

## CABINET

8 April 2014

<b>Title:</b> Debt Management Performance and Write-Offs 2013/14 (Quarter 3)	
<b>Report of the Cabinet Member for Finance</b>	
<b>Open Report</b>	<b>For Information</b>
<b>Wards Affected:</b> None	<b>Key Decision:</b> No
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<b>Accountable Director:</b> Jonathan Bunt, Chief Finance Officer	
<b>Summary</b>  This report sets out the performance of the Council's partner, Elevate East London, in carrying out the debt management function on behalf of the Council and covers the third quarter of the year 2013/14. It also includes details of debt written off in accordance with the write off policy approved by Cabinet on 18 October 2011.	
<b>Recommendation(s)</b>  The 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 bailiffs; and  (ii) Note the debt write-offs for the second quarter of 2013/14 and that a number of these debts will be publicised in accordance with the policy agreed by Cabinet.	
<b>Reason</b>  Assisting in the Council's Policy aim of ensuring a well run organisation delivering its statutory duties in the most practical and cost-effective way. It will ensure good financial practice and adherence to the Council's Financial Rules to report on debt management performance and total debt write-off each quarter.	

### 1. Introduction and Background

- 1.1 The Council's Revenues, Benefits, General Income and Rents Service are 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.

- 1.2 This report sets out the performance for the third quarter of 2013/14 and covers the overall progress of each element of the service since April 2013. In addition it summarises the debts that have been agreed for write off in accordance with the Council's Financial Rules. Write offs in the third quarter have been actioned in accordance with the Council's debt management policy agreed on 18 October 2011.

## 2. Proposal and Issues

- 2.1 Set out in table 1 below is the performance for quarter 3 of 2013/14 achieved by Elevate for the main lines of debt managed by the Revenues Service during the financial year.

**Table 1: Collection Rate Performance – 2013-14 Quarter 3**

Type of Debt	Annual Target	Target for Quarter 3	Performance	Variance	Actual collected £m
<b>Council Tax</b>	93.50%	81.0%	81.3%	+0.3%	45,671
<b>NNDR</b>	97.57%	81.27%	80.32%	-0.95%	46,813
<b>Rent</b>	96.50%	96.70%	96.73%	+0.03%	75,290
<b>Leaseholders</b>	91.80%	69.39%	73.86%	+4.47%	2,745
<b>General Income</b>	94.64%	73.76%	81.98%	+8.22%	57,835

### Council Tax collection performance

- 2.2 Council Tax collection at the end of the third quarter is 0.30% above the profile but 0.80% below the performance at the same time last year. Collection of Council Tax, from those in receipt of Council Tax Support (CTS) but still with a sum to pay, at the end of the third quarter, was estimated at 70%
- 2.3 The Council has adopted the same Council Tax Support Scheme for 2014/2015 as it administered in 2013/2014. This means that the calculation for any working age claimant is based upon 85% of the relevant Council Tax liability. Uprating of premiums and allowances that are proposed for Housing Benefit in 2014/2015 are to be exactly reflected in the Council Tax Support scheme for Barking and Dagenham in 2014/15. The Council also adopted the following discretionary areas within the Council Tax Support Scheme;
- i. The ability to backdate working age claims to a maximum of 3 months.
  - ii. To disregard war widows and war disablement pension income.
  - iii. To adopt the extended payment scheme and align it with the main Housing Benefit scheme
- 2.4 Changes and improvements:
- i. During the third quarter debt recovery action continued for non payers with 12,380 summonses being issued for the year.

- ii. Enforcement action has been initiated and there are currently 3,610 accounts with attachments to earnings or benefit. These are identified via a segmentation process prior to bailiff action which details accounts receiving benefit or where we hold employers details.
- iii. The sending of text messages to debtors commenced in quarter 3 acting as an additional reminder.
- iv. The payment arrangement procedure continues to ensure that those requiring more time to pay are managed correctly. Those that fail to adhere to the terms of the arrangement are quickly identified and recovery action is initiated.

### **Business Rates (NNDR) collection performance**

- 2.5 The NNDR collection rate at the end of the third quarter is 80.32% which is 0.95% below the profile but 1.23% above the same period in 2012/13.
- 2.6 The financial climate continues to have a detrimental effect upon businesses within the Borough making collection of Business Rates challenging.
- 2.7 Following the end of the joint service with Havering in September 2013 the team were left with 1.5 FTE vacancies which affected performance and their ability to carry out proactive recovery initiatives. This situation was addressed in the main in November by employing an NNDR experienced contractor and taking on 2 apprentices.
- 2.8 Recovery procedures were reviewed through Q3 to ensure that debts are progressed to bailiffs in a timely fashion. A second bailiff company is now being used to increase this method of enforcement.
- 2.9 Proactive outbound calling has now been adopted to identify ratepayers that are beginning to fall behind with payments. This will ensure that these cases are quickly identified and payment agreed where possible.
- 2.10 Recovery notices have been reviewed and redesigned where necessary to increase their effectiveness.
- 2.11 The largest value 100 debtors, totalling £1.6m, are being specifically targeted to ensure recovery is appropriate and effective where required.

### **Rent collection performance**

- 2.12 The rent collection target for the end of the third quarter of 96.73% has already exceeded the year end target of 96.50%. By the end of quarter four, the projected collection is expected to be approx 96.58%.
- 2.13 The introduction of the bedroom tax affects approximately 1,600 of our tenants. Of those tenants who have lost housing benefit this year because they are deemed to have one or more excess bedrooms; 48% are in rent arrears. This group as a whole owe £360k and recovery action is only taken against these tenants at the agreement of the Council and based on each case's merits. Where tenants have arrears caused in the main by the bedroom tax changes recovery action will not take place whilst they are actively seeking to move to smaller accommodation.

2.14 Various actions have been taken to improve performance in rent collection:

- i. A good platform is in place to ensure that avoidable arrears are minimised with procedures agreed between the Council and Elevate. These procedures are designed to ensure that rent accounts are closed more swiftly when tenants move out.
- ii. Elevate are proactively seeking to backdate housing benefit entitlement for tenants who have experienced a loss of entitlement due to learning difficulties or mental illness which prevents them being able to comply with the standard claims requirement.
- iii. Elevate have included messages on rent statements and on-line reminding tenants to prioritise rent payments first and the possible consequences of non-payment are highlighted.
- iv. Improved procedures are in place at the sign up of new tenancies to maximise housing benefit take up from the start of tenancy and encourage payments through direct debit.
- v. Proposals for further changes to procedures are under discussion with Housing with a view to achieving substantial increases in collection performance next year by spend to save initiatives.

#### **Leaseholders' debt collection performance**

2.15 The leasehold collection target for the year has been set at 91.80%. In the third quarter Elevate achieved 73.86% which exceeds the expected profile of 69.39% by 4.47%.

#### **General Income collection performance**

##### **Overall position**

2.16 General Income is 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 include: penalty charge notices; social care charges; housing benefit overpayments; rechargeable works for housing; nursery fees; trade refuse; truancy penalty notices; hire of halls and football pitches. Oracle is used for the billing of these debts and collection performance by Elevate for its activities across all these debts is reported together.

2.17 Good collection has been maintained through quarter 3 with over £57m being collected in the first three quarters against a debit of £70.5m. This collection is above the profile for the previous year with more effective school salary collection having been implemented by the team. The remainder of this section considers a selection of General Income debts which have specific separate collection rate targets.

#### **ACS Homes and ACS Residential - Collection of social care charges (home and residential)**

2.18 The Council's Fairer Contribution Policy commenced from October 2011 and applies to home care. Residential care charges are covered by the Department of Health's *Charging for Residential Accommodation Guide* (CRAG).

- 2.19 Collections of debt for home and residential care are reported separately. For both, the agreed measure for performance reporting is the percentage collected on debt over 90 days old and performance reporting can include debts from previous financial years.
- 2.20 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.

#### **Residential care**

	<b>Invoices</b>	<b>Debit Raised (£000)</b>	<b>Total Collected (£000)</b>	<b>Collection rate</b>	<b>Target</b>	<b>Difference</b>
Dec	90+ days	5.259	4.863	92.46	90.00%	+2.46%

#### **Homecare**

	<b>Invoices</b>	<b>Debit Raised (£000)</b>	<b>Total Collected (£000)</b>	<b>Collection rate</b>	<b>Target</b>	<b>Difference</b>
Sept	90+ days	6.635	2.470	93.75%	90.00%	+3.75%

- 2.21 The recovery process of these debts is similar to that of other debts, but with added 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 recovery 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.

#### **Housing and Environment: Penalty Charge Notices**

- 2.22 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 from the Traffic Enforcement Centre (TEC). The majority of these relate to parking infringements and Elevate enforce these warrants through bailiffs and monitor their performance. Overall collection rates on PCNs will be reported by Environmental and Enforcement Services (Parking Services). Performance is set out in 2.26 below.

#### **Housing Benefit Overpayments**

- 2.23 In the first three quarters of the year collection totalled £2.488m. This is ahead of the collection profile target by £256,000.

#### **Bailiff Performance**

- 2.24 Bailiff action is a key tool for the Council to recover overdue debts but is only one area of collection work. There are now over 13,000 additional households liable to pay Council Tax following the introduction of Council Tax Support (CTS) as a replacement of Council Tax Benefit. This many additional payers will create an increase in the number of accounts requiring recovery action and the overall value

of arrears. This is not a static group as residents move in and out of work. The Council's ability to collect sums due will be progressively affected as the welfare reforms take effect alongside the cumulative yearly effect of CTS on arrears.

- 2.25 A report was made to the Public Accounts and Audit Select Committee (PAASC) meeting on 26 June 2013 clarifying the scale of the potential impact in 2013/14, and the recovery processes the Council uses. The key to the Council's approach is that it encourages contact and payments as soon as possible, which maximises the opportunity for the taxpayer not to incur the added costs for being summonsed. The norm in 2011/12 and 2012/13 was for less than 25% of reminders to lead to action by bailiffs. It is not anticipated that this percentage will change in 2013/14.
- 2.26 The majority of cases sent to the bailiffs for Council Tax in quarter one related to 2012/13 debts. Referrals increasingly related to 2013/14 debts as recovery cycles gathered pace through Q2 and Q3. Collection will continue to improve over the rest of the year
- 2.27 Information on the performance of the bailiffs is set out in the table below by type of debt for quarters 1 to 3 of 2013/14:

<b>Service</b>	<b>Value sent to bailiffs (£000)</b>	<b>Total collected by bailiffs (£000)</b>	<b>Collection rate</b>
Council Tax	4,872	409	8.17%
NNDR	1,693	398	23.51%
Road Traffic	1,851	318	17.19%
Commercial rent	24	23	94%
General Income	70	22.5	32.14%

### **New Regulations for Bailiffs**

- 2.28 From 6 April 2014 all activity carried out by civil enforcement agents (bailiffs) on behalf of the Council will be carried out in accordance with new regulations that have been introduced in accordance with the Tribunals, Courts and Enforcement Act<sup>1</sup>, 2007.
- 2.29 The regulations apply to England and Wales and are designed to apply more effective control and greater transparency for charging by the bailiff industry.
- 2.30 The new rules split the bailiff action into a number of stages, four stages for enforcement under a High Court Writ and three stages where enforcement is not under a High Court Writ. The most common enforcement carried out by Elevate on

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<sup>1</sup> The regulations are:

1. The Taking Control of Goods Regulations 2013 No. 1894
2. The Taking Control of Goods (Fees) Regulations 2014 No. 1.
3. Regulations for training and certification of enforcement agents, still to be laid as at 3.2.14

behalf of the Council is under the latter; the fees to apply are set out in the regulations and are as follows:

- i. Compliance Stage £75
- ii. Enforcement Stage £235 (7.5% additional charge for debts over £1,500)
- iii. Sale or disposal stage £110 (7.5% additional charge for debts over £1,500)

2.31 Compliance stage is when the Enforcement Agent Company (Bailiff) receives instruction to deal with the debt and will issue a notice of enforcement to the debtor. This stage may also include other attempts to contact the debtor. The Enforcement stage is when the bailiff visits the property, the fees are fixed regardless of how many visits are made and may include the bailiff taking control of goods belonging to the debtor. The last stage is the Sale stage where debtors' goods are removed for sale.

2.32 These new rules and their simplified charges are being implemented after lengthy consultation with the industry and for the government they demonstrate its commitment to protecting the public from unsound and unsafe methods of rogue bailiffs, but at the same time having rules that allow for the fair collection of debts.

**Debt Write-off: Quarter 3 2013/14**

2.33 All debt recommended for write off is done so in accordance with the policy of the Council who have the final decision with regard to approval. The value of debt recommended to the Chief Finance Officer and subsequently approved for write off during the third quarter of 2013/14 totalled: £334,242. The detail of the value of cases and number of cases written off in quarters 1 to 3 of 2013/14 is provided in Appendix A.

2.34 The figures in Appendix B show the total write-offs for 2011/12 and 2012/13 as well the total debts written off in the first, second and third quarters of 2013/14.

2.35 440 debts were written off in quarter 3 for which the reasons were:

<b>Absconded/not traced</b>	<b>Uneconomic to pursue</b>	<b>Debtor Insolvent</b>	<b>Deceased</b>	<b>Other reasons</b>
<b>6.8%</b>	<b>64.1%</b>	<b>4.1%</b>	<b>14.5%</b>	<b>10.5%</b>

(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).

**Publication of individual details of debts written off (Appendix C)**

2.36 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.

**3. Options Appraisal**

3.1 Not relevant for this report.

#### **4. Consultation**

4.1 Not relevant for this report.

#### **5. Financial Implications**

Implications completed by: Kathy Freeman, Finance Group Manager

- 5.1 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.
- 5.2 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.
- 5.3 Since the start of 2013/14, Elevate has written off debts of £638,846, which is significantly lower than quarters 1 to 3 in 2012/13 by £1.2m. This is partially due to increased support required for Council Tax Support debts, It is important that bad debts are dealt with promptly as it affects the level of bad debt provision the Council is required to make at year end.
- 5.4 To the end of quarter 3, Elevate are exceeding the collection target for the majority of debt types, except for NNDR. If this trend continues, there is a likely to be an increase in the overall income collected for the year.

#### **6. Legal Implications**

Implications completed by: Paul Feild, Senior Governance Lawyer

- 6.1 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.
- 6.2 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 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.
- 6.3 While the recent use of Introductory Tenancies 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.

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

## **7. Other Implications**

7.1 **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 Quarters 1, 2 and 3 for 2013/14.

**Appendix B** – Debts written off in 2011/12 and 2012/13 and totals for 2013/14 so far.

**Appendix C** – Ten Largest Debts Written Off in Quarter 3, 2013/14