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Debt Collection Practices: potential pilot with ReachOut

1 Summary and Purpose of Report

1.1 To discuss the collection practices for council tax and other debts following the findings of the Money Advice Trust's 'Stop The Knock' research into local authority debt collection; and consider an opportunity that has arisen for a pilot with ReachOut.

2 Corporate Strategy Priority Area

2.1 Efficient services for all our residents, maintaining an effective council.

2.2 The report details the current methods used to recover debts, to ensure that income can be maximised to maintain services for residents.

3 Recommendations

3.1 Members are **REQUESTED** to consider whether the following should be recommended to Cabinet:

- 1) Subject to feedback provided at the meeting, a pilot scheme of up to 500 cases be approved whereby ReachOut are commissioned to engage with residents who are struggling with debt helping them get support to improve financial, mental and physical wellbeing, and ultimately reconnect those residents with our in-house teams in order to resolve their debts;
- 2) A review of the corporate debt recovery policy to reflect the more challenging financial position of our residents; and

- 3) Make a statement to highlight the positive actions the Council is taking to engage with residents and re-emphasise that referrals to bailiffs are only done as a last resort.

4 Introduction and Background

- 4.1 The Money Advice Trust is a national charity that helps people to tackle their debts and manage their money with confidence.
- 4.2 Recently, the Trust, in partnership with the Centre for Social Justice, has made some recommendations on how they believe councils could improve collection practices - see **[ANNEX 1]**.
- 4.3 Using information provided through a Freedom of Information request, they have stated that this Council passed 3,593 debts to bailiffs in the 2022/23 financial year – a 44% increase on pre-pandemic levels in 2018/19.
- 4.4 This includes 2,428 council tax debts, 997 parking debts and 168 other debts, including business rates, housing benefit overpayments and commercial rents. A comparison to other councils is available via their online mapping tool at www.stoptheknock.org . In terms of council tax (the largest figure) it is worth reflecting that the number of cases (2428) represents about 4% of the number of accounts.
- 4.5 They recognise the significant financial pressure that local authorities are under, and the critical importance of council tax collection in providing local services. However, they feel the use of bailiffs remains high and have published their guide 'Six steps for local authorities' on how to improve debt collection practices.
- 4.6 They were pleased to see from their findings that TMBC already take some of these steps, including signposting to free debt advice, having a vulnerability policy and exempting Council Tax Support recipients from bailiff action.
- 4.7 However, they would like us to consider if other steps can be taken to improve practices and are also recommending that all councils make a clear public commitment - in the form of a decision, motion of Full Council or public statement - to make every possible effort to reduce the use of bailiffs over time.
- 4.8 The attached Corporate Debt Recovery Policy **[ANNEX 2]** sets out the principles and processes for the collection of all types of debt at TMBC. However, given that the main focus of this report concerns enforcement action through bailiffs, in order to give some context, the following subsections 5 and 6 give Members a flavour of the collection practices for council tax and parking services which do necessarily rely more heavily on the use of bailiffs at the latter stages of recovery.

5 Collection practices for Revenues & Benefits debts

- 5.1 Over the past 5 years, the Council has achieved excellent collection rates for council tax and business rates, regularly being the highest in Kent. The average collection rate for this period is 98.2% for council tax and 98.9% for business rates.
- 5.2 It should first be recognised that bailiffs are an invaluable part of the recovery process, and on many occasions, they are often the first to realise a taxpayer is vulnerable and need help. That's why the enforcement agents employed by the Council have a policy that deals with vulnerable people and they are obliged by law to return cases to us where the vulnerability is genuine.
- 5.3 That being said, a lot of work is done after a court order is obtained to find alternative methods of recovery, and only those that have no alternative get passed to the bailiffs. Here's a list of what we do:
- Summons is issued with a monthly repayment plan if they are unable to make the payment in full. If payment is made as agreed, or in full then no further action is taken with the liability order.
 - If taxpayers are unable to make the monthly repayments, then they contact us by phone/email etc and we can look at extending the instalments based on their individual/personal circumstances. We advise them to claim Council tax Reduction (CTR) or speak to a free debt agency such as StepChange.
 - If no payment is made on the account, then a broken arrangement letter is sent, asking for them to bring the account up to date. If payment is made, the arrangement continues, no further action taken.
 - If no payment is made after the broken arrangement letter is sent, then the arrangement is cancelled. An information request letter is sent out.
 - Once an information request form or offer of payment is received, we liaise with the Taxpayer to set up an arrangement on the account, again discuss CTR if not claiming, suggest applying for an Exceptional Hardship Payment (EHP) and free debt advice etc. If payments are made as agreed no further action taken.
 - If there is no contact from the Taxpayer then a 7 day letter is sent advising the matter could be passed to the bailiffs.
 - The Recovery team also gets a list of all accounts that could be sent to the bailiffs. This list is checked to see what other recovery options are available, for example deductions from benefits (not disability) or attachment of earnings. The team would also try to email the taxpayer if we

have details and check if there is any outstanding correspondence that could affect the amount due.

- If there is no response at all, it is at this point we send the case to the bailiffs. Accounts that are excluded are where taxpayers are in receipt of JSA/ESA and have small balances below £55.00.
 - If Taxpayers come to us if they are having difficulty communicating with the bailiffs then we do occasionally liaise on their behalf to put a payment arrangement in place. Sometimes bailiffs need further information regarding welfare etc before making a decision on the account.
- 5.4 Recovery of housing benefit overpayment (HBOP) debt is also going well, and the DWP has recently said we are doing 'a fantastic job' in all aspects of housing benefit administration.
- 5.5 An enforcement agent is used to assist us with recovering these HBOP debts, but they only send letters and do not have agents visiting properties. This is done at no cost to the Council.
- 5.6 Unfortunately, the effects of the cost of living crisis are still being felt by many residents of the borough and with the ever increasing population, this has resulted in a higher amount of cases being sent to our bailiffs.
- 5.7 As can be demonstrated from the list of steps taken, we give taxpayers multiple opportunities to contact us before we consider passing cases to the bailiffs.
- 5.8 Members may have seen the recent article from Martin Lewis (MoneySavingExpert) regarding what he calls 'Aggressive council tax debt collection practices'.
- 5.9 He mentions that Councils can take court action after a taxpayer misses just one payment, which is factually correct as the legislation allows this. However, to recognise the financial/personal difficulties that taxpayers are experiencing, we have chosen to add an extra step into our recovery process. This gives residents two opportunities to contact us, discuss their situation and put an affordable payment plan in place.
- 5.10 If taxpayers choose to engage, we do everything we can to assist them and signpost them to other agencies that may be able to support them. Unfortunately, on a lot of occasions, taxpayers do not engage with us, and in the absence of any information regarding who they work for, we have no alternative way of collecting debts.

6 Collection practices for Parking

- 6.1 Tonbridge & Malling Borough Council use Enforcement Agents for the recovery of debts related to outstanding Penalty Charges – though we go beyond the statutory requirement to consider challenges by inviting informal challenges before the Notice to Owner stage of enforcement, and consider any mitigation offered.
- 6.2 However, when Penalty Charges are not paid they escalate in accordance with the statutory processes and are then registered as a debt.
- 6.3 If, at any time through the process, we are notified that the responsible person is in financial difficulties to the point that they apply for “breathing time” we place cases on-hold to allow time for them to address their obligations.
- 6.4 We also ask that our Enforcement Agents carry out assessment of the responsible person’s ability to pay and whether they would be considered to be vulnerable.
- 6.5 However, it remains that the whole process is instigated by the responsible person not adhering to their legal requirements as a driver, and could have been avoided by taking appropriate actions that the majority of the public see as the norm, and the accrual of associated debts for parking is wholly avoidable, either by parking correctly or by prompt settlement of penalty charges.

7 Proposal

- 7.1 As already mentioned, the Money Advice Trust acknowledges we already take some of their suggested steps to reduce referrals to bailiffs; however, there are some other areas that could be considered.
- 7.2 A formal policy covering residents in vulnerable circumstances is included in the Corporate Debt Recovery policy (see **ANNEX 2**). This was last reviewed in January 2022, so it is suggested that a review of this policy takes place to reflect the more challenging financial position of our residents.
- 7.3 In respect of taking steps to understand household circumstances, an opportunity has arisen to work with an organisation called ReachOut (see **ANNEX 3**).
- 7.4 Their aim is to engage with residents who are struggling with debt and help them get support to improve financial, mental and physical wellbeing. Residents are then reconnected with our teams to resolve their debts.
- 7.5 ReachOut charge a flat fee of £7.50 for each account referred to them and have suggested a pilot scheme of 1,000 accounts. They have stated that, for Walsall's return, for every £7.50 spent they saw £97 back in month one alone.
- 7.6 At the time of writing this report, a follow up conversation has been arranged on 5 November to discuss what can be done. Feedback will be provided to Members on the night of this meeting.

- 7.7 The final point for Members to consider is whether to make a clear public commitment to reduce the council's use of bailiffs over time.
- 7.8 As already mentioned, numerous steps are already in place to limit the number of cases we send to bailiffs. However, with the other options to be considered, Members may wish to make a statement to highlight the positive actions we take to engage with residents and that referrals to bailiffs are only done as a last resort.

8 Other Options

- 8.1 A further recommendation made by the Money Advice Trust is to adopt the Standard Financial Statement (SFS) to assess a person's ability to pay their debts.
- 8.2 This was discussed by the Kent Revenues Group many years ago, and the consensus at the time was that the statement was geared heavily towards residents and may affect the ability of local authorities to collect debts. The Council designed its own form for use in these circumstances and this form is still in use today.
- 8.3 Our own financial statement, in my opinion, gives a better understanding of a person's ability to pay debts and it is suggested we do **not** move to the SFS (which only 55 local authorities have so far done).
- 8.4 Finally, the Trust seeks support from councils generally in making a clear public commitment to reduce the use of bailiffs over time. Whilst of course we would like to see the need for enforcement work reduce, making such a commitment could jeopardise the Council's ability to collect debts. As Members are aware, the Council has a good collection rate and is one of the top performing councils in Kent. In my opinion, making this commitment could jeopardise that position and thereby put financial stress on the Council.

9 Financial and Value for Money Considerations

- 9.1 A pilot scheme of 1,000 cases with ReachOut will cost £7,500, which would have to be met fully by the Council. Members may wish to consider a reduced pilot of, say, 500 cases should this be an acceptable option. Funding of circa £3,750 can be met from an existing local revenue and NNDR collection budget.
- 9.2 The Council has good collection performance and use of bailiffs is only one tool in our recovery processes. Restricting the use of certain recovery processes could impact on collection performance and thereby the financial position of the Council.

10 Risk Assessment

- 10.1 The only perceived risk is potential negative press by not considering other options to reduce the amount of cases being sent to bailiffs.

10.2 Striking the right balance on the range and stages of recovery processes is important for both Council and its residents. The Council has a duty to collect public monies and restricting the use of certain processes could have an impact on finances.

11 Legal Implications

11.1 None

12 Cross Cutting Issues

12.1 Equalities and Diversity

12.1.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

12.2 Other If Relevant

- None

Background Papers	None
Annexes	Annex 1 – Money Advice Trust report Annex 2 – Corporate Debt Recovery Policy Annex 3 – ReachOut pilot scheme