

CABINET

9 March 2016

Title: Debt Management Performance and Write-Offs 2015/16 (Quarter 3)	
Report of the Cabinet Member for Finance	
Open Report	For Information
Wards Affected: None	Key Decision: No
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Accountable Director: Jonathan Bunt, Strategic Director of Finance and Investment	
Summary This report sets out the performance of the Council's partner, Elevate East London, in carrying out the contractual debt management function on behalf of the Council. This report covers the third quarter of the financial year 2015/16. The report also includes details of debt written off in accordance with the write off policy that was approved by Cabinet on 18th October 2011.	
Recommendation(s) Cabinet is recommended to: (i) Note the contents of this report as it relates to the performance of the debt management function carried out by the Revenues and Benefits service operated by Elevate East London, including the performance of enforcement agents; and (ii) Note the debt write-offs for the third quarter of 2015/16 and that a number of these debts will be published in accordance with the policy agreed by Cabinet.	
Reason Assisting in the Council's Policy aim of ensuring an efficient organisation delivering its statutory duties in the most practical and cost-effective way. This ensures good financial practice and adherence to the Council's Financial Rules on the reporting of debt management performance and the total amounts of debt written-off each financial quarter.	

1. Introduction and Background

- 1.1 The Council's Revenues, Benefits, General Income and Rents Service is operated by the Council's joint venture company, Elevate East London LLP (Elevate). The service is responsible for the management of the Council's debt falling due by way of statutory levies and chargeable services. It also collects rent on behalf of

Barking and Dagenham Reside. Council debts not collected by Elevate are not included in this report, for example parking and road traffic debt prior to warrants being granted and hostel and private sector leasing debt.

- 1.2 This report sets out performance for the third quarter of the 2015/16 municipal and financial year and covers the overall progress of each element of the service since April 2015. In addition it summarises debts that have been agreed for write off in accordance with the Council's Financial Rules. All write offs are processed in accordance with the Council's debt management policy agreed on 18th October 2011.

2. Performance and Issues

- 2.1 Set out in Table 1 below is the performance for quarter three of 2015/16 achieved for the main areas of debt managed by Elevate.

Table 1: Collection Rate Performance – 2015-2016 Quarter 3

Type of Debt	Quarter 3 Target	Performance	Variance	Actual collected £m
Council Tax	81.5%	81.4%	-0.1%	51.557
NNDR	79.9%	78.2%	-1.7%	44.753
Rent	73.70%	73.53%	-0.17%	75.289
Leaseholders	73.00%	73.08%	+0.08%	2.887
General Income	95.00%	95.94%	+0.94%	69.519

Council Tax Collection Performance

- 2.2 Council Tax collection ended the quarter 0.1% below the profile target.
- 2.3 The collection rate from those in receipt of Council Tax Support (CTS) has improved since the end of the last quarter. The collection rate for these residents in 2015/16 is 65.6% compared to 65.3% in the third quarter of 2014/15.
- 2.4 Given that Council Tax was increased by 1.99% in April and the minimum amount payable by those of working age rose due to the change in the CTS scheme, the amount of cash collected for CTS accounts has increased by £907k compared to last year. However, the decrease in the CTS scheme from 85% to 75% has resulted in approximately 2,000 former claimants not qualifying for any CTS at all and the full charge has become payable. This is because the drop in the maximum Council Tax Support that can be claimed. Council Tax payers no longer qualified as their income was too high for the new lower level of eligible liability. Comparisons made with previous performance are therefore less accurate as there are 2,000 less residents classified as "CTS payers". An additional resource has been applied to arrears collection leading to an increase by £0.556m when compared with last year. The tax increase and decrease in the CTS scheme has seen current year collection increase by £2.8m. Therefore, overall collection, in cash terms, comparing cash collected in 2015/16 to that in 2014/15 has increased by £4.4m as a result of these changes.

Council Tax Arrears

- 2.6 By the end of quarter three £1.837m had been collected which means the annual target of £1.827 has been achieved. At the end of quarter 3 in 2014/15, by comparison, arrears collection stood at £1.278m.
- 2.7 It is the never the case that all the Council Tax for a particular year is collected in that year. Therefore the work to collect unpaid Council Tax continues in the years that follow. The table below (table 2) sets out how the percentage collected improves in the years that follow. For example on 31 March 2010 92.9% of the council tax due for the financial year 2009/10 had been collected. Collection work continued so that by 31 March 2015 the collection rate reached 96.7% an increase of 3.8%.

Table 2:

Year	Charge year	Year 1 %	Year 2 %	Year 3 %	Year 4 %	Year 5 %	Year 6 %
2009/10	92.9	95.0	95.7	96.1	96.4	96.6	96.7
2010/11	92.9	95.0	95.7	96.1	96.3	96.5	
2011/12	94.1	95.7	96.3	96.6	96.8		
2012/13	94.6	96.2	96.6	96.9			
2013/14	94.1	96.0	96.5				
2014/15	94.3	95.8					

- 2.8 During 2015/16 enforcement action continues against those with arrears from 2014/15 and earlier years. Where appropriate, attachments to earnings or benefit are applied to a debtor's account. These are identified via a segmentation process which identifies those debtors receiving benefit or where employer's details are held and this process is always followed prior to referral for enforcement agent action. This ensures that only cases where there is no alternative to "other" enforcement action are referred to the enforcement agent.
- 2.9 The payment arrangement procedure ensures that those requiring more time to pay are managed appropriately. Those that fail to adhere to the terms of the arrangement are quickly identified and recovery action is continued via the use of attachments to benefit or earnings, enforcement agents and in more extreme cases bankruptcy and committal. For example, although too late for the last report, two council tax payers were committed to prison for non-payment in September 2015.

Business Rates (NNDR) Collection Performance

- 2.10 The NNDR collection rate reached 78.2% by the end of the third quarter. This was 1.7% below the profiled target for the quarter. The collection rate has been affected by more rate payers electing to pay over 12 rather than 10 instalments and the collection profile/target was updated after the first quarter to reflect that change. A Large decrease in the debt due to rateable value changes in December 2014 were

not mirrored in December 2015 so that the profile target did not reflect current performance.

- 2.11 The financial climate continues to have a detrimental effect upon businesses within the Borough making collection of Business Rates increasingly challenging.
- 2.12 Ratepayers are contacted as soon as they fall behind with payments in order to try and stop them slipping further into arrears and therefore avoid recovery action and additional costs.
- 2.13 Where recovery is required, debts are now being placed with enforcement agents to try and affect recovery where the first placement of debts is unsuccessful.
- 2.14 There are three main factors affecting collection:
- i. As stated in 2.10 changes in payment profiles continue to affect NNDR. Instalments due in February and March 2016 have increased by £809k. This is due to payers requesting 12 months of instalments. Ratepayers have been able to request the change to 12 from 10 instalments since April 2014. The monthly collection profile was amended to reflect this in July 2015.
 - ii. Changes during the year with properties leaving and entering the rating list. In February 2015 Barking Power stopped trading, with a rateable value of £9.27m; this reduced the amount to be collected by £5m (as the rate set by government is 48p for every pound of the rateable value), almost 10% of the total, for 2014/15 and subsequent years. Such changes of premises with a significant rateable value make collection harder. This is because such hereditaments are usually occupied by large companies who pay their business rates regularly. The loss of such properties increases the reliance for high collection rate on a larger number of smaller premises where the payment of rates can be less reliable and also require more staff effort to secure collection.
 - iii. Rates avoidance activity by certain companies continues to affect the collection rate during the year. At the end of the third quarter 2015/16, £0.55m debt was identified as being subject to avoidance and therefore potentially uncollectable. These companies are claiming that empty properties they own are being let for short periods of time and then vacated again, allowing them to claim empty exemptions. Elevate visit empty properties on a regular basis to ensure that evidence of avoidance can be obtained and the correct company held liable.

Rent Collection Performance

- 2.15 As at the end of quarter 3, the actual cash collection is around £0.600m lower than the profile target. There are a number of contributing factors to this shortfall, the predominant one being that Housing benefit income to the HRA has reduced. The proportion of the rent paid by HB was 51.33% last year but only 49.17% this year, equivalent to around £2.274m lost income for the full year. This has come about because:
- Welfare reform, including measures such as the bedroom tax and benefit cap.

- There has also been a 37% reduction in the budget for Discretionary Housing Payment (DHP). Some residents were becoming reliant on the scheme for short term support and the reduction in budget has meant that there is a greater requirement to demonstrate financial hardship and show reasonable steps taken to improve your financial situation. This has reduced a potential source of short term support to tenants and therefore income for the HRA.
- The HB caseload for council tenants fell by 0.91% from April to December which means a greater level of debt becomes collectable from the resident

2.16 Initiatives are in place to narrow the gap over the last quarter of the year including, as noted above, further promoting DHP, monthly door step campaigns and utilising an external outbound calling debt recovery service. In addition additional support through outbound calling is being made to tenant's in arrears and will continue to be made for the remainder of the year.

Reside Collection Performance

2.17 In addition to collecting rent owed on Council tenancies, Elevate also collect the rent for the Barking & Dagenham Reside portfolio on behalf of the Housing Management who are the managing agent.

2.18 Rent collection including former tenant arrears is stable with a collection rate of 97.03%.

Leaseholders' Debt Collection Performance

2.19 At the end of the second quarter collection reached 73.08%, which was 0.08% above profile, with a total £2.887m having been collected so far this year. Elevate has achieved this ongoing improvement by maintaining a rigorous recovery timetable throughout the year ensuring late payers are consistently reminded to pay as early as possible. This means that the team issue reminders without delay and also use outbound calling and email to help leaseholders stay up to date. Nevertheless collection needs to continue to improve to hit this year's target and an additional set of reminders will be issued in March and additional outbound calling will take place in February and March.

General Income Collection Performance

2.20 General Income is the term used to describe the ancillary sources of income available to the Council which support the cost of local service provision. Examples of areas from which the Council derives income collected by Elevate include: social care charges; rechargeable works for housing; nursery fees; trade refuse; hire of halls and football pitches. The Oracle financial system is used for the billing and collection of these debts and is also used to measure Elevate's performance.

2.21 At the end of quarter three collection in this area remained strong reaching 95.94%.

A&CS Homes and A&CS Residential – Collection of Social Care Charges (home and residential)

- 2.22 The Council introduced a new Care and Support Charging policy for 2015/16 following the government introduction of the Care Act 2014.
- 2.23 Collection of debt for Home and Residential Care is reported separately. The agreed measure for 2015/16 is the amount collected against the in-year debt that has been invoiced.
- 2.24 Residential care debt which the Council has secured with a charging order against the client's assets, usually their property, is not included in these figures.
- 2.25 The collection rate for Home Care by the end of quarter three reached 77.20% which was 2.20% above the profile target.
- 2.26 As with General Income the profile used is based on last year's collection. As the year progresses a clearer pattern will be established as the debit raised and collection rate will be less susceptible to variation.
- 2.27 The debt recovery process for these debts is similar to that of other debts, but with extra recognition given to particular circumstances. In order to ensure that the action taken is appropriate and to maximise payments, each case is considered on its own merits at each stage of the recovery process and wherever possible payment arrangements are agreed. In addition a further financial reassessment of a client's contribution is undertaken where there is extraordinary expenditure associated with the care of the service user. The relevant procedures have been updated to take account of the Care Act.

Penalty Charge Notices (PCN) – Road Traffic Enforcement

- 2.28 This recovery work only includes debts due to Penalty Charge Notices (PCNs) for parking, bus lane and box junction infringements once a warrant has been obtained by Environmental and Enforcement Services (Parking Services) from the Traffic Enforcement Centre (TEC). Elevate enforce these warrants through enforcement agents acting on behalf of the Council and closely monitor the performance of these companies. Overall collection rates on PCNs would be reported by Parking Services. Elevate's collection performance is measured only once a batch of warrants has expired, i.e. after 12 months. Since April 2015, 19 batches of warrants have expired for which the collection rate was 14.20% an improvement on the figure reported for the first quarter of 12.71%.
- 2.29 Effective collection of warrants is affected by how long it takes to obtain the warrant after the PCN is issued. On average Elevate receives warrants from Parking Services around 7 months after the PCN was issued. Consequently Enforcement Agents' "propensity to pay" analysis of warrants classified most of them either 'poor' or 'hopeless' because older, aged debt is much harder to collect. This has adversely affected the overall success of collection against the target and a review of the end to end process for parking is underway to improve the overall collection of monies due.

- 2.30 The total amount of cash collected through enforcement of road traffic warrants was £432,984 by the end of the third quarter.

Housing Benefit Overpayments

- 2.31 By the end of the third quarter of 2015/16 collection totalled £3.751m. So far this year £9.992m has been raised, compared to £5.753m in the first 9 months of 2014/15. The rise is largely due to the delays in HB processing experienced in the first 8 months of the year from April to November 2015.
- 2.32 During the first quarter of 2015/16 central government confirmed the continuation of the “Real Time Information (RTI)” process. This means HMRC data will continue to be made available to the Department of Works and Pensions and shared with local authorities enabling data matching against Council records. This data will continue to ensure that the information used to assess claims for Housing Benefit and CTS, is accurate. This will result in additional overpayments and underpayments being raised.

Enforcement Agent (Bailiff) Performance

- 2.33 Enforcement agent action is a key tool for the Council to recover overdue debts but is only one area of collection work and is always the action of last resort. The introduction of the CTS scheme in 2013/14 meant around 13,000 additional households became liable to pay a proportion of Council Tax. This number increased again in April 2015 with the revised CTS scheme meaning that there has been additional debt recovery action. The affected group of residents are working age but their circumstances vary as they move in and out of work. Elevate’s ability to collect all sums due on behalf of the Council continues to be made progressively more challenging as welfare reforms take effect. This is alongside the cumulative yearly effect of CTS on arrears which is increasing overall indebtedness. This position will continue in 2015/16.
- 2.34 Information on the performance of the enforcement agents is set out in the table below by type of debt for the third quarter of 2015/16. It should be noted the debt recovery process via enforcement agents only began at the end of quarter one for NNDR and Council Tax: Compared to the same point last year Council Tax is up 10%, Business Rates is at the same level and General Income is up 13%.

Table 3: Enforcement Agent Collection Rates – 2015/16

Service	Value sent to enforcement agents £	Total collected by enforcement agents £	Collection rate %
Council Tax	£3,584,750	£576,213	16.07%
NNDR	£499,979.05	£99,923.06	19.99%
Commercial rent	£22,563	£20,728	91.87%
General Income	£19,820.56	£4,688.14	23.65%

Debt Write-Offs: Quarter 3 2015/16

- 2.35 All debt deemed suitable for write off has been through all the recovery processes and is recommended for write off in accordance with the Council's policy. The authority to "write off" debt remains with the Council. The value of debt recommended to the Strategic Director, Finance & Investment and subsequently approved for write off during the third quarter of 2015/16 totalled £368,971. The value and number of cases written off in quarter three is provided in Appendix A.
- 2.36 497 debts were "written off" in quarter three for which the reasons are set out below. The percentage relates to the proportion of write offs by value:

Table 4: Write off numbers – 2015/16 Quarter 3

Absconded/not traced	Uneconomic to pursue	Debtor Insolvent	Deceased	Other reasons
243	154	47	22	31
£161,196	£45,425	£46,825	£14,912	£100,612

Absconded/not traced	Uneconomic to pursue	Debtor Insolvent	Deceased	Other reasons
48.9%	31.0%	9.5%	4.4%	6.2%

(The 'other reasons' category includes examples such as: where the debt liability is removed by the Court or the debtor is living outside the jurisdiction of the English Courts and is unlikely to return).

- 2.37 The figures in Appendix B show the total write-offs for 2011/12, 2012/13, 2013/14 and for 2014/15.

Publication of Individual Details of Debts Written Off (Appendix C)

- 2.38 In line with Council policy established in 2007, due to the difficulties of finding absconding debtors, a list showing the details of some debtors who have had debts written off is attached to this report at Appendix C. The list has been limited to the ten largest debts only and can be used in the public domain. Debts not included are listed below:
- Debts that have been written off following a corporate complaint being upheld;
 - Debts that have been written off due to the debtor falling within one of the vulnerable groups (e.g. elderly, disabled, infirm etc.);
 - Where the original debt was raised in error;
 - Where debts have been written off, but no legal action has been taken to prove that the debt was legally and properly due;
 - Where the debt has been written off following bankruptcy or insolvency action (the majority of these cases will be individually publicised).

3. Financial Implications

Implications completed by: Kathy Freeman, Divisional Director of Finance

- 3.1 Collecting all sums due is critical to the Council's ability to function. In view of this, monitoring performance is a key part of the monthly meetings with Elevate.
- 3.2 The monthly meetings between Elevate and the Council focus on the areas where the targets are not being achieved and discuss other possibilities to improve collection.
- 3.3 At the end of quarter 2, Elevate have exceeded profiled collection targets for leaseholders, general income and NNDR. The profile on general income has been significantly overachieved due to a large invoice to the GLA of £10m being raised and paid in the same quarter.
- 3.4 The Council wrote off debts of £222,892 in the first quarter of 2015/16 with the majority within Council Tax. In quarter two, the Council is writing off £262,259 with the majority of the write off focused on NNDR.
- 3.5 It is important that bad debts are written off promptly for budgeting purposes so the Council can maintain appropriate bad debt provision.

4. Legal Implications

Implications completed by: Paul Feild, Senior Governance Lawyer

- 4.1 Monies owed to the Council in the form of debts are a form of asset that is the prospect of a payment sometime in the future. The decision not to pursue a debt carries a cost and so a decision not to pursue a debt is not taken lightly.
- 4.2 The Council holds a fiduciary duty to the ratepayers and the government to make sure money is spent wisely and to recover debts owed to it. If requests for payment are not complied with then the Council seeks to recover money owed to it by way of court action once all other options are exhausted. While a consistent message that the Council is not a soft touch is sent out with Court actions there can come a time where a pragmatic approach has to be taken with debts as on occasion they are uneconomical to recover in terms of the cost of process and the means of the debtor to pay. The maxim *no good throwing good money after bad* applies. In the case of rent arrears, the court proceedings will be for a possession and money judgement for arrears. However a possession order and subsequent eviction order is a discretionary remedy and the courts will more often than not suspend the possession order on condition the tenant makes a contribution to their arrears.
- 4.3 Whilst the recent use of Introductory Tenancies as a form of trial tenancy may have some impact as only those tenants with a satisfactory rent payment history can expect to be offered a secure tenancy, the best approach is to maintain a dialogue with tenants and highlight the importance that payment of rent and Council tax ought to be considered as priority debts rather than credit loans as without a roof over their heads it will be very difficult to access support and employment.

4.4 The decision to write off debts has been delegated to Chief Officers who must have regard to the Financial Rules.

5. Other Implications

5.1 **Risk Management** - No specific implications save that this report acts as an early warning system to any problems in the area of write offs.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix A** – Debt Write Off Table for Quarter 1, Quarter 2 and Quarter 3 2015/16.
- **Appendix B** – Total debts written off in 2011/12, 2012/13, 2013/14 and 2014/15.
- **Appendix C** – Ten Largest Debts Written Off in Quarter 3, 2015/16