

## NOTTINGHAM CITY COUNCIL

### SCRUTINY REVIEW PANEL - ENFORCEMENT AGENTS IN NOTTINGHAM

**MINUTES of the meeting held at LB 31 - Loxley House, Station Street, Nottingham, NG2 3NG on 26 October 2015 from 10.00am - 12.04pm**

#### **Membership**

##### Present

Councillor Jim Armstrong  
Councillor Azad Choudhry  
Councillor Mohammed Ibrahim  
Councillor Patience Ifediora  
Councillor Glyn Jenkins  
Councillor Carole-Ann Jones  
Councillor Gul Nawaz Khan  
Councillor Neghat Nawaz Khan  
Councillor Brian Parbutt (Chair)

##### Absent

Councillor Anne Peach

#### **Colleagues, partners and others in attendance:**

Lisa Black	- Head of Nottingham Revenue and Benefits Limited
Adam Gifford	- Debt Advice Specialist, Nottingham Law Centre
Rav Kalsi	- Senior Governance Officer, Nottingham City Council
Rebecca Ramsden	- Policy and Campaign Worker, Advice Nottingham
Geoff Walker	- Director of Strategic Finance, Nottingham City Council

#### **1 APOLOGIES FOR ABSENCE**

Councillor Anne Peach (non-Council business)

#### **2 DECLARATIONS OF INTERESTS**

None.

#### **3 SCRUTINY REVIEW - THE USE OF ENFORCEMENT AGENTS IN NOTTINGHAM**

##### **(i) Review and briefing papers**

Councillor Brian Parbutt, Chair of the Panel, welcomed everyone to the meeting and explained the procedure for the review. He requested that the Panel agree the scope for the review.

**RESOLVED to agree the scope for the review on the use of enforcement agents in Nottingham, in light of the remit set by the Overview and Scrutiny Committee on 7 October 2015.**

**(ii) Presentation**

Geoff Walker, Director of Strategic Finance and Lisa Black, Head of Operations at Nottingham Revenue and Benefits Limited, presented the Panel with the following information on the collection of council tax:

- (a) Council tax collectable in 2015/16 after the award of Council Tax Support (CTS) is £112 million. Council tax is collectable from 134,462 domestic properties whereas 35,814 households are currently in receipt of CTS;
- (b) The average liability for a Band A property is £1,139 and the average amount payable by those in receipt of CTS is £228. Nottingham City Council has contracts with 3 separate enforcement agencies that are each held to account and monitored;
- (c) In 2013/14 there were 17,881 liability orders with a total debt value of £10.9 (10% of the collectable debt amount) referred to enforcement agents. In 2013/14 £2.3million was recovered by enforcement agents (2.3% of the collectable debt amount);
- (d) In 2014/15 there were 14,046 liability orders with a total debt value of £9.2 million (8.6% of the collectable debt amount) referred to enforcement agents. In 2014/15 2.2 million was recovered by enforcement agents (2.0% of the collectable debt amount);
- (e) Although only part way through quarter 2 in 2015/16, it is believed the figures will align with previous years. At quarter 2 of 2015/16, there have been 11,079 liability orders with a total debt value of £7.6 million (6.8% of collectable debt) referred to enforcement agents. At quarter 2 of 2015/16 £1 million has been recovered representing 0.9% of the collectable debt amount;
- (f) In March 2015, the Children's Society published a report into the collection of council tax debt and the affect it has on children and young people. The report made a number of recommendations for local authorities in the collection of council tax. Following this, Nottingham City Council carried out a self-assessment against the recommendations in the Children's Society report ('The Wolf at the Door');
- (g) The report recommended that councils should not engage bailiffs for collecting council tax debt for families with children. In practice, Nottingham City Council uses all available alternatives prior to the use of bailiffs, such as direct deductions from benefits or earnings. The Council has 7,600 households on direct deductions with a debt value of £1.7 million, with a further 10,228 number of accounts waiting for a direct deduction with a value of £3.04 million. There is also an opportunity for arrangements to be made to pay at any point during the recovery period prior to bailiff action is considered;
- (h) The report also recommended that families with children should be given at least one opportunity to bring their account back up to date and have their monthly instalments reinstated. Unfortunately, by law once a tax payer receives a final notice the right to instalments is lost. The Council will however,

refer household that are struggling to pay to advice agencies. Council statistics show that 66% of referrals have resulted in alternative arrangements to pay being established and bailiff action having been avoided;

- (i) The Children's Society also recommended that local authorities should improve the way in which they provide independent advice and support for families with children and vulnerable people who fall behind with their council tax. In response, it was reported that the Council invests £2 million in advice services across Nottingham and has a direct referral route for tax payers to access. The City Council also ensures that the availability of advice is clearly communicated at key stages of the recovery process;
- (j) The Children's Society recommended that councils should always allow families to negotiate repayments, even when the debt has been referred to an enforcement agency. Nottingham City Council ensures that recovery routes allow citizens to enter into repayment arrangements throughout the process. Strict procedures are already in place with the Enforcement Agents to negotiate payment plans without having to visit a property;
- (k) The Children's Society also recommended that local authorities should put in place a "breathing space" scheme for families with children under 18, which places accounts on hold while families receive independent and free debt advice. Nottingham City Council ensures that recovery action is placed on hold for 30 days when advice is being provided. The Council can then make the referral direct to Advice Nottingham to support the tax payer with access to advice. The report also suggested that care leavers should be eligible for 100% council tax support until the age of 21. Nottingham City Council's current Council Tax Support scheme provides for up to 80% support for anyone who is eligible. Formal consultation on the scheme was undertaken when introduced and the decision was taken to introduce a scheme where everyone contributes something;
- (l) The report recommended that court proceedings should not be pursued if a repayment plan for council tax debt has been agreed and is being observed by the family or young person. In Nottingham, citizens are not subject to court proceedings if they maintain agreed payment plans, prior to a summons being issued. If there is a default, the Council will proceed with court action to protect the recovery position with a liability order;
- (m) Finally, the Children's Society recommended that councils should review their council tax collection policy and include care leavers, families with children under 18 and families with disabled children as vulnerable. Nottingham City Council has developed routines, training and partnership relationships with advice services to ensure that recovery officers are able to recognise potential vulnerability based upon household composition and finances. The contracts that have been put in place with enforcement agents have clear guidance on the steps to be taken in the event that vulnerability is identified and households with financial vulnerability are provided with the opportunity throughout the recovery process to access support;

- (n) Nottingham City Council's recovery process is based on the value of debt and the stage of recovery. Recovery routines are driven by payment against instalments and agreement plans. The minimum level of debt level that is passed to enforcement agents is £70. The minimum level of debt passed to agents varies across other core cities, for example, Newcastle City Council's minimum level of debt referred to an enforcement agent is £10, whereas in Birmingham, the minimum level of debt referred to an agent is £150.
- (o) Along the route of recovery, debtors are provided with seven separate opportunities to address their debt and make arrangements for payment and enforcement agent costs are incurred at the 5<sup>th</sup> stage of the process (Compliance Notice);
- (p) Throughout the recovery process there is the option for the debtor to indicate that they are having difficulty in meeting the costs. Nottingham City Council has a long standing relationship with debt agencies in the city, such as the Citizens' Advice Bureau which provides for a direct referral into independent advice (together with a 30 day hold on recovery action). This protocol is maintained throughout the enforcement process;
- (q) Nottingham City Council requires enforcement agents to issue a 14 day notice letter, providing the debtor the option to make an arrangement with them or request an advice referral to a debt agency. This represents an additional step built in by the Council to ensure that the debtor is provided with a further opportunity prior to additional costs being incurred;
- (r) Fees are incurred at three points during the recovery process and Nottingham City Council has negotiated a lower court fee in the process of recovering costs. The court fees which are raised at summon stage are currently, £20 for debts less than £250 and £70 for debts greater than £250. The fees charged by enforcement agents are regulated by the Taking Control of Goods Regulations 2014 and have been set by the Ministry of Justice. Currently, a fee of £75 is payable for each outstanding liability order whereas in the past, one fee would cover multiple liability orders. Previously, Nottingham City Council made representations to the Ministry of Justice raising concerns about the impact this regulation;
- (s) Under the Regulations, the Compliance Notice Fee is set at £75; a visit fee is £235 and the fee for removing and selling belongings is set at £110.

**(iii) Round table discussion**

- (a) The general practice and conduct of enforcement agents are highly regulated by the Ministry of Justice and the prescribed national standards are reflected in the Council's contracts with its three agencies. The national standards incorporated into Council contracts cover professional conduct, training and certification, complaints and confidentiality, operating hours, identification and action in vulnerable situations;
- (b) Robust methods of contract management are built into all agreements with enforcement agencies, such as quarterly reviews against the performance of

the debt portfolios, conduct and complaints and comparisons across the three agencies. In the last 12 months there have been 14 registered complaints about enforcement agents in Nottingham;

- (c) The Citizens' Advice Bureau (CAB) in Nottingham has a very good working relationship with Nottingham City Council and, where cases have been referred to the debt agency, the case is put on hold for 30 days. Generally speaking, when the CAB put forward an alternative payment proposal to the enforcement agent, it is usually accepted by the Council. One of the issues encountered by Advice Nottingham and CAB is the reluctance of those in debt to engage with agencies;
- (d) Evidence from the Nottingham Law Centre and Advice Nottingham (including CAB) suggests that the debt passed onto enforcement agents is usually a multiple debt however it is often led by council tax debt which is the catalyst for a debtor to seek independent debt advice. How to engage those in debt before the case is passed to an enforcement agent remains the fundamental issue and independent debt advice is available to citizens throughout the process;
- (e) Reminder letters are in pink to highlight their importance however there is an ongoing challenge of early engagement and encouraging more people to engage with the Council and debt agencies before the 10<sup>th</sup> stage of the process where there are often financial penalties. Nottingham City Council is keen to support debt relief in the city and contributes to Advice Nottingham to support engagement for those in need of debt relief;
- (f) If Nottingham City Council were to establish an in-house debt agency, the process and fees would still be governed by strict regulation. The current process already includes a number of referral opportunities to local and independent debt agencies. The fundamental issue is trying to encourage those in debt to engage with the Council and debt agencies at an earlier point and to ensure that professional advice agencies are in place to support people;
- (g) Ultimately, the Council has to strike a balance between supporting those in debt to get the best advice and support against the need to recover debt to support crucial front line services for vulnerable citizens.

#### **4 PANEL CONCLUSION AND RECOMMENDATIONS**

The Panel concluded that it would base its recommendations on the following:

- (a) Further review and monitoring of Newcastle City Council's approach to debt collection and the use of in-house enforcement agents. Based on historic performance data and statistics, it is anticipated that Newcastle City Council's in-house Enforcement Service may meet a surplus and be self-funding, but a true reflection of its benefits would not be apparent until the service was fully embedded. The service was agreed in July 2014 and an assumption was made that in year 2, that the compliance and enforcement charges to customers will reduce by 20% because of the emphasis on reducing enforcement action by early intervention;

- (b) Review of the number of councillor casework enquiries lodged with Nottingham City Council regarding the use of enforcement agents;
- (c) Advising councillors to refer enquiries about debt relief to the appropriate support service, such as Citizens' Advice Bureau, Advice Nottingham and the Nottingham Law Centre;
- (d) Nottingham City Council's programme of supporting young people in care and care leavers on debt management issues;
- (e) Further review of the wording and format of the letters used in the recovery of council tax up to the bailiff referral stage, including whether the use of an additional letter to signpost those in debt to the support agencies.

**RESOLVED to finalise and agree the recommendations with the Chair, Councillor Brian Parbutt, and circulate them in the review report.**