

Report To:	EXECUTIVE CABINET
Date:	8 February 2017
Executive Member/ Reporting Officer:	Councillor Jim Fitzpatrick, First Deputy - Performance and Finance Ilys Cookson, Assistant Executive Director – Exchequer Services
Subject:	PROPOSED INCREASE IN RECOVERY COSTS
Report Summary:	The report reviews the cost of the recovery of monies in respect of council tax and business rates, considers current recovery activity and associated costs, events 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 approved by Magistrates in accordance with legislation.
Recommendations:	Executive Cabinet are requested to consider recommending to the Tameside Magistrates' to set the following recoverable costs: <ol style="list-style-type: none"> 1. a Council Tax summons to be £84.00 from 1 April 2017, and, 2. a Business Rates summons to be £126.00 from 1 April 2017.
Links to Community Strategy:	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 Section 151 Officer)	The cost of raising liability orders for both Council Tax and Business Rates has been identified to be £84 and £126 respectively. By increasing the costs to these levels ensures that full recovery of any costs incurred is achieved.
Legal Implications: (Authorised by the Borough Solicitor)	It is reasonable and rational range of responses for an authority to seek to recover the actual cost of raising liability orders.
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.
Access to Information:	For background information contact the report author: Ilys Cookson – Assistant Executive Director Exchequer Services



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1. BACKGROUND AND INTRODUCTION

- 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 101,500 properties with a current estimated collectable debit for 2016/17 of £92.5m. Business rates are collected from 7,200 business rates payers with a current estimated collectable debit for 2016/17 of £62m and approximately £50m is collected from over 30,000 invoices on an annual basis. Council tax collection in the year in which the debt is raised averages 94.4% and business rates collection in year averages 96.2%.
- 1.3 Each year the Council has to take recovery action to recover council tax and business rates debts through the Magistrates Courts. From April 2016 to December 2017 in excess of 1,000 summonses have been issued with a total arrears value of £5.3m for business rates, and more than 16,000 with a value of £8.6m in respect of council tax for the same period. Arrears continue to be recovered until such time that the debt is repaid, and which can take several years.
- 1.4 A charge is levied against any debtor who is summonsed to the Magistrates Court, which is currently £75.00 for council tax and £94.00 for business rates. These costs have not increased despite the costs over a number of years. It is the potential uplift in the cost of the summons that is the subject of this report.

2 RECOVERY

- 2.1 The majority of people who owe money to the Council do pay regularly and on time. However as with recovery of any monies owed, 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.
- 2.2 In the case of business rates debtors, it is becoming increasingly 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.
- 2.3 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.
- 2.4 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.
- 2.5 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 prescribed

deduction rates set. Other methods of recovery which may be used are to pursue charging orders on property or making the debtor bankrupt, although these 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.

- 2.6 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. 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.

3 SUMMONS COSTS

- 3.1 A full review of the overall cost of recovery of council tax and business rates has been undertaken, to ensure that the costs of recovery are current and levied against debtors in accordance with 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).

- 3.2 Each year 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
- 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

- 3.3 Added to the above tasks are the costs of recovery in terms of document production, mailing, IT system upgrades for recovery, telephony equipment, payment to the Court for the summons, accommodation, and staffing costs.

- 3.4 Since summons costs were last increased in 2012, a number of events have occurred; some of which has increased the amount of recovery work and the issue of a summons as follows:

- The introduction of the Council Tax Support Scheme in April 2013 saw almost 9,000 residents having some council tax to pay for the first time,
- Business Rates Retail Relief was withdrawn by the government from April 2016 and so many business rates payers have more to pay,
- Increase in cases where the debtor attempts to deliberately avoid payment,
- Employer national insurance contributions have increased,
- Increase in inflation

- 3.5 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 reg 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’.

- 3.6 This means that some of the costs 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.
- 3.7 In considering a potential increase in summons costs it is appropriate to consider costs across the Greater Manchester region, however it is acknowledged that costs will differ in each local authority. In terms of council tax the lowest summons costs are £65.00 and the highest is £104.00. The lowest charge for a business rates summons is £82.00 and the highest is £124.00. The average council tax summons cost across Greater Manchester is £83.00 and average business rates summons is £110.00.

Authority	Council Tax	Business Rates
Bolton	82	121
Bury	88	120
Manchester	82	105
Oldham	75	94
Rochdale	104	124
Salford	82	82
Stockport	80	110
Trafford	95	135
Wigan	65	100
Average	83.66	110.11

- 3.8 The actual calculation of costs taking into account the factors detailed in paragraphs 3.4 and 3.6 results in a proposed increase in summons costs as follows:

Business Rates		Council Tax	
Current £	Proposed £	Current £	Proposed £
94.00	126.00	75.00	84.00

Further detail is set out below:

COUNCIL TAX COSTS PER SUMMONS	TOTAL EXPENDITURE	COSTS PER SUMMONS AVE 17,265 PA
STAFFING	1,137,762	1,137,762
IT COSTS	48,010	2.78
SUPPLIES AND SERVICES	219,371	12.71
LIABILITY ORDER FEE- £3 PER ORDER	51,795	3.00
TOTAL	£1,456,938	£84.39

NNDR - COSTS PER SUMMONS	TOTAL EXPENDITURE £	COSTS PER SUMMONS - AVE 856 PA £
STAFFING	55,371	64.71
IT COSTS	38,636	45.15
SUPPLIES AND SERVICES	11,831	13.83
LIABILITY ORDER FEE - £3 PER ORDER	2,568	3.00
TOTAL	108,405	126.69

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

4 CONCLUSION

- 4.1 Legislation makes clear that local authorities can recover reasonable costs of recovery by charging a cost for the issue of a summons. While many business rates and council tax payers pay their bill without delay, there are an increasing number of individuals who do not pay, repeatedly pay late or attempt to evade payment where possible. Recovery action is expensive; the costs of which should be borne by the debtor and not by those that do pay. Tameside last increased summons costs for both council tax and business rates in 2012 and currently has low costs when compared to other Greater Manchester authorities. 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 1 April 2017.

5 RECOMMENDATION

- 5.1 As set out on the front of the report.