

Cabinet

4 August 2014

Title: Debt Management Performance and Write-Offs 2013/14 (Quarter 4)	
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, Chief Finance Officer	
Summary 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 final 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.	
Recommendation(s) 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 enforcement agents; and (ii) Note the debt write-offs for the fourth quarter of 2013/14 and that a number of these debts will be publicised in accordance with the policy agreed by Cabinet.	
Reason 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 fourth 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 fourth quarter have been actioned in accordance with the Council's debt management policy agreed on 18 October 2011.

2. Performance and Issues

- 2.1 Set out in table 1 below is the performance for quarter 4 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 4

Type of Debt	Annual Target	Target for Quarter 4	Performance	Variance	Actual collected £m
Council Tax	93.5%	93.5%	94.1%	+0.6%	52,849
NNDR	97.57%	97.57%	96.96%	-0.61%	56,519
Rent	96.50%	96.50%	97.35	+0.85%	100,096
Leaseholders	91.80%	91.80%	97.08%	+5.28%	3,598
General Income	94.64%	94.64%	95.06	+0.42%	97,343

Council Tax collection performance

- 2.2 Council Tax collection at the end of the fourth quarter was 0.6% above the target. Collection was affected by the introduction of the new Council Tax Support (CTS) scheme as part of the Government's welfare reform programme. Collection of Council Tax, from those in receipt of CTS and with a sum to pay, was 70.3%. This is significantly higher than the 50% figure that was predicted at the start of the year.
- 2.3 The Council has adopted the same CTS 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. Updated premiums and allowances that are proposed for Housing Benefit in 2014/2015 are to be exactly reflected in the CTS scheme in 2014/15. The Council also adopted the following discretionary areas within the CTS Scheme:
- i. The ability to backdate working age claims to a maximum of three 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:
1. During the fourth quarter debt recovery action continued against non payers.
 2. Enforcement action has been initiated and there are currently 3,841 accounts with attachments to earnings or benefit. These are identified via a segmentation process prior to enforcement agent action which details accounts receiving benefit or where we hold employers details. This minimises the cases that are referred to the enforcement agent.

3. The sending of text messages to debtors has continued in quarter 4 with a good response from customers.
4. The payment arrangement procedure continues to ensure 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 initiated.

Business Rates (NNDR) collection performance

- 2.5 NNDR collection rate at the end of the fourth quarter was 96.96%, which was 0.61% below the newly established stretch target from October 2014. This followed the restructure of the service, removing the responsibilities for LB Havering collection. However, collection improved by 1.87% compared to 2012/13, and represents the highest collection rate for five years.
- 2.6 The financial climate continues to have a detrimental effect upon businesses within the Borough making collection of Business Rates challenging.
- 2.7 Proactive outbound calling has been adopted to identify ratepayers that are beginning to fall behind with payments. The largest value 100 debtors, totalling £1.6m, were specifically targeted to ensure recovery is appropriate and effective where required.
- 2.8 A second enforcement agent was used in quarter 4 to continue pursuit of cases where non payment persists. The team continued to carry out joint visits with enforcement agents on higher value debts which resulted in a higher number making full payment.

Rent collection performance

- 2.9 At the end of the fourth quarter collection reached 97.35% exceeding the annual target of 96.50% by 0.85%.
- 2.10 The introduction of the Spare Room Subsidy (bedroom tax) affects approximately 1,700 of the Council's tenants. Of those tenants who lost housing benefit this year because they were deemed to have one or more excess bedrooms, 48% are in rent arrears. This group as a whole owes £326k but eviction proceedings are only taken by Elevate against these tenants with the agreement of the Council and based on the merits of each case. Where tenants have arrears caused in the main by the Spare Room Subsidy, eviction proceedings will not take place whilst they are actively seeking to move to smaller accommodation.
- 2.11 Discretionary Housing Payments (DHPs) have been effective in alleviating some of the problems for those vulnerable households in difficulty who also find themselves in arrears. For those who under occupy by one bedroom the overall number in arrears fell from 62% at the end of April 2013 to 41.5% at the end of March 2014. For the 2 bedroom under occupation group the corresponding drop is from 60% down to 39%. The arrears value for the tenants affected by Spare Room Subsidy has fallen from £372k to £326k at year end, a £46k reduction. These falls reflect the extensive work carried out by Elevate to maximise the take-up of DHPs however these funds are likely to be cut by the Government in future years and do not represent a long term solution for tenants.

- 2.12 During 2013/14 various actions have been taken to improve performance in rent collection:
- i. The existing platform has been built on to ensure that avoidable arrears are minimised with procedures agreed between the Council and Elevate implemented. These procedures are designed to ensure that rent accounts are closed more swiftly when tenants move out.
 - ii. Elevate proactively seek to backdate housing benefit entitlement for tenants who have experienced a loss of entitlement due to vulnerability (learning difficulties or mental illness) which prevents them being able to comply with the standard claim submission timescales. Elevate have included messages on rent statements and on-line reminding tenants to prioritise rent payments and of the possible consequences of non-payment.
 - iii. Visiting campaigns by Elevate have been used successfully to target arrears groups borough wide. The last one in February 2014 saw 339 properties visited. This resulted in over 100 accounts being cleared and £63k of cash paid within 14 days.

Leaseholders' debt collection performance

- 2.13 The leasehold collection target for 2013/14 was set at 91.80%. By the end of quarter 4 a collection rate of 97.08% had been achieved, which was 5.28% above target and 6.28% higher than in 2012/13. This has been achieved by maintaining a rigorous recovery timetable throughout the year ensuring late payers are consistently reminded to pay at the earliest possible time.

General Income collection performance

- 2.14 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; 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 collectively.
- 2.15 The collection target for 2013/14 was set at 94.64%. By the end of quarter 4 a collection rate of 95.06% had been achieved, which was 0.42% above target. A more effective procedure for school salary collection contributed to this result. The remainder of this section of the report 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)

- 2.16 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)".
- 2.17 Collection of debt for home and residential care is 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.

- 2.18 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

Invoices	Debit Raised (£000)	Total Collected (£000)	Collection rate	Target	Difference
90+ days	6,021	5,473	90.93	90.00%	+0.93%

Homecare

Invoices	Debit Raised (£000)	Total Collected (£000)	Collection rate	Target	Difference
90+ days	2,789	2.664	95.52%	90.00%	+5.52%

- 2.19 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

- 2.20 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 enforcement agents and monitor their performance. Overall collection rates on PCNs will be reported by Environmental and Enforcement Services (Parking Services). Performance is set out in 2.25 below. The lengthening of the time from the issuing of the PCN to being granted the warrant will have an adverse effect on collection by enforcement agents during the next financial year, 2014/15.

Housing Benefit Overpayments

- 2.21 For 2013/14 collection totalled £3.376m. This was £400,000 over the yearly target of £2.976m.

Enforcement Agent (Bailiff) Performance

- 2.22 Enforcement agent 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 during 2013/14 created a significant 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. Elevate's ability to collect sums due on behalf

of the Council will be made progressively harder as welfare reforms take effect alongside the cumulative yearly effect of CTS on arrears.

- 2.23 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 enforcement agents. This was continued in 2013/14 although the actual number increased due to the recovery work required for CTS recipients.
- 2.24 The majority of cases sent to the enforcement agents for Council Tax in quarter 1 related to 2012/13 debts. Referrals increasingly related to 2013/14 debts as recovery cycles gathered pace through Q2, Q3 and Q4. Collection improved during the year.
- 2.25 Information on the performance of the enforcement agents is set out in the table below by type of debt for 2013/14:

Service	Value sent to enforcement agents (£000)	Total collected by enforcement agents (£000)	Collection rate
Council Tax	4,170	587	14.1%
NNDR	3,408	723	21.0%
Road Traffic	2,495	428	17.2%
Commercial rent	52	49	94.2%
General Income	84	25	30.0%

New Regulations for Enforcement agents

- 2.26 As stated in the report for quarter 3, from 6 April 2014 all activity carried out by civil enforcement agents (formerly known as 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 Act¹, 2007.
- 2.27 The regulations apply to England and Wales and are designed to apply more effective control and greater transparency for the charging of fees by enforcement agents.

¹ 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. The Certification of Enforcement Agent Regulations 2014 No.421
4. The Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provision) Order 2014

2.28 The new rules split the enforcement agent 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 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)

2.29 Compliance stage is when the Enforcement Agent Company receives instruction to deal with the debt at which point they will issue a notice of enforcement to the debtor. This stage may also include other attempts to contact the debtor. The Enforcement stage will include a visit to the property. The fees are fixed regardless of how many visits are made and may include the enforcement agent taking control of goods belonging to the debtor. The last stage is the Sale stage where debtors' goods are removed for sale at auction.

2.30 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 enforcement agents, but at the same time having rules that allow for the fair collection of debts.

Debt Write-off: Quarter 4 2013/14

2.31 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 fourth quarter of 2013/14 totalled: **£876,911**. The detail of the value of cases and number of cases written off in quarters 1 to 4 of 2013/14 is provided in Appendix A.

2.32 The figures in Appendix B show the total write-offs for 2011/12 and 2012/13 as well the total debts written off by quarter during 2013/14.

2.33 573 debts were written off in quarter 4 for which the reasons are set out below. The percentage relates to the proportion of write offs:

Absconded/not traced	Uneconomic to pursue	Debtor Insolvent	Deceased	Other reasons
22.9%	48.7%	1.0%	17.1%	10.3%

(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)

2.34 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.

- 2.35 As Appendix C shows, all of the ten largest debts relate to Former Tenant Arrears (FTAs) and are typically several years old. To explain some of the background to the build up of debts around this time, the Council introduced a new Housing Management IT system, Capita, in July 2009 and a number of problems during the early life of the system meant that arrears letters were not generated for over six months. The cumulative effect of this and other issues meant that there was a considerable backlog and a build up of approximately 600 rent accounts in very high arrears. This, coupled with the lengthy process for securing evictions for those that refuse to pay which takes, on average, 40+ weeks, meant that many debts reached £10,000+.
- 2.36 Cases are now up to date and arrears are addressed much earlier. Notices are first issued when arrears reach approximately £400 (an average of four weeks rent arrears). Debts would generally now be £2,000 when they enter the Court process and £4,000 to £5,000 by the time an eviction takes place.

3. Financial Implications

Implications completed by: Kathy Freeman, Corporate Finance Group Manager

- 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 In 2013/14, the Council has written off debts of £1.5m, with the majority of write offs attributable to former tenant arrears of £0.8m. The amount of debt written off has decreased from the £2.7m written off in 2012/13 and this is mainly due to a reduction in the overall value of arrears as in-year collection rates rise. More emphasis and resource has also been placed on pursuing newer collectable debts rather than older uncollectable debts. It is important the bad debts are written off promptly for budgeting purposes so the Council can then maintain the correct levels of bad debt provision.
- 3.4 To the end of quarter 4, Elevate have exceeded the collection targets for all debt types, except for NNDR. This has led to an increase of £2.2m in additional income collected.

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 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 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.
- 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 Quarters 1, 2, 3 and 4 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