

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:**           **CABINET**

**DATE:**                 **TUESDAY 15<sup>TH</sup> JULY 2014**

**REPORT BY:**         **CHIEF OFFICER (COMMUNITY & ENTERPRISE)**

**SUBJECT:**           **ENFORCEMENT ACTION FOR THE RECOVERY OF  
COUNCIL TAX AND NATIONAL NON DOMESTIC  
RATES**

**1.00    PURPOSE OF REPORT**

1.01    To advise Cabinet on options and seek approval for future Enforcement Agent action, following the approval of the taking control of goods regulations.

**2.00    BACKGROUND**

2.01    On 30<sup>th</sup> July 2013 Parliament approved the Taking Control of Goods Regulations, which were enacted on 6<sup>th</sup> April 2014, which included the re-designation of Bailiffs as Enforcement Agents (EA's).

2.02    On 9th January 2014 the new fee structure was approved by Parliament and set significant increases on the current fees structure. As the new fee structure is statutory all EA's will be required to comply with these charges which will become payable on the commencement of Bailiff action.

2.03    Legislation relating to the collection of Council Tax and National Non Domestic Rates (NNDR), grants powers to use Bailiffs EA's as part of the recovery process once a Liability Order has been granted. In seeking to recover monies owed to the Council, the Revenues Department does examine and implement all other recovery options available before the use of EA's. However, in the previous 12 months it has been necessary to refer 1,745 Council tax and NNDR cases to Bailiffs; this has resulted in £900k (£700k Council Tax and £200k NNDR) of unpaid revenues being collected and paid to Flintshire.

2.04    Flintshire collection rates for Council Tax in 2013/14 were the joint highest in Wales at 97.9% an improved collection of 0.1%, with NNDR being the second highest in Wales at 98.5%

2.05    The Authority has agreed a Fair Debt Policy which has been designed in collaboration with the 3<sup>rd</sup> sector debt advice agencies to ensure an equitable and positive approach to supporting payment to the Authority.

2.06 Council Tax provides 20% of the income to the Authority which supports the delivery of services and contributes to the calculation of the Tax base for budget setting purposes. NNDR is collected on behalf of Welsh Government and is re-distributed to Council's as part of the annual financial settlement. EA's are an integral part of the Council Tax and NNDR enforcement procedures to maximise the collection rate for both forms of income.

2.07 In addition to Council Tax and NNDR, the use of EA's is also available for the collection of Commercial and Domestic rents, and car parking charges, however the new charging structure for parking will effectively reduce the charges, which under the previous fee structure were criticised as excessive. The collection of Sundry Debts is by collecting agents who are not affected by the changes to the fee structures, the use of EA's is restricted to EA's employed by the County Court once a County Court Judgement has been obtained.

2.08 **Comparison of costs payable**

Action	Old fees	New fees
Bailiff receives order	Nil cost	£75
Bailiff visit to property	£39 plus levy charges	£235
<b>Total cost of Bailiff visit</b>	<b>£39</b>	<b>£310</b>
Bailiff removes goods	£90 plus removal and sales cost	£110
<b>Total cost payable if goods are removed</b>	<b>£129 (additional costs could increase fees to £229)</b>	<b>£420</b>

The increases in fees will have a direct impact on those individuals where EA's action is taken, with a significant increase in fees payable. The new fees will increase debts by a minimum of £75 and it is expected that in most cases these fees will increase by £310. Whilst by the reasons vary why people do not pay amounts due to the Council, some can pay and don't, or won't, there are cases where people do experience financial difficulties. This may have been added to through the current economic downturn and welfare reform.

2.09 The WG have confirmed that the Council tax Reduction Scheme will continue to pay 100% of Council tax liability for the next 2 financial years, however this could be reduced in 2017/18, resulting in vulnerable people on passported benefits being liable to pay an element of Council Tax.

### 3.00 CONSIDERATIONS

3.01 The increase in the potential recovery from people on low incomes requires the provision of EA services to be considered within a context of a recovery process to ensure that collection levels are maximised, whilst supporting people to pay. A review of options available show

Option	Impact	Considerations
No Enforcement Agent action	High risk of loss of income, Bailiffs currently collect £900k Per year  Once known that Bailiffs would not be instructed an increase in non payment would be expected.	Reduced cash flow / income Increase in arrears levels Increase in bad debt levels Increase in C.Tax levels  NNDR Reductions in collection would be reviewed by WG and WAO
Continued use of external Enforcement Agent	Collection would be expected to remain stable but with slight reductions due to the increased amounts which would have to be paid due to increased fees.	The increase in fees could increase the debt payable by at least £70 over current charges, but there would be a total increase of £305 if a Bailiff visited the property.
Increased collection activity prior to Instructing Enforcement Agent	An increased level of recovery activity of 1. Additional letters 2. Telephone debt recovery 3. Home visits Would reduce the number of liabilities sent to the Bailiff.	Prior to the granting of a liability order at least 4 recovery documents are already sent including a summons.  Additional budget cost to resource increased activity  Powers of collection are reliant on negotiation skills and customers willingness to pay with no further powers available to enforce debt. Bailiffs would still be required in a high number of cases where no contact can be made or of instances of refusal to pay
Introduce internal	Collection would be expected to remain	New service to FCC, requiring additional staffing

Enforcement Agent service	stable but with slight reductions due to the increased amounts which would have to be paid due to increased fees.	<p>resources</p> <p>Budget set up costs plus ongoing staff costs</p> <p>Service would be income generating through fees</p> <p>Limited number of Authorities in UK has internal EA's, Although a number of LA's are actively considering.</p> <p>Although fees are statutory a decision could be made on a case by case basis to reduce fees payable.</p> <p>Reputation risk if EA's are not managed correctly.</p>
---------------------------	---	---

These options confirm that to maintain collections would require the use of either external or internal EA's however this does not address the issue of the new fees structure.

3.02 The new fee structure is statutory, with payments being offset against charges first. Therefore to be able to mitigate charges for people in genuine need, there must be strong policies and links between the EA company and LA management. The current use of EA's is contractual with agreed service levels and standards to protect vulnerable groups however this is dependant on the actions of the EA, which would be mitigated if fully controlled by the establishment of internal EA's

3.03 A review of the effectiveness of In House EA's services shows the theoretical comparison between External and In House EA's with the known advantages / disadvantages for each.

3.03.1 **Advantages of External EA's**

- Performance incentives to keep Council contract
- No staff employment issues for Authority
- No training costs for Authority
- Experienced staff
- Impact on public as not "the Council" collecting debt
- Economies of scale
- Are first point of contact for complaints
- Provide indemnity

- Enforcement of 'Out of County' cases would be better served by external providers.

### 3.03.2 **Disadvantages of External EA's**

- Customer Care as we are directing public to an external body
- EA's Costs are discharged first, with any shortfall met by the Authority and potential loss of collection
- Loss of control over recovery e.g. speed and flexibility of recovery.
- As an external supplier there is contractual liaison and cost between EA's and Authority
- Limited future Debt management advice will be given to customers.
- Limited ability to identify and signpost vulnerable customers
- EA's resources not readily available as could be working in another client's area.
- Cash collected only paid over weekly.

### 3.03.3 **Advantages of In House EA's**

- Authority maintain control
- Local knowledge
- Single set of recovery procedures and training aligned to existing 'in-house' service
- Support of Council policies e.g. anti poverty initiatives
- Increased customer care as "one stop shop" recovery service
- EA's can be multi functional and could support other areas of the Council (eg. Collection of former tenancy arrears, enforcement of Civil Parking Debts)
- Improved cash flow, all cash collected is credited to Authority account immediately
- Speed of recovery, problem areas can be targeted immediately
- Although EA's fees are legislative and as such must be charged, these charges can be mitigated dependant on the circumstances of the customer
- The council will benefit from the substantial surplus generated by fees providing the council with an income stream from fees charged by the EA service. to mitigate budget pressures in the future

### 3.03.4 **Disadvantages of In House EA's**

- Council image "only the Council"
- Limited resources in terms of staffing and funding
- Limited to Flintshire and immediate area
- There is no performance related pay which is a disincentive
- Familiarity once EA's are known
- Recruitment and training costs.

- 3.03.5 In addition to EA's services an in house EA could also be available for
- Tracing of absconders
  - Discount / exemption reviews including Single Person Discount
  - Identification of new occupiers
  - Identification and support of vulnerable people
  - Supporting the recovery of former tenant arrears
  - Supporting the recovery and enforcement of civil parking debts
- This extra service although not direct income generators against budget would be a Corporate benefit.

### 3.04 The Options for in House Delivery

Collaboration with Denbighshire who employ their own team would mirror many aspects of using an external EA, albeit with a greater control element over charges recovery.

- 3.05 A costing exercise has been completed for both options for delivery.

### 3.06 Denbighshire Proposal

The key differences are that the commissioned service from Denbighshire would save 0.5 of a management cost, but would reduce surplus income by 50%, as Denbighshire would share any surplus with Flintshire.

- 3.07 Direct Staffing costs (at top of scale) have been calculated as

2 Enforcement Agents  
3 Enforcement Officers (one a Senior)

Total Income	£294,081	£294,081
Expenditure		£196,565
Surplus Income		£97,516

- 3.08 The costing exercise shows that developing an in-house service at Flintshire would result in a significantly higher return, with added re-assurance of maintaining a sound collection rate plus the benefits of added value services for vulnerable customers whilst maintaining full control of the recovery process.

### 3.09 CONCLUSION

The use of EA's is a high profile area in the collection of revenues. There is a risk of adverse publicity, especially with the increased levels of bailiff charges. These risks can be reduced by the

identification of sensitive cases and a proportionate response, which would be more available with internal EA's. Opportunities for future collaboration in this service area will be considered as appropriate.

#### **4.00 RECOMMENDATIONS**

4.01 That Cabinet approve the establishment of internal Enforcement agent team, as described in the report.

#### **5.00 FINANCIAL IMPLICATIONS**

5.01 The current use of Bailiffs contributes to the collection of £64 million income for the Authority; a reduction in the collection of Council Tax would result in increases to Council Tax for all payers or a reduction in services.

5.02 An internal EA service would provide an income surplus over costs of a minimum £97K per year.

#### **6.00 ANTI POVERTY IMPACT**

6.01 The new costs structure will result in adding further debt to those Tax payers who are already experiencing financial difficulties in paying amounts due to the Council.

6.02 Although fees are statutory an internal EA service would allow these costs to be mitigated on collection in identified cases of hardship.

#### **7.00 ENVIRONMENTAL IMPACT**

7.01 None.

#### **8.00 EQUALITIES IMPACT**

8.01 None.

#### **9.00 PERSONNEL IMPLICATIONS**

9.01 Staff recruitment to posts including external recruitment of Certificated EA's.

#### **10.00 CONSULTATION REQUIRED**

10.01 None.

#### **11.00 CONSULTATION UNDERTAKEN**

11.01 Informal talks have taken place with Flintshire CAB, who were supportive of an in house option.

**12.00 APPENDICES**

None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985**  
**BACKGROUND DOCUMENTS**

Statutory Instrument 2013 no.1894 The Taking Control of Goods Regulations 2014

Statutory Instrument 2014 no.1 The Taking Control of Goods (Fees) Regulations 2014

**Contact Officer: Ken A Jones**  
**Telephone: 01352 702286**  
**Email: [ken.a.jones@flintshire.gov.uk](mailto:ken.a.jones@flintshire.gov.uk)**