

APPENDIX

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Local Government Finance
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20th Sept 2005

ROCHFORD DISTRICT COUNCIL

ENFORCEMENT SERVICES

REPORT

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ROCHFORD DC ENFORCEMENT SERVICES REVIEW

SUMMARY

This review has been undertaken as part of Rochford's objective to achieve Best Practice in relation to debt enforcement. The exercise has used information provided by interviews and discussions with the relevant officers in Rochford's Revenues and Benefits Section, together with a study of documented performance and supporting evidence. Existing custom and practice has been examined to ensure that enforcement procedures comply with the legal framework governing local taxation and the requirement that financial administration must be properly robust to satisfy the statutory obligations of the designated finance officer under s.151 of the Local Government Act 1972.

Documented policies have already been developed and adopted in relation to various aspects of debt enforcement and where this is so, these have been considered and are referred to in the following paragraphs.

There are eleven recommendations listed at paragraph 6 below. More details of each are provided in the individual reports attached.

1. The review covers the following:
 - ❖ Effectiveness of enforcement services and options for future service provision.
 - ❖ Policy on tracing debtors
 - ❖ Provision of bailiff services
 - ❖ Committal policy
 - ❖ Policy on writing-off of debts
 - ❖ Systems Security policy
2. The following documents are provided:
 - (i) Local Taxation Collection and Enforcement
 - Appraisal of current service
 - Bailiff Services
 - Options for Bailiff Service Delivery
 - (ii) Code of Practice for Enforcement Officers (Bailiffs)
 - (iii) Benefits Overpayments and Other Income – Appraisal of current service
 - (iv) Tracing Debtors – procedure

- (v) Local Taxation Debts - Committals Policy
- (vi) Write-Off procedure

3. The categories of debts included in the review are:

- ❖ Council Tax
- ❖ Non-Domestic Rates
- ❖ Housing Benefit Overpayments
- ❖ Sundry Income

4. Corporate Debt Policy

Rochford's Corporate Debt Policy was approved and adopted by members in January 2004. The policy is subsidiary to the Council's Social inclusion Policy. This provides a comprehensive approach to corporate debt across services. The conclusions on which that policy was based remain valid today and it would be premature to make any strategic changes in the policy. Officers should consider whether the organisation is operating with the degree of inclusiveness that is envisaged by the policy document but this is essentially a matter for management judgement.

5. Write-Offs policy and procedures.

Rochford adopted a Corporate Write-Offs policy in January 2004. Although this falls under the high level Social Inclusion Policy it is principally a strategic document requiring each service to have its own procedures in place. An outline procedure document is provided.

6. Recommendations:

- ❖ Recommendations are summarised as follows:
 - (i) Contracted NDR administration service to be closely monitored and local taxation collection (council tax and NDR) to be published monthly in the Members Bulletin;
 - (ii) Exploratory discussions with neighbouring councils, for partnership working on council tax collection, should be taken forward;
 - (iii) The external Bailiff Service to be market-tested with a view to letting a contract to a single service provider;
 - (iv) A Bailiff's Code of Practice to be adopted;

- (v) Collection of Housing Benefits Overpayments performance to be monitored for future review;
- (vi) Recruitment of an additional member of staff on Benefits Overpayments and other income to be considered, or inclusion in the external bailiff services specification;
- (vii) Liaison arrangements with service providers in relation to sundry income should be checked and advice issued as appropriate;
- (viii) Tracing services to be reviewed with specific reference to use of the Experian service;
- (ix) Write-offs policy procedure to be documented;
- (x) Committal policy to be approved and procedures documented;
- (xi) Systems Security procedures to be enhanced by use of smart-card keyboard locks.

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ROCHFORD DC APPRAISAL OF CURRENT SERVICE Local Taxation – Collection and Enforcement

Local Taxation Collection

The enforcement services as currently structured are achieving satisfactory results in relation to local taxation debt collection. Council Tax collection is significantly above average and Rochford is one of the highest performing authorities in Essex in terms of in-year council tax collection, as shown by the 2004/05 Collection Results published by the ODPM (Office of the Deputy Prime Minister). (See Table 1 below).

Table 1 and Table 2 also show that in 2004/05, Non-Domestic Rates (NDR) collection was below average both in relation to national and local comparisons. However, the council, on advice of its officers has already taken action to address the administration issues which may be expected to play a part in correcting this position. This action is further discussed below.

TABLE 1. Council Tax and NDR Collection Rates – Essex Billing Authorities

	<u>Council Tax</u>		<u>Non-Domestic Rates</u>	
	Receipts of council taxes as a % of net collectable debit		Receipts of non-domestic rates as a % of net collectable debit	
	2003-04	2004-05	2003-04	2004-05
ESSEX				
Basildon	96.5	96.6	99.0	99.1
Braintree	97.7	97.6	97.4	94.8
Brentwood	98.0	97.9	99.3	98.7
Castle Point	98.1	98.0	99.6	99.4
Chelmsford	97.5	98.1	98.6	99.3
Colchester	98.5	98.6	99.4	99.3
Epping Forest	97.1	97.6	98.1	98.7
Harlow	95.3	94.4	95.8	99.4
Maldon	98.3	98.1	97.1	97.7
Rochford	98.9	98.6	98.1	97.7
Tendring	97.6	97.6	99.2	98.9
Uttlesford	99.0	98.8	99.5	99.9
Southend-on-Sea	96.9	97.0	98.6	98.0

TABLE 2. Council Tax and NDR Collection Rates – All England Averages

	Council Tax		Non-Domestic Rates	
	2003/2004	2004/2005	2003/2004	2004/2005
TOTALS				
England	96.5	96.6	98.3	98.3
London boroughs	94.1	94.4	98.4	98.3
Metropolitan districts	95.6	95.7	97.8	97.9
Unitary authorities	95.5	95.8	97.8	98.1
Shire districts	97.8	97.8	98.6	98.7

Source - ODPM Collection rates for English local authorities for 2004/05 published 23 June 2005

Council Tax collection performance

Collection of council tax continues beyond the financial year to which the council tax relates which means that the final collection rate achieved is somewhere between the figures shown here and 100%. Rochford's ultimate collection will be in the region of 99% leaving little room for further improvement. However, the presentation of collection performance in a comparative table is helpful in maintaining the incentive to perform and is consistent with the concept of continual improvement which underlies Best Value. Despite the existing high level of achievement Rochford should not be complacent over its high standing in the comparative performance table as a fall in performance or in position in future years would give cause for concern.

Rochford does set stringent 3-year targets for in-year collection and these currently are:

2005/06 99.0%
 2006/07 99.1%
 2007/08 99.2%

The emphasis is on continuing improvement of in-year collection which should be expected at the very least to maintain the present level of achievement. Although the advantages from effective council tax collection are shared with the major precepting authorities, Essex County Council, the Police Authority and the Fire and Rescue Service through the payment of council tax income into the Collection Fund, the council taxpayers to whom this is a positive benefit are

Rochford's residents. As well as satisfying the council's statutory responsibilities, it is in the interests of the residents for the council to maintain the current level of performance but it is a matter for judgement of priorities as to the cost benefit of any additional investment.

Collection performance is currently reported to members on a quarterly basis by formal report. This may be too infrequent, but on the other hand, the use of a formal report to committee may be unnecessary when provided for information only and if no discussion by members is required. It is recommended that collection statistics, are compiled each month, with comparison against the same month in the previous financial year. This information should be published in the Members Bulletin on a monthly basis with a report to Committee only required if exceptional circumstances arise.

Rochford's managers are currently exploring the feasibility of Joint Working with Chelmsford BC and Maldon DC for the Council Tax Collection Service. Partnership working of this nature has much to recommend it with efficiency gains likely to arise from the economies of scale provided the cost of implementing the change can be managed within acceptable budget constraints. Cost savings should be attainable over a reasonable forward period. It is too soon to comment on the likely outcome but this approach is an important initiative that is entirely in keeping with Government objectives. The timescale for implementation of such a service should not preclude immediate action in relation to other aspects of enforcement service improvement.

NDR collection performance

NDR collection in the last financial year was below average. In noting that fact it is also true that Rochford has a comparatively small number of non-domestic hereditaments (approximately 1,900 rateable properties) and therefore a small number of unpaid rates on large properties can have a disproportionate affect on the statistical arrears total. However, Rochford has acted to remedy any shortcomings in NDR administration by contracting NDR operations (excluding post-liability order debt collection) to Chelmsford Borough Council. A six month pilot has been successfully completed and a two-year rolling contract has now been agreed. The objective of this arrangement is to improve performance through partnership and sharing of resources. This is an innovative approach designed to overcome the difficulty faced by many small billing authorities of acquiring and retaining NDR expertise. Rochford will want to see an improvement on the collection performance of previous years and is currently undertaking monthly monitoring of in-year collection.

Stringent 3-year targets for in-year collection have been and these currently are:

2005/06 98.2%
2006/07 98.4%
2007/08 98.8%

Losses on collection of NDR (amounts written-off) are charged against the national rates pool but subject to confirmation by the external auditor that the authority has made proper arrangements for securing economy, efficiency and effectiveness in relation to the collection of non-domestic rates.

It is recommended that monthly collection statistics, compared against the same month in the previous financial year, are published in the Members Bulletin together with similar statistics for council tax collection.

Arrears Collection and Bailiff Services

Arrears collection is undertaken by a small but dedicated team of well-motivated staff using direct contact with debtors and employing contract bailiffs.

The use of bailiffs to recover outstanding council tax and business rates is considered to be very much a last resort and only used after the Council has issued reminders, a final notice and applied to the Magistrates Court for a liability order. Other methods of collection, such as Attachments of Earnings or Attachments of Benefits for council tax are also considered.

Bailiff services are provided primarily by Hammond Hillman Ltd of Southend with out of district work passed to Philips Collection Services Ltd of Darlington, Co Durham.

Many bailiff companies operate technology that allows customer authorities to have instant access to all cases on the bailiff's computer systems. System communications of this nature allow the council to update changes to balances or stop action immediately on appropriate cases. Cases are passed in an electronic format, which enables the bailiffs to initiate their recovery process much more quickly.

However, the more work done at the earlier stages of an arrears case is important in ensuring that fewer cases are passed to the bailiff. This prevents bailiff recovery charges being added to the debt which is not only detrimental to the debtor but can impact on the taxpayer or ratepayer's ability to pay ongoing liabilities.

Responsible bailiff companies will themselves seek to reduce the additional costs added to the cases by allowing the debtor to offer a repayment arrangement at most stages of recovery therefore concentrating on residents whom simply ignore requests for payment or alternatively refuse to pay. In recent years Bailiff Companies have introduced numerous payment methods, which offer a more efficient and convenient way to make payment. These include: giro payment cards payable at post offices throughout the UK; payment at council offices; payment by debit and credit card over the telephone and web payment facilities.

Bailiffs are only used as a last resort when all other requests for payment have been ignored.

Officers express satisfaction with the service from Hammonds although there are some features of the service that could benefit from enhancement, specifically an electronic interface with the bailiff. The liaison with Hammonds is largely paper-based.

There appears to be dissatisfaction with the service from Phillips, although Phillips are a nationwide company and are one of the largest bailiff companies working for local authorities and Government Departments. The perceived lack of service may relate to the scale of work provided by Rochford, rather than due to any deficiencies with the company. If so, this could be addressed by a single contract putting both in-district and out-of-district cases with the same firm. The volume of debts that Rochford has reaching the bailiff stage is not excessive and may make a single, nationwide contract, more attractive to potential bailiff service providers. Many national firms also offer the collection of sundry debtors and overpaid housing benefit as a composite service. This should be explored.

Costs of the enforcement service appear to be controlled, including costs charged by the bailiff to debtors. The service is largely commission-free to the council. However, there may be an element of complacency on both sides in relation to the service from Hammonds as the service has not been market tested for some 8 years.

There is no evidence of a formal Code of Practice under which any bailiff representing Rochford should operate.

Alternatives to employment of a private bailiff could be the contracting of the service to another local authority using shared in-house enforcement officers, or the direct employment of an enforcement officer by Rochford. This might be explored as part of the potential partnership discussions with Chelmsford BC and Maldon DC.

This latter option is not recommended on the grounds that a single officer could not provide a resilient service and that there may not be sufficient local taxation work for a full-time post. Whilst a full-time officer could be given other collection duties on benefits overpayments or sundry debtor invoices, this would represent an additional cost at a time when the council need to control growth in expenditure.

Contracting the service to another local authority, except under joint working arrangements, is not recommended as conflicts over priorities would be outside of Rochford's control and difficult to monitor. Rochford's service would also be vulnerable to any staff changes in the provider authority.

CONCLUSIONS

1. Local taxation administration is progressing well but close monitoring should be enhanced by publishing monthly collection performance in the Members Bulletin;
2. Special attention is required to maintain close monitoring of the contracted NDR service when it reaches one year of operation.
3. This is now an appropriate time to market test the provision of bailiff services. Given the satisfactory local service from the present provider, Hammond Hillman should be invited to bid for continuing to provide the service but consideration should be given to offers from other, larger service providers. Therefore the option of a single provider of bailiff services, including the collection of sundry debtor and overpaid housing benefits accounts as a potential addition, should be considered.
4. A service specification for the bailiff service should be drawn up and a set of selection criteria be decided upon. Subject to complying with the Council's standing orders and financial regulations, it may be possible for selection to be undertaken by competitive quotation rather than a full tender process.
5. A Bailiffs' Code of Practice should be adopted and a proposed document is provided.

**ROCHFORD DC
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CODE of PRACTICE for BAILIFFS – 2005

General Content

In the performance of its duties, and on behalf of the council, the Contractor shall:

- Fully observe the current code of practice as issued by the Enforcement Services Association (formerly the Certificated Bailiffs Association).
- Fully observe any national code of practice/conduct that is introduced by the the Department for Constitutional Affairs on behalf of the Government.
- Fully observe any local variations to either of the above codes as required by the council.

Act in accordance with all council policies as follows;

- Social Inclusion Policy
- Corporate Debt Policy
- Any other relevant policies

Fully comply with the provisions of the Data Protection Act 1998 in respect of all data relating to the council.

All data passed to the Contractor, or obtained by the Contractor in the performance of their services, remains the property of the Council at all times.

All information supplied by the Council and relating to a defaulter or defaulter's address is to be treated as confidential.

The Contractor shall make particular note of any special instructions given by the Council, and observe specific requests for action relating to particular debts or defaulters.

The Contractor shall employ sufficient staff, qualified to carry out the services in a proper manner.

The Contractor and its employees shall at all times act in a dignified, polite, and correct manner.

The Contractor and its employees shall at all times act in such a way as to minimise embarrassment to the defaulter and his/her family.

The Contractor shall ensure that it's employees are aware of all relevant legislation, not only in relation to the Law of Distress, but also in relation to Council Tax and National Non-domestic Rate, as applicable.

Photographic identification, together with the Councils' authorisation to act on its behalf, must be carried at all times by employees of the Contractor whilst working.

This should be produced once a defaulters identity has been confirmed.

Representatives of the Contractor should ensure that the defaulter is not misled into believing that he/she is an officer of the Council.

Special Circumstances

The Council has defined the following as 'special circumstances', where levy should not be attempted without express permission by the Council. In these cases, the Contractor should report the particular circumstances of the case back to the council, in order that specific guidance and instruction may be given by Rochford Revenues and Benefits.

Special circumstances include the following:

- Evidence of physical disability or mental impairment.
- An elderly person who appears frail or confused.
- Evidence of long term sickness or serious illness, including mental illness.
- Recent bereavement.
- Evidence of severe financial hardship.
- A family whose sole or main income is benefit related.
- Evidence of marital difficulties or reference made to domestic violence.
- Where defaulter, or a defaulters' spouse is obviously pregnant, or states that they are pregnant.
- Where the defaulters' ability to understand is in question. This could be because of profound sensory deprivation, illiteracy or if English is not the first language.
- This list is not exhaustive, and discretion should be exercised where the Contractor feels it appropriate, and depending on the circumstances of each case.

Specific Operational Instructions

Attendance to levy

- The bailiff should withdraw from premises immediately where the only person present is, or appears to be, under 18 years of age.
- Legal entry is to be made only after a clear verbal invitation to do so.
- If the defaulter is not present at the premises, documents should only be left if in a sealed envelope with the defaulters' name and address clearly marked upon it.
- Pre printed stationary should not be altered or added to in any way, except to advise the date of a proposed subsequent visit, or balance outstanding.
- A receipt must be given for all payments received at defaulter's premises.

- Bailiffs should act with particular caution and sensitivity where a defaulter may feel vulnerable or threatened by their presence, e.g. a lone female, or person who is frail or confused due to age or illness.
- If liability is disputed, the Contractor shall take steps immediately seek to resolve the dispute by telephone. If this cannot be achieved, the bailiff should withdraw from the premises and provide full written details to the council without delay.

Levy

- The Contractor should ensure that a certificated bailiff is in attendance when either close possession or walking possession is taken, and that two persons, one of whom is a certificated bailiff, are in attendance when the removal of goods takes place.
- The same goods should not be listed on an inventory in respect of more than one liability order at any one time.
- Only the defaulter should sign a walking possession agreement.
- Bailiffs should be satisfied that the defaulter has a full understanding of the consequences of signing a walking possession agreement, before a signature is obtained.
- Before levying distress, the bailiff should satisfy his/herself that the goods he/she proposes to distrain upon, belong either to the defaulter, or to the defaulter and another person.
- Any goods removed should be handled in such a way as to ensure they do not suffer damage whilst in the possession of the Contractor and should be clearly labeled.
- A signature should be obtained for all goods removed.

Protected Goods and items of little or no value.

The following items are not to be subject to distraint:-

Council Tax and Non-Domestic Rating:-

- Food items or utensils/equipment used in the preparation or consumption of food.
- Any item pertaining to the children of a household. (Pram, toys, etc.)
- Medical aids or equipment
- Any items purchased using social fund payments paid by the benefits agency, or by virtue of payments made under section 1 of the Child Care Act, 1969, or the Children Act, 1989.
- Goods necessary for satisfying the basic domestic needs of the defaulter and his/her family, e.g. cooker, fridge, beds, bedding, heating appliances, light fittings.
- Articles required for the safety of the persons living in the dwelling, e.g. fire blanket/extinguisher, smoke alarm, life jacket if dwelling is a boat, etc.

Council Tax cases only -

- Implements, tools of the trade, or other equipment reasonably required for the use of the debtor or a member of his/her household in the practice of a professional trade or business.

End - CODE of PRACTICE

ROCHFORD DC

BENEFITS OVERPAYMENTS and OTHER INCOME APPRAISAL OF CURRENT SERVICE

Organisational Issues

Overpayments of benefit are identified by the Benefits Section where decisions are taken as to whether the overpayment is a recoverable overpayment within the terms of the benefits regulations. The Benefits Section also takes important initial decisions:

- From whom to recover (eg claimant, landlord, any other person);
- The method of recovery, (ie from on-going benefit, by invoice, etc.)

Statistical information relating to overpayments is recorded in the Academy IT system to provide data required by Benefits Management Information and for subsidy claim purposes.

Supervision of recovery by invoice is undertaken by the Overpayments Officer working under the Recovery Supervisor. The principal activity is recovery of housing benefit overpaid to private tenants, whereas council tax benefit, whether overpayments or 'excess benefit' (benefit paid in advance) is collected by adjustment to council tax accounts in accordance with regulations.

Recovery of overpaid Housing Benefit is widely recognised to be a difficult matter. The amounts of overpayments recoverable from private tenants can be substantial debts due to the high level of private sector rents. Subsidy of 40% is payable by DWP (Department for Work and Pensions) which in effect creates an unofficial target of 60% for the overpayments recovery rate. A shortfall below 60% recovery is a cost on the council's General Fund.

Rochford is failing to collect 60% of overpayments despite stretch targets but is not unusual amongst administering authorities in this. However, there is a strong incentive to improve on this performance.

Additional staff resources would be likely to increase performance, not only in relation to benefits overpayments but also in respect of other income. It is recognised that this would be a difficult decision for Rochford at a time of financial constraint but unlike council tax or non-domestic rates, any additional income collected from benefits overpayment or from sundry debtor income is a direct credit to the Council. Given that the cost of an additional full-time post may be in the region of £20-£25,000 this gives a clear target for managers to judge whether such an appointment would be financially beneficial.

The duties of an additional officer would include visiting debtors to negotiate collection arrangements, an activity which Rochford is not currently staffed to

undertake. The postholder would also act as second officer to the Benefits Overpayments Officer providing more resilience for the activity. In addition the post should be used to increase activity on sundry income collection. In seeking approval for this post it is reasonable for officers to estimate the expected increase in income from the appointment of the post, provided the officer is used exclusively on income that will create additional revenue to Rochford's General Fund, ie benefits overpayments and other sundry income. Officers may conclude that the post will be more than cost neutral and that it could raise sufficient additional income to be self-financing with a surplus. There would appear to be positive prospects that this can be achieved. Performance would need to be monitored and reviewed after the first year of operation, therefore a temporary appointment of say, 24 months, may be advisable in the first instance. Alternatively, consideration could be given to including this service in the external bailiff service specification.

In the event that recruitment of an additional post is judged not to be cost neutral, an alternative route might be to include the collection of sundry debtor and housing benefit overpayments arrears within the specification for the external bailiff service, but it should be recognised that there will be cost implications if this approach is adopted. This must form part of the cost analysis and financial benefit judgement that managers need to make.

Invoice Recovery Process

The Overpayments Officer has constructed a detailed flowchart illustrating the various stages of recovery through which an invoiced debt can pass. The flowchart is not reproduced here but it does confirm that Rochford's process provides a robust system for invoice debt recovery. The timings between reminder notices and other recovery stages are clearly understood and applied by the recovery unit. Following the standard reminder notices, debt collection is sought using strong letters, personal visit and reference to the Legal Section. It is recommended that two other recovery approaches be adopted from time to time. These are:

- Out of Hours telephone arrears chasing. This can be undertaken by staff working from the office or from home. Not only is it an additional means of making contact with debtors and seeking arrangements but it may enable contact to be made with other people in the household who do not normally see the notices sent by post.
- Rochford Arrears Collection Service. The issue of notices and letters from a Collection service that, although operated by the Council, is not badged as a council service may have some impact on some debtors. The impression that an independent collection service is involved can be achieved through use of appropriate letter heads, telephone numbers, and by the careful wording of letters.

There is no suggestion that these propositions offer exceptional solutions but they may be successful in some cases if used carefully. The staff resources to undertake these activities could be provided through the appointment of an

assistant overpayments officer if a decision is made to create this additional post, otherwise it could be achieved by a revision of priorities.

Collection of sundry and miscellaneous income is frequently more secure if payment is obtained in advance, rather than in arrears by invoice. It is recommended that officers consider if there are opportunities for implementing additional instances of payment in advance. Consideration should also be given to liaison arrangements with originating departments to ensure that no undue delays occur, either in the initial raising of invoices or in dealing with queries from debtors. Suspension of service to regular debtors should feature as a recovery factor. It should be noted that budget holders receive the credit to their budget heading when an invoice is raised and may not always appreciate that this income will be lost if ultimately the invoice is written-off. This fact of income accounting can sometimes mislead some budget holders in relation to the precision of progress towards budget targets. The approach adopted is in accordance with the CIPFA Code of Practice on accounting arrangements but it is important that budget holders are aware of this aspect.

Performance on sundry debt collection may be monitored by managers by a process of debt aging to establish what proportion of debts are outstanding for periods of months and to build up an on-going picture for comparative performance assessment.

CONCLUSIONS

1. The existing recovery arrangements are secure but with limited resources. The officers concerned are strongly motivated and efficient but there is scope for improvement in performance.
2. Consideration should be given to the appointment of an additional officer to assist with debt recovery, targeted on benefits overpayments and other income, not local taxation. It may be feasible for officers to recommend this appointment at no additional cost to the budget and with a prospect of achieving additional income. Alternatively this work could be included in the specification for the external bailiff service
3. Managers should review the operation of overpayments collection to ensure that the following principles are being adhered to:
 - a. Overpayments are identified as early as possible;
 - b. Recovery from Landlords is undertaken in all appropriate circumstances
 - c. Invoices are issued promptly;
 - d. Recovery from on-going benefit, including benefit payable by other authorities is undertaken where appropriate;
 - e. Special consideration is given to payment of overpayment invoices by instalments;
 - f. Arrangements are closely monitored and non-payment is followed by issue of appropriate notices and letters.
4. Managers should review sundry debtor collection to ensure:

- a. Budget holders are aware of the income accounting rules;
- b. Any appropriate opportunities for payment in advance are investigated;
- c. Invoices are issued as early as possible;
- d. Queries from debtors are given priority;
- e. It should be confirmed that suspension of service is properly being used in relation to regular debtors with outstanding invoices.
- f. Officers are satisfied that liaison with service providers is operating satisfactorily.
- g. A debt aging process be established for statistical monitoring.

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TRACING OF DEBTORS

Tracing of debtors is recognised as being fundamental to performance on debt collection and local taxation enforcement. The methods applied by Rochford include:

Benefits

- Use of Department for Work and Pensions (DWP) resources through the use of the Remote Access Terminal (RAT) communication system and National Insurance Numbers (NINOs) .
- Nafn (National Anti-Fraud Network) – Tracing service

Tracing Services by bailiff companies:

- Phillips
- Hammond Hillman Ltd

Specialist tracing company:

- DMS Ltd DMS assists many major Banks, Building Societies, Housing Associations and Utility Companies in debt counselling, collection, tracing, 'mystery shopping' and property security checks.

Commercial tracing services are provided at a charge by the service providers. This does require a judgement to be made in relation to the level of the debt and the prospect for collection before the cost of tracing is incurred.

The Council's Corporate Debt Policy does not specify a figure for the amount of debt below which tracing costs will not be incurred. In itself, this is not a deficiency as the figure may depend upon what history is known of the case, and the type of debt. There will be a figure below which any tracing would not be economical but this may be a different figure for council tax or rates as against sundry income. In the case of benefits overpayments, the details of the debtor's financial circumstances may also be taken into account in judging whether tracing costs are justifiable.

Tracing of debtors - Routine enquiries

Tracing a debtor will frequently be successful from a simple enquiry of which the following are examples:

- Checking council tax and rating records.

- Cross checking with other relevant council data base systems
- Internet search
- Telephone enquiries to persons or organisations associated with the debtor, which may include:
 - Other residents
 - New owner
 - Employer
 - Landlord
 - Professional agencies (estate agents, solicitors etc.,)
 - Customers
 - Neighbours
 - Family or associates
 - Service providers and utilities (NB – although some may refuse to disclose information on grounds of confidentiality or data protection, there is nothing to prohibit the enquiry being made.)
 - Local Post Office
 - This list is not exhaustive and other enquiries depend upon the circumstances of the case.

Commercial debtor tracing services

Before incurring the costs of a commercial tracing agency, regard should be had to the type of debt and the amount owed. All debts are of equal importance but the cost of tracing falls on the general fund, whereas local taxation debts benefit represent income to the Collection Fund. This in no way implies that local taxation debts have a lower priority or importance. However, a non local taxation debt which is successfully collected effectively makes a contribution towards the collection costs and therefore such debts will be of lower sum before they can be regarded as not economical to pursue.

As a general guide, local taxation debts of less than £50 (council tax) or £100 (NDR) may not justify the use of resources to trace and recover, when those resources can be better applied on the enforcement of larger debts. On the other hand, non local taxation debts may be viable to trace even if below £50 subject to the likely expenditure on the tracing agent and the prospect of successful collection. These figures are for illustration purposes only and Rochford should consider what limits may be appropriate to adopt.

The use of more than one tracing agent will only be cost effective if the debt is of sufficient size to justify the costs.

An approach to debtor tracing already under investigation by Rochford's managers is the use of the 'Citizen View' tracing service from Experian.

Experian is a subsidiary of GUS plc (formerly Great Universal Stores) and is part of a major retail and business and business services group comprising well-known businesses such as Argos, Homebase and Burberry. The Experian tracing service is a low cost service which utilises data matching over a wide range of publicly available data bases. The use of this service is likely to be effective and may well reduce the number of traces that need to be referred to the other more costly tracing services. Like all data exchange systems, Experian depends upon the quality of the registered data that it holds and the sources from which it is obtained, therefore if the service is used a trial period or short-term initial contract might be advisable.

CONCLUSION

1. Whilst there are established practices followed by Rochford's officers, it is recommended that this be documented.
2. The decision on incurring the costs of tracing should be taken by an appropriate officer.
3. Firm levels of debt under which tracing is not undertaken are not proposed but some guidelines should be developed.
4. Consideration be given to the use of the Experian data based tracing service.

ROCHFORD DC

COMMITTAL POLICY

Committal to prison is available to the courts as an enforcement remedy in respect of unpaid council tax and unpaid Non-domestic rates. In relation to rates, it may only be applied to individuals who are ratepayers, and not to corporate ratepayers.

The remedy has withstood recent challenges, suggesting that imprisonment should not apply to local taxation defaulters. Committal is not uniquely applicable to local taxation as committal orders can also be made by the courts in accordance with the Debtors Acts of 1869 and 1878 but in effect committal is applied where a person fails without reasonable cause to comply with an order or judgement made by the court, and not for the debt itself. Committal for failure to comply with a court judgement can apply to corporate bodies by the committal of the officers or directors of a company, but this is not the case with local taxation.

The Enforcement Review undertaken by the Department for Constitutional Affairs (headed by the Lord Chancellor) resulted in a White Paper in 2003 proposing substantial changes in bailiff law and in the regulation of enforcement agents, but there are no proposals for changing the provisions for committal to prison. (The legislation envisaged by the White Paper giving effect to the Enforcement Review is still awaited).

Committal has been subject to many challenges in the courts over the past 15 years to the extent that some Magistrate's Courts or Justices' Clerks regard the remedy with some caution given the expectation of an appeal to the High Court. However a study of High Court and Court of Appeal decisions confirms that the remedy is entirely lawful but that it must be applied lawfully by the Magistrates Court. Decisions against committal by the higher courts relate to cases where the Magistrates have acted incorrectly in reaching their decision.

The principles of committal include the following:

- There must have been an attempt to levy distress which has failed because no goods can be found, or there are insufficient goods on which to levy.
- The defaulter must have failed to pay due to 'wilful' refusal or 'culpable' neglect.
- An enquiry into the means of the defaulter must have been undertaken by the court in the presence of the debtor.
- The court must be satisfied that the issue of a committal warrant is likely to induce the defaulter to pay. Committal is not a punishment for failing to

pay but is intended to act as an inducement to a defaulter to make the payment.

- The court must be satisfied that other methods of collection have been used or, if not used there are good reasons for not using them, for example if the alternative collection method would continue over too long a period.

Policy or Procedure Matters for Rochford

- Committal to prison is a remedy provided by Parliament for enforcement of local taxes and therefore Rochford should continue to apply this remedy in appropriate cases;
- Prior to a decision to issue a committal summons, there must be confirmation from the bailiff that no, or insufficient goods, have been found on which to levy distress;
- Alternative methods of recovery must have been considered. If these alternative methods have failed, or if there are reasons why other methods have not been adopted, the relevant notes should be included in the case file in order that the court can be informed accordingly.
- Where a debtor fails to answer a committal summons, a warrant of arrest should be requested from the court. Arrest warrants may be executed by the Police or by the Council's bailiff contractor.
- The court may frequently use adjournment of a hearing as a means of encouraging a debtor to settle the outstanding sum and in some cases may fix a term of imprisonment but postpone issue of the committal warrant on terms. These arrangements must be closely monitored and where there is default, action must be taken by the Council to bring the defaulter back to court.
- Every effort should be made prior to a committal hearing to establish details of the debtor's means. This is important in ensuring that the court have as full a picture of the debtors circumstances as possible bearing in mind that defaulters, even if on oath, may omit some relevant details.
- The Council Officer making a committal application should participate in the means enquiry, even if the Justice's Clerk takes the lead, by asking relevant questions of the defaulter.
- A Committal warrant will rarely, if ever, be for the maximum period of 3 months imprisonment. The higher courts have made it clear that magistrates should reserve the maximum period for the worst cases and that other cases should be subject to committal for relatively shorter periods having regard to the seriousness of the defendant's default and the amount of the debt.
- Council Tax and/or Rates must be reduced proportionate to any period spent in prison under a committal warrant. If the whole period is served, the whole debt must be written-off because the enforcement

process has been exhausted and no further action is available. The only exception to this is that if the whole amount has been written-off because a person has served the whole committal period in prison, this does not prevent a subsequent claim against an insolvency or against a deceased person's estate.

CONCLUSION

It is recommended that a policy document be developed from the above and adopted as a strategic document as well as providing guidance for officers undertaking committal proceedings.

ROCHFORD DC

IRRECOVERABLE DEBTS - WRITE-OFF PROCEDURES

1. Every debt due to the Council should be considered recoverable. Ultimately a proportion of debts will prove to be irrecoverable but these cannot be identified until appropriate steps have been taken to seek to secure payment.
2. Debts that are submitted for writing-off must conform to the overall strategy incorporated in the Corporate Write-Off Policy.
3. Grounds for writing-off will include the following:-
 - Debtor deceased, no estate or insolvent estate;
 - Insolvent, no funds, or no further funds, available;
 - Absconded, untraceable;
 - Not economical to pursue;
 - Committed to prison (council tax or rates)
 - Debt Matching (by agreement with Head of Service)
4. Officers may recommend a debt for Write-off but the recommendation must be supported by an appropriate officer and approved by the Head of Service for recommendation to the Corporate Director. A write-off report is to be compiled to document this process.
5. A Write-Off report relating to an absconded debtor must indicate whether tracing has been attempted or, if tracing has not been undertaken due to the size of the debt a statement in support of that decision must be included. Where tracing has been attempted the report must contain notes of the steps taken and the outcome.
6. In all other cases, the grounds for recommending write-off must be stated in the report and supporting documentation must be provided with each case.

ROCHFORD DC

ENFORCEMENT SERVICES - SYSTEMS SECURITY

The principles of systems security are:-

- There should be proper and secure audit trails to identify the originator of transactions and other amendments to personal accounts and customer data.
- Transaction accounting should ensure that all financial adjustments are properly managed in control accounts or system totals.
- Access to the system should be properly controlled.
- Appropriate permission levels should be set under control of managers to ensure that only authorised staff undertake amendments of a particular type or at a particular level.

This examination of systems security covers the Academy council tax, Non-Domestic Rating and Benefits systems from Capita.

Audit Trails and Transaction controls

The Academy system provides a robust system of transaction controls and accounting processes including a full audit trail. However, amendments are logged only to the originator logged in at a PC terminal and are not terminal specific. Therefore it is not possible to note if a user has undertaken transactions or amendments from a terminal which is not that person's usual machine.

In so far as this is a recognised weakness, internal rules are recommended on password access and staff are advised not to leave terminals for an undue length of time without logging out.

Short timescales on screen saver blank out are advisable, but these tend to be under the control of individual users unless an administrator level control can be implemented.

Password Access

Users are required to undertake a two-level log-in, in order to access the revenues and benefits systems, logging in first at Network Level and then at System level. Password changes are forced at regular intervals and steps are taken to see that passwords are not re-used too frequently. Staff do find the 2-level log-in an onerous process which acts as a discouragement to staff to log-out when leaving their terminals for what they believe may be a short time. Inevitably, some intended short time absences from a work station become longer absences due to unforeseen circumstances.

Automatic lock out operates where a work station is left unattended, but where this was originally set at 15 minutes, at request of users this has been increased to 60 minutes.

It is well established that if a member of staff is inclined to undertake an illicit amendment of a customer record, they are likely to do this on the terminal on which another employee is logged in but temporarily away from their work station. Under present password arrangements this would be undetectable. The position is further complicated by the fact that some staff use each other's machines legitimately due to particular software being available on some PCs but not others.

An approach adopted by some organisations is to make the leaving of a terminal without logging out a disciplinary offence. This may be felt to be an unnecessarily strong approach that may have a detriment on staff loyalty. However, there is a hardware solution used by some banks and financial institutions which is to install smart card locks which prevent keyboards being used other than by the proper person and with passwords effectively incorporated in the smart card. Smart Cards can also provide faster access to PCs as they can replace the password process.

It is recommended that Rochford considers this technology to improve its system security and to protect its staff. Siemens are one source of smart card technology but Rochford's IT facilities management contractor should be able to provide advice.

There is sometimes a suggestion that smart cards can be used for multi functions, including building access and other uses, however there are reports that multifunctional systems do not work well or are excessively expensive and that a departmental need would be better met by a specific smart card solution.

System Controls

Current system controls and system management is robust and is well managed with authorisations undertaken at the required levels and with satisfactory internal check. Control accounts are properly monitored and balancing between systems and with feeder systems, including balancing to the general ledger system is operating on a correct regular basis.

CONCLUSIONS:

1. Current security procedures are satisfactory and are well-managed but there is weakness in relation to staff control of staff access to PCs.
2. Smart Card control access to PCs be investigated as an alternative to password access.

END

A Helping Hand.



BILL LOVELL IRRV

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