customers defaulting throughout the year and needing to start the process again, sometimes several times. This has impact both in terms of workload and capacity but also in reduced income collection for this statutory charge.

28. The previous legacy ICT system, which was 20 years old, was designed at a time when it was cost effective to manage payment arrangements in-house, rather than through external agents. The new system follows an industry standard design and follows more modern debt collection processes. This means that formal payment arrangements are only made at the last stages of the collection process and, are most efficiently handled by external agents (i.e. Sheriff Officers). This is especially the case where a customer has prior years' debt and where debt is unlikely to be recovered within the current financial year. For the customer however, debt passed to Sheriff Officers incurs a Statutory Addition penalty of 10%.

29. This is the model followed by councils including Renfrewshire, East Dunbartonshire and South Ayrshire, none of which offer in-house payment arrangements.

Mitigations

30. The Council has a duty to bill and collect Council Tax and debt recovery is a necessary part of the aim to maximise collection. Any mitigations may have consequence for the Council's cashflow in-year and care must be taken not to undermine our statutory obligations.

31. Under the previous system, staff spent significant amounts of time working with customers to identify payment arrangements and resolve issues when those arrangements were broken. However, budgetary challenges and cost savings over the past several years (over £700K of savings have been delivered from Revenues & Benefits services in the past 5 years), and the expectation of significant cost cuts in the near future, leave the Council in a difficult situation. However, in line with our Council values (Ambition, Kindness, Trust) we remain committed to supporting our vulnerable customers, particularly at this time of cost-of living crisis. A number of mitigations are in place and can be further strengthened.

32. Key supports already in place include:

- Promotion of key discounts and exemptions including Council Tax Reduction and Single Person Discount (25%).
- Encouragement of personalised money advice and income maximisation reviews through MART and CAB.
- Extended recovery process based on 3 reminder letters to customers; this goes beyond what many councils currently do.
- Where a customer requests it, allowing payment of Council Tax over 12 months rather than the usual 10 month period, although this applies primarily to Direct Debit payers.
- Referral of any debt recovery cases where a customer is on Benefits to DWP rather than Sheriff Officers. While these cases still incur the Statutory Addition, assessment of the customer's Benefits status and affordability is a key part of any recovery arrangement.
- Pausing debt recovery arrangements where a customer has notified us that they are in financial hardship to enable us to consider their circumstances.

- Negotiation of a Common Standard for debt management so that the Sheriff Officers now work to the same income/expenditure assessment standard as MART. This is a more lenient standard than their previous framework.

33. Recognising the additional pressure that the 10% Statutory Additions penalty causes to customers, we can strengthen these supports further for exceptional cases, where there is financial hardship and the customer contacts the Council – we will rely on the expertise of the MART and CAB services to define this:

- In such cases, we will pause recovery activity, refer the customer for a full review by MART or CAB and then seek to enter into a locally-administered payment arrangement.
- If the case has already been passed to Sheriff Officers we will recall the case, cancel the Statutory Addition, bringing the case back in-house.

34. There are some caveats:

- Resources will only allow for this in a relatively small number of cases (c.5-10%).
- This will delay Council Tax income recovery in such cases, therefore impacting Council cashflow to a degree in-year.
- Sheriff Officers can better handle complex, multi-year debt and therefore it is likely that, after initial review by MART or CAB, most multi-year debt cases will still end up with Sheriff Officers.
- This may impact the achievability of an element of proposed savings for 2023-26 for teams including Revenues, MART and Customer First.
- If caseload is too significant, we would need to look again at system options with the current supplier or to reinstate our former, separate Corporate Arrears Recovery System (which is what Perth & Kinross have done). Costs for that could be over £200K for the next 3 years and these are currently unbudgeted.
- The Council *does* have the legal power to write-off Statutory Additions, but this is not recommended as it would place East Renfrewshire in a precarious position in terms of national debt recovery procedures.

35. It is impossible at this stage to give estimations of the scale of impact of these caveats, but this will be monitored over time and a report brought back to Cabinet in the event that demand outstrips available resources. Customer volumes are likely to be higher in the current financial year than normal due to the Scotland-wide pause on debt recovery during the pandemic and the prolonging of that period in East Renfrewshire due to the impact of the ICT system changeover. However the cost of living crisis makes it difficult to predict what arrears levels will look like into 2023/24.

36. The above mitigations will only be possible with early and continued engagement with customers. The sooner we know that a household is struggling with Council Tax payments, the sooner we can find ways to support them across the financial year. We will also therefore amend Council Tax bills for 2023/24 to give greater prominence to the help and support available to customers who are struggling to pay.

37. Direct Debits (DD) are the most efficient way to collect Council Tax. We have seen DD numbers fall in recent years and will undertake a campaign to drive further DD uptake, including the offer to pay over 12 rather than 10 months for 2023/24 bills.

38. In addition, we will continue to work with our ICT system suppliers to look at potential for better linking historical customer records in the system, making it easier to handle multi-year debt. There may be costs for this work and these are currently being assessed and would require additional financial resources.

39. The system supplier continues to develop the system functionality. We understand that debt management data analytics are currently in development, which would provide better insights into the customer base. It is anticipated that this will predict customer repayment issues and allow early intervention to prevent customers falling into debt. This functionality is expected in 2023/24, but is dependent on the external supplier. This is likely to bring additional cost, which is yet to be announced by the supplier and still to be factored into budgets.

FINANCE AND EFFICIENCY

40. The Council has a statutory duty to collect Council Tax and pursue appropriate enforcement action to tackle debt and maximise income. Council Tax makes up 18.3% of the funding required to run the Council. There is a potential risk to Council Tax collection rates if debt recovery is not pursued efficiently and effectively. Delays to Council Tax recovery, including even the spreading of payments over 12 rather than 10 months, all impacts Council cashflow.

41. It is hard to predict what future arrears levels will look like into 2023/24, especially with the current cost of living crisis. With current staffing levels we will be able to manage in-house payment arrangements by exception in cases of financial hardship as long as volume of customers stays manageable. There may be impact to deliverability of savings for 2023-26 if demand outstrips staff capacity.

42. There are significant unknowns in terms of onward system development costs. Cost/benefit business cases will be developed for any new functionality and proposals taken through governance as part of the Council's Digital Transformation Programme. Given that budgetary resource has not been built into the current budget process, it is likely that the earliest we could commence system development where there are new costs attached would be April 2024.

CONSULTATION

43. Consultation with Money Advice & Rights Team, Legal and Accountancy has taken place and with the NEC supplier externally and benchmarking has taken place with other councils.

PARTNERSHIP WORKING

44. Not applicable.

IMPLICATIONS OF THE PROPOSALS

45. An Equality Fairness and Rights Impact Assessment (EFRIA) has been undertaken and identified some impacts in relation to socio-economic disadvantage under the Fairer Scotland Duty. Residents experiencing socio-economic disadvantage may see this worsened through the additional 10% statutory charge. This can be mitigated by various actions

including, application of Council Tax Reduction where applicable, invitation to contact MART/CAB for support and introduction of data analytics to allow early engagement and intervention.

CONCLUSIONS

46. When it comes to Council Tax collection, the Council and indeed the Business Operations & Partnerships Department has conflicting responsibilities. Firstly our duty to bill and collect Council Tax, aiming to maximise income which represents a substantial proportion of the Council's revenue budget. But secondly, our duty to support vulnerable local residents who are experiencing financial hardship, doing everything we can to minimise the pressure of arrears can cause and providing advice and practical support.

47. Our processes for debt recovery for Council Tax follow standard industry practice and additional steps have been built into the recovery journey to encourage customers to seek support early. Savings taken in recent years and challenging budgetary targets ahead mean the need for efficient and effective processes that minimise workload and maximise income, but mitigations have been put in place to lessen the impact for customers in real financial hardship and there are steps we can take to further strengthen these arrangements, making full use of the excellent support and advice provided by services like MART and CAB. We will also continue to work closely with system suppliers and other councils to refine our processes and take advantage of new functionality wherever that is affordable.

RECOMMENDATIONS

48. Council is asked to:

- a) Note the steps of the debt recovery process for Council Tax;
- b) Recognise the key supports already in place to support vulnerable customers experiencing Council Tax arrears, especially noting the role of MART and CAB in assisting customers with advice, financial assessments and income maximisation;
- c) Support the suggested further mitigations for cases of exceptional financial hardship, recognising that there may be impact to deliverability of proposed savings if demand outstrips staff capacity or there are additional system development costs to be incurred on a cost/benefit basis.

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