

## Cabinet

2 June 2015

<b>Title:</b> Debt Management Performance and Write-Offs 2014/15 (Quarter 4)	
<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
<b>Report Author:</b> Steve Cooper, Head of Revenues	<b>Contact Details:</b> Tel: 07972003726 E-mail: <a href="mailto:steve.cooper@elevateeastlondon.co.uk">steve.cooper@elevateeastlondon.co.uk</a>
<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 fourth quarter of the year 2014/15. 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 enforcement agents; and  (ii) Note the debt write-offs for the fourth quarter of 2014/15 and that a number of these debts will be published 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 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. Debts not collected by Elevate are not included in this report such as parking and road traffic debt prior to warrants being granted, hostel and private sector leasing debt but will be considered for inclusion for the 2015/16 financial year following comments by PAASC.

- 1.2 This report sets out performance for the fourth quarter of the 2014/15 municipal and financial year and covers the overall progress of each element of the service since April 2014. In addition it summarises the 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 four of 2014/15 achieved for the main areas of debt managed by Elevate.

**Table 1: Collection Rate Performance – 2014-15 Quarter 4**

Type of Debt	Annual Target	Performance	Variance	Actual collected £m
<b>Council Tax</b>	94.0%	94.3%	+0.3%	54.844
<b>NNDR</b>	98.1%	97.9%	-0.2%	58.973
<b>Rent</b>	97.20%	96.69%	-0.51%	97.379
<b>Leaseholders</b>	97.50%	98.83%	+1.33%	3.644
<b>General Income</b>	95.0%	95.35%	+0.35%	97.203

### Council Tax Collection Performance

- 2.2 Council Tax collection ended the financial year 0.3% above the target. Collection of Council Tax, from those in receipt of Council Tax Support (CTS) and with a sum to pay, at year end was 76.3%. The Council adopted the same CTS Scheme for 2014/15 as it administered in 2013/14 meaning that the calculation for any working age claimant is based upon 85% of the relevant Council Tax liability.
- 2.3 For the financial year 2015/16 the Council has revised its CTS scheme. The most significant changes being that the maximum CTS allowable for working age residents in receipt of support is 75% of their Council Tax liability and that claims cannot be backdated. As already noted the collection rate from those in receipt of CTS is significantly below those not in receipt of CTS and this is considered unlikely to change under the new scheme.
- 2.4 The Council has agreed to increase the resource in Elevate's Council Tax collection team during 2015/16 on an invest to save basis to seek to continue overall improvements in collection.

### Council Tax Arrears

- 2.5 By the end of the financial year £1,635,400 had been collected for previous years' arrears, this is above the target of £1,500,000.
- 2.6 The collection of Council Tax arrears outstanding at the end of each financial year continues over subsequent years. The table below shows the percentage of

collection since 2009/10. The charge year figure below is the in-year collection rate achieved by 31 March of each year.

**Table 2: Council Tax Arrears Collection**

As at 31 March 2015						
Council tax collection (percentage)						
Year	Charge year	Year 1	Year 2	Year 3	Year 4	Year 5
2009/10	92.9%	95.0%	95.7%	96.1%	96.4%	96.6%
2010/11	92.9%	95.0%	95.6%	96.0%	96.3%	
2011/12	94.1%	95.7%	96.3%	96.5%		
2012/13	94.6%	96.2%	96.6%			
2013/14	94.1%	96.0%				

- 2.7 There has been an increase of 3.7% in collection between 2009/10 and 2014/15.
- 2.8 During 2014/15 enforcement action continued against those with arrears from 2013/14 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.

### **Business Rates (NNDR) Collection Performance**

- 2.10 The NNDR collection rate reached 97.9% by the end of the fourth quarter. This was 0.2% below the target for the year but 0.9% above the previous year. Over the last two years there has been a total increase of 2.8% in collection which represents a significant improvement in 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 two enforcement agents compared to only one in 2013/14. A third enforcement agent is also in place to try and effect recovery where the first placement of debts is unsuccessful.
- 2.14 Rates avoidance activity by certain companies affected the collection rate during the year. The perception is that companies are exploiting loopholes in current legislation and at the end of 2014/15, £420,000 of debt was identified as being uncollectable, £270,000 of which was due in the year. 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. Central government has recently conducted a survey of local authorities regarding this matter; to which the Council responded, and there is expectation that legislation will be amended to close this loophole. Elevate continues to visit empty properties on a regular basis to ensure that evidence of avoidance can be obtained and the correct company be held liable. Elevate are also consulting specialised Business Rates solicitors on individual cases as to the feasibility of taking further legal action.

- 2.15 During 2014/15, £220,000 debt was also uncollectable due to companies being dissolved or going into liquidation. Between these and the rates avoidance cases, 0.83% of the 2014/15 debt is now identified as uncollectable.

### **Rent Collection Performance**

- 2.16 The Rent collection rate had reached 96.69% by the end of the fourth quarter. This was 0.51% below the stretch target for the year.
- 2.17 There are a number of factors that impacted on rent collection during 2014/15:
- a. Discussions held with tenants in arrears indicate that many are being negatively impacted by the effects of Welfare Reform and the number of additional bills that they now have to pay including Council Tax.
  - b. The number of possession proceedings started in the second half of the year was 389 compared to 245 in the first half. This demonstrates that tenants are facing increasing financial hardship.
  - c. Fewer evictions were approved by the Council in 2014/15 than in 2013/14 and 2012/13. Whilst the decision to evict a tenant is seen as an absolute last resort and every possible effort is made to assist them with their rent problems, arrears continue to accrue on the majority of possession cases which significantly impacts on rent collection performance.
  - d. The addition of the collection of rent for B&D Reside on behalf of the Housing service diverted resources temporarily. The resource for Reside collection has been reviewed for 2015/16.
- 2.18 In order to counter the pressures highlighted above, the rents team continued to take various actions to improve performance in rent collection:
- a. A review of recovery processes now ensures that avoidable arrears are minimised with the procedures agreed between the Council and Elevate. The Council's Housing team and Elevate's Rents team continue to work together to reduce avoidable debt and make process improvements.
  - b. New staff recruited to the contact centre have been trained on rents so that they can ensure that callers are fully advised on their obligation to prioritise rent payments.
  - c. Elevate has links with the Job Shop and all early stage arrears letters now carry details about how to get advice on obtaining or improving employment opportunities.
  - d. Elevate contact tenants as soon as arrears start to accrue there are also visiting campaigns were used regularly throughout the year
  - e. Elevate also increased its focus in terms of making evening telephone calls to tenants in order to get agreements to clear arrears.

## **Reside Collection Performance**

- 2.19 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 service who are the managing agent. In the last quarter, the portfolio became fully let and the total value of the collectable debt increased to over £4m. A number of issues in relation to the tenancies, which inhibited the ability to pursue debts, were resolved during the year. This meant that recovery action could be escalated to possession proceedings in the County Court and a number of evictions will subsequently took place in April 2015. At the end of March collection had reached 96.90%.

## **Leaseholders' Debt Collection Performance**

- 2.20 Leasehold collection target for 2014/15 was 97.5%, an increase of 5.7% on the 2013/14 target and reflective of previous strong collection performance. At the end of the financial year collection reached 98.83%, which was 1.33% above profile. 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.

## **General Income Collection Performance**

- 2.21 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 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 the performance of Elevate for its activities across all lines.
- 2.22 At the end of the financial year collection reached 95.35%, which was 0.35% above target.

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

- 2.23 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).
- 2.24 Collection of debt for Home and Residential Care is reported separately. The agreed measure for 2014/15 is the amount collected against the in-year debt that has been invoiced.
- 2.25 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.
- 2.26 The collection rate for Home Care by the end of the year had reached 80.02% which was 0.02% above the target.
- 2.27 The collection rate for residential care debt for 2014/15 was 89.04%.

- 2.28 The debt recovery process for these debts is similar to that of other debts, but with added recognition given to particular circumstances. In order to ensure that 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**

- 2.29 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. Elevates collection performance is measured only once a batch of warrants has expired, i.e. after 12 months. Since April 2014, 18 batches of warrants have expired for which the collection rate was 12.85%.
- 2.30 Effective collection of warrants is affected by how long it takes to obtain the warrant after the PCN is issued. On average through 2014/15 Elevate received warrants from Parking Services 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.
- 2.31 The total amount of cash collected through enforcement of road traffic warrants was £368,620.

### **Housing Benefit Overpayments**

- 2.32 By the end of quarter four of 2014/15 collection totalled £3.628m which was £397,000 above target.
- 2.33 During the third quarter central government initiated the "Real Time Information (RTI)" process; this meant that HMRC data was made available to the Department of Works and Pensions. This information was further shared with local authorities and data was matched against Council records. This has resulted in £1.32m of additional overpayments being raised from November 2014 to March 2015. This has been deemed a success by government and it has been announced that RTI will continue during 2015/16 to help ensure HB claims are kept in line with HMRC records thus ensuring that the accuracy of HB records is maximised.

### **Enforcement Agent (Bailiff) Performance**

- 2.34 Enforcement agent action is a key tool for the Council to recover overdue debts but is only one area of collection work. This action is always one of last resort. The start of the local Council Tax Support (CTS) scheme in 2013/14 meant around 13,000

additional households became liable to pay Council Tax. The additional debt recovery action seen in 2013/14 as a result of CTS has been repeated during 2014/15. 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 continues to be made progressively harder as welfare reforms take effect alongside the cumulative yearly effect of CTS on arrears leading to residents overall indebtedness increasing. This position will continue in 2015/16.

- 2.35 Information on the performance of the enforcement agents is set out in the table below by type of debt for 2014/15. It should be noted the debt recovery process for in-year collection does not reach the stage of enforcement action for Council Tax and NNDR until the second quarter.

**Table 3: Enforcement Agent Collection Rates – 2014-15**

Service	Value sent to enforcement agents £	Total collected by enforcement agents £	Collection rate
Council Tax	£5,612,131	£641,059	11.42%
NNDR	£1,457,591	£298,593.63	20.49%
Commercial rent	0.00	0.00	NA
General Income	£36,205.48	£12,221.80	33.75%

### Arrears

- 2.36 At the end of the fourth quarter across all lines of debt the total amount of arrears outstanding was £38.9m compared to £45.2m at the start of the financial year. Housing benefit overpayments arrears have increased because of the RTI government initiative described in 2.33..Other areas of debt require tracing to establish current whereabouts and processing for write off.
- 2.37 A comparison of arrears outstanding at the start and the end of the financial year is provided below:

**Table 4: Arrears Comparison Figures – 2014-15**

Debt value at date	Council Tax	NNDR	General Income	HBOP	Rents: Former Tenant	Leasehold	Rents: Current Tenants	Total
1/4/14	£18.0m	£5.5m	£2.5m	£11.0m	£2.0m	£2.20m	£4.0m	£45.2m
31/3/15	£15.8m	£4.1m	£0.61m	£13.7m	£1.4m	£31k	£3.3m	£38.9m

### Debt Write-Offs: Quarter 4 2014/15

- 2.38 All debt recommended for write off is administered within the Council’s policy by Elevate. The authority to “write off” debt remains with the Council. The value of debt recommended to the Chief Finance Officer and subsequently approved for write off during the fourth quarter of 2014/15 totalled £808,195. This is higher than in quarter three as “Former Tenant” write-offs took place during this quarter. The value and number of cases written off in quarter four is provided in Appendix A.
- 2.39 1,058 debts were “written off” in quarter four for which the reasons are set out below. The percentage relates to the proportion of write offs by value:

**Table 5: Write Off Numbers – 2014-15 Quarter 4**

<b>Absconded/not traced</b>	<b>Uneconomic to pursue</b>	<b>Debtor Insolvent</b>	<b>Deceased</b>	<b>Other reasons</b>
243 (37.7%)	605 (51.5%)	13 (0.5%)	132 (7.3%)	65 (3.0%)

(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).

- 2.40 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)**

- 2.41 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. Financial Implications**

Implications completed by: Kathy Freeman, Group Finance 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 As at year end, Elevate have exceeded collection targets for Council Tax, leaseholders and general income. This has generated an additional £1.02m of income. NNDR debts are 0.2% below target which is £120,000 less income and rents are 0.51% below target, resulting in £513,000 less rental income compared to the target.
- 3.4 The Council has written off debts of £808,195 which is significantly higher than the £85,569 written off in quarter 3 due to a large number of former tenant arrears written off. The cumulative write off for the year is £2,268,652. It is important that



bad debts are written off promptly for budgeting purposes so the Council can maintain appropriate bad debt provision.

- 3.5 The Council has initiated two projects to review previously written off debt to identify if any is now recoverable. Both exercises are on a 'no collection, no fee' basis with any monies collected shared between the Council and the collecting partner.

#### 4. **Legal Implications**

Implications completed by: Paul Feild, Senior Governance Lawyer

- 4.1 Monies owned 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 Quarters 1 2, 3 and 4 for 2014/15.
- 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 4, 2014/15