

Report to:	EXECUTIVE CABINET
Date:	13 February 2019
Executive Member/ Reporting Officer:	Councillor Bill Fairfoull – Deputy Executive Leader Ilys Cookson – Assistant Director Exchequer Services
Subject:	PROPOSED INCREASE IN RECOVERY COSTS
Report Summary:	The report reviews the costs of the recovery of council tax and business rates, and considers an increase in the long term empty property charge in accordance with the current recovery activities, which have occurred since costs were last increased, and the position in terms of summons costs across the Greater Manchester area. The review proposes an uplift in summons costs to be recommended to the Tameside Magistrates' Court who ultimately have to approve in accordance with legislation.
Recommendations:	That Members be requested to approve an application to the Magistrates to set the following: <ul style="list-style-type: none"> (i) the cost of a Council Tax summons to be increased from £81.50 to £86 from 1 April 2019, and, (ii) the cost of a Business Rates summons to be increased from £123.50 to £129 from 1 April 2019.
Corporate Plan:	The collection of all monies due contributes to the corporate governance theme as it is important to maintain high level of collection to fund vital services in the Borough.
Policy Implications:	The Council also has a duty to ensure that those who do pay their liabilities do not subsidise recovery costs of those that do not pay. Therefore there is a balance in being fair and not seeking to punish those who are genuinely struggling to pay.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	The increase in summons fees reflects the cost of taking debtors to court. If the increase is not approved by magistrates, this will present a pressure on the council budgets.
Legal Implications: (Authorised by the Borough Solicitor)	Whilst it is appropriate to benchmark with other local authorities, the key test in these circumstances is to evaluate the cost of the process to the Council, and request that the cost of the summonses be set accordingly. The suggested increase in costs would appear to be modest, but the magistrates will need to be satisfied that it is reasonable to recover the costs of enforcing non-payment, which the debtors have already been given the opportunity to pay, as demonstrated in appendix one of the report. Should this be approved by members and magistrates, the costs to a non-payer should be built into the warning given before issue of the summons as an incentive to either pay or come to an acceptable arrangement with the Council.
Risk Management:	The setting of summons costs requires the approval of local Magistrates. There is a risk that Magistrates will not approve

the increase in costs however supporting evidence is available.

Background Information:

The background papers relating to this report can be inspected by contacting Ilys Cookson, Assistant Director Exchequer Services:

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1. BACKGROUND

- 1.1 Exchequer Services play a vital role in collecting monies owed to the Council. The collection of monies is of paramount importance particularly as council tax and National Non-Domestic Rate (NNDR), also known as business rates, are the main sources of income to the Council. Sundry debts are also collected from residents or business rate payers for a range of services provided by the Council.
- 1.2 Council tax is collected from 102,223 properties with a current estimated collectable debit for 2018/19 of £104.123m. Business rates are collected from 7,576 business rates payers with a current estimated collectable debit for 2018/19 of £58.86m. Council tax collection in the year in which the debt is raised averages 94.0% and business rates collection in year averages 96.4%.
- 1.3 Summons costs are currently set as £81.50 for council tax and £123.50 for business rates.
- 1.4 This report proposes options to increase recovery costs in respect of the recovery of council tax and business rates and, subject to agreement from Executive Cabinet to seek approval from by Magistrates to increase costs from 1 April 2019.

2 INTRODUCTION

- 2.1 Each year the Council has to take recovery action to recover council tax and business rates debts through the Magistrates Courts. From April 2017 to end of March 2018 in excess of 26,000 council tax summonses were issued plus over 19,608 for council tax from 01 April 2018 to October 2018, with a combined summons debt value of 9.7m and summons costs totalling £976k. In respect of business rates in excess of 679 summonses have been issued from 01 April 2018 to October 2018 with a value of £3m and summons costs totalling £21k. Arrears continue to be recovered until such time that the debt is repaid, and which can take several years.
- 2.2 A charge is levied against any debtor who is summonsed to the Magistrates Court, which was set at £84.00 for council tax and £126.00 for business rates from April 2017 and which was comparable with other Greater Manchester authorities. Part of that cost also includes a fee charged for issuing each summons. It is a straight passported cost or disbursement made by the Council to the court and charged to the debtor. In July 2018 the Ministry of Justice (MoJ) announced that they had overcharged for a range of fees for applications to the Courts on various matters such as appeals, certified copy document and applications for liability orders. Summons costs had to be reduced accordingly to £81.50 for Council Tax and £123.50 for business rates with effect from 27 July 2018.
- 2.3 In accordance with Council Tax (Administration and Enforcement) Regulations 1992 Magistrates approve summons fees charged by authorities in respect of issuing a summons to Court for non-payment. Tameside last requested Magistrates approved summons costs in February 2017 after the Executive Cabinet approved an application to the Magistrates to increase summons fees charged. Prior to 2017 summons fees in Tameside had not been increased for a number of years as salaries of staff had been frozen. In accordance with the Council Policy framework the costs are reviewed annually.

3 RECOVERY

- 3.1 The majority of people who owe money to the Council do pay regularly and on time, however, there are some who either do not pay or pay late or make payment arrangements which subsequently fall into arrears or deliberately evade attempts to recover monies due as with the recovery of any monies owed.

- 3.2 Common to both council tax and business rates is the use of alternative name or alias or by simply leaving the business premises or residential address without trace. Lengthy and costly tracing procedures are implemented to trace the whereabouts of the debtor in order to recommence payment negotiations and recovery of monies owed.
- 3.3 In the case of business rates debtors, it is common to liquidate one company and then immediately open another under a slightly different registered company name. Such practice takes considerable resource to determine company status in cases of non-payment or evasion of payment of any business rates altogether, as legislation prevents the recovery of debts from liquidated companies and the debt then has to be written off. A number of other such practices exist including leasing or renting premises to fictitious tenants.
- 3.4 Recovery action in the above cases are challenging, lengthy and costly and administered in accordance with legislation and within the prescribed timescales. Exchequer staff are proactive in recovering all monies owed and continue to collect monies on all debts from the year 2000 onwards. A reminder is issued to anyone in arrears and, if non-payment continues, then a summons is issued for a hearing at the local Magistrates Court whereby the Council seeks to protect its interests in recovery of the debt by requesting that Magistrates grant a Liability Order against the debtor.
- 3.5 The granting of a Liability Order enables the Council to recover the debt in other ways such as via the engagement of an enforcement agent, or in the case of council tax, by an attachment of benefit or earnings and so the debt is recovered at source in accordance with nationally set deduction rates set. Other methods of recovery which may be used are to pursue charging orders on property or making a debtor bankrupt. Both of these methods are less common and ultimately the debtor can be imprisoned for continued non-payment where it can be demonstrated that there has been culpable neglect or wilful refusal to pay. However, this is not a common method of recovery as the Council prefers to work with debtors rather than pursue committal to prison. The Council encourages payment at every opportunity to avoid the issues of recovery documents which incur costs.
- 3.6 It is the role of council tax and business rates staff to collect all monies due, however at each step of the recovery process advice is available to anyone in arrears and signposting to appropriate agencies is undertaken for those with significant debt problems.
- 3.7 The Council also has a duty to ensure that those who do pay their liabilities do not subsidise recovery costs of those that do not pay. Therefore there is a balance in being fair and not seeking to punish those who are genuinely struggling to pay.

4 SUMMONS COSTS

- 4.1 The overall cost of recovery of council tax and business rates is reviewed each year to ensure that the costs of recovery are current and levied against debtors in accordance with the Council Tax (Administration and Enforcement) Regulations 1992 Regulation 34 and business rates, in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, Regulation 12 (6).
- 4.2 The Council incurs considerable cost in recovering overdue monies by way of taking recovery action. Some of the tasks associated with recovery are listed below. The list is not exhaustive:
- Issue of recovery documents,
 - Addressing communications calls from debtors,
 - Attending Magistrates Court to seek Liability Orders,
 - Providing advice on benefits including eligibility checks and correct entitlement checks to existing benefit claimants,

- Responding to complaints from debtors,
- Liaison with enforcement agents,
- Liaison with employers in respect of attachment of earnings,
- Liaison with the Department of Work and Pensions (DWP) in respect of attachment of benefits,
- Attending Magistrates Court where the debtor has failed to provide information on earnings or benefits after a Liability Order has been granted,
- Considering individuals income and expenditure to determine ability to pay,
- Signposting debtors in significant debts to agencies that can offer money advice

4.3 The above does not include the costs of recovery in terms of document production, mailing costs, IT system upgrades for recovery, telephony equipment, payment to the Court for the summons, accommodation, and staffing costs.

4.4 Summons costs were last uplifted with effect from 01 April 2017 to £84.00 for council tax and £126.00 for business rates, which was comparable to other Greater Manchester local authority recovery costs. Since then salaries and wages and national insurance contributions have increased, postage charges have increased each year, and a new franking machine had to be purchased at the expiration of the previous obsolete franking machine, increase in inflation and increased cases where the debtor attempts to deliberately avoid payment.

4.5 The Council is able to recover reasonable costs of recovery as legislation states that the local authority is entitled, under Council Tax (Administration and Enforcement) Regulations 1992 reg.34(8) and the Non-Domestic Rating Collection and Enforcement Local Lists Regulations 1989 regulation 12 (6)(b); to seek costs which are:

‘a sum equal to the costs reasonably incurred by the applicant billing authority in obtaining the order’.

4.6 Therefore some of the costs of recovery incurred in respect of obtaining the Liability Order can be recovered from the debtor via summons costs. Staffing costs, IT and system costs, supplies and services, support costs and overheads may be included in the calculation to determine the costs of recovery incurred resulting in the issue of a summons and request to the Magistrates to grant a Liability Court.

4.7 It is appropriate to consider costs across the Greater Manchester region when considering any increase in summons costs, to ensure that we remain efficient and effective in undertaking recovery. That said it is acknowledged that costs will differ in each local authority. **Appendix 1** details the costs by authority.

4.9 The actual calculation of costs taking into account the factors detailed in paragraphs 4.4 and 4.6 results in a proposed increase in summons costs as follows:

Council Tax		Business Rates	
Current £	Proposed £	Current £	Proposed £
81.50	86.00	123.50	129.00

4.10 Although the increase is modest it does reflect the increase in recovery activity undertaken by the Council and for which the Council would bear the cost if summons costs do not increase. **Appendix 2** details the calculation of the costs.

4.11 Any decision to increase summons costs ultimately rests with local Magistrates, however Elected Member agreement is sought prior to seeking formal approval.

5 CONCLUSION

- 5.1 The Council Tax (Administration and Enforcement) Regulations 1992 Reg.34 and business rates, in accordance with the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, Reg.12 (6) makes clear that local authorities can recover reasonable costs of recovery by charging a cost for the issue of a summons.
- 5.2 Many business rates and council tax payers pay their bill without delay, however there are an increasing number of individuals who do not pay, repeatedly pay late or attempt to evade payment where possible.
- 5.3 Recovery action is expensive; the costs of which should be borne by the debtor and not by those that do pay.
- 5.4 Tameside last increased summons costs for both council tax and business rates in April 2017 and currently has low costs when compared to other Greater Manchester authorities.
- 5.5 A number of events have occurred which has subsequently increased the number of summonses issued. A full review of recovery costs has taken place and the proposal is to increase summons cost for both business rates and council tax debtors, with effect from 01 April 2019, subject to approval.

6 RECOMMENDATIONS

- 6.1 As set out at the front of the report.

APPENDIX 1

CURRENT SUMMONS COSTS BY AUTHORITY 2018/19

(The table does not include proposed costs for 2019/20)

Authority	Council Tax	Business Rates
Bolton	81.50	123.50
Bury	85.50	117.50
Manchester	79.50	102.50
Oldham	72.50	91.50
Rochdale	101.50	123.50
Salford	79.50	79.50
Stockport	77.50	107.50
Tameside	81.50	123.50
Trafford	92.50	132.50
Wigan	62.50	97.50
Average	81.40	109.90

APPENDIX 2

COUNCIL TAX

COSTS	Total Expenditure	Costs Per Summons
Staffing	£1,198,019.00	£71.08
IT Costs	£48,570.00	£2.88
Supplies & Services	£198,346.00	£11.77
Total Direct Costs	£1,444,935.00	£85.73
Liability Order fee *	£17,577.00	
	-£10,980.00	£0.50
	£6,597.00	
TOTAL	£1,451,532.00	£86.23

*Calculation based on order fee costs of £3.00 up to July 2018 and £0.50 thereafter
 - Average number of Summons 16,853 per annum

NNDR

COSTS	Total Expenditure	Costs Per Summons
Staffing	£59,789.00	£80.61
IT Costs	£26,237.00	£35.38
Supplies & Services	£9,907.00	£13.36
Total Direct Costs	£95,933.00	£129.35
Liability Order fee *	£1,469.00	
	-£1,317.00	£0.50
	£152.00	
TOTAL	£96,085.00	£129.85

*Calculation based on order fee costs of £3.00 up to July 2018 and £0.50 thereafter
 - Average number of Summons 742per annum