

Notice of Non-key Executive Decision

Subject Heading:	Liability Order application hearings at Havering Town Hall
Cabinet Member:	Cllr Roger Ramsey, Cabinet Member for Finance and Property
SLT Lead:	Jane West, Chief Operating Officer jane.west@havering.gov.uk
Report Author and contact details:	Chris Henry, Head of Council Tax & Benefits chris.henry@havering.gov.uk
Policy context:	To recommence court action for Council Tax and Business Rates debts in line with Government legislation, the Council's Debt Management Policy and with due regard to the ongoing impacts of the Coronavirus.
Financial summary:	Recommencing court action will enable the Council Tax and Business Rates Services to pursue recovery of debts for which the Council has budgeted.
Relevant OSC:	Overview and Scrutiny
Is this decision exempt from being called-in?	It is a non key decision by a member of staff.

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The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to conduct liability order application hearings at Romford Town Hall with non-payers of Council Tax and Business Rates (NNDR) via video link to the Magistrates Court.

In June 2020, the decision was made to recommence normal debt management practices from 1 July 2020 subject to Court availability and Her Majesty's Court and Tribunal (HMCTS) Service guidance.

HMCTS has advised the Council that they are not in a position to conduct Council Tax and NNDR hearings in Court for the foreseeable future but they are willing to hear applications over video link.

Recommendations

1. That the Council resumes applications for liability orders at Romford Town Hall with Council Tax and NNDR non-payers via video link to the Magistrates Court.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Constitution- Responsibility for Functions: Para. 2.2 (a) (i) relating to taking decisions relating to the Council's finances including but not exclusively budget control.

STATEMENT OF THE REASONS FOR THE DECISION

1.0 Introduction

1.1 Council Tax and NNDR services will always attempt to engage liable parties who fail to pay their Council Tax or NNDR instalments. For those who will not engage and won't pay, more assertive action is taken following reminder and final notices in the form of a summons to attend Court.

1.2 At Court, Council Tax and NNDR services will ask for a liability order which allows them to recover the debt by attachment of earnings, deduction from benefits, enforcement agents, charging orders and insolvency. Approximately 10,600 liability orders were granted by Barkingside Magistrates Court during 2019/20.

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1.3 Since April 2020, due to the unprecedented circumstances of Covid19, recovery action was suspended and no summonses have been issued by Council Tax and NNDR services. The Council lifted this restriction in September 2020 and services are now able to pursue collection of debt in earnest.

1.4 Council Tax income has declined by more than £2.2 million the detail of which can be seen in Appendix A. It is therefore imperative to recommence recovery through court action as quickly as possible.

1.5 Note also Havering's performance compared to London Authorities in Appendix B. While Havering started the year in fourth position, by July it had dropped to 14th place.

1.6 Her Majesty's Court and Tribunal Service (HMCTS) have advised they are not in a position to prioritise Council Tax and NNDR liability order hearings in Magistrate Courts until sometime next year. However, HMCTS are willing to work with authorities to conduct hearings in Council buildings by the end of this year by video link to the Magistrates Court.

1.7 Since HMCTS made the decision to allow virtual liability order hearings, 21 out of 33 London boroughs have expressed an interest in conducting virtual hearings in their council premises.

1.8 Manchester and Nottingham Councils have held hearings summoning 3,000 people to each hearing. Six people attended the council building at Nottingham while no appearances were made at Manchester council buildings.

2.0 Virtual Hearings in Council Premises by Video link

2.1 Council Tax and NNDR services are keen to commence recovery and court action. The Town Hall offices have been explored and the ground floor training suite has been identified as the best location for holding liability order applications with the Court and debtors. Hearings will take place once a set day each month.

2.2 The training suite will be Covid 19 compliant as per Government guidelines. Social distancing measures can be followed comfortably by staff and members of the public that attend for the hearing. PPE including masks, face shields, gloves, wipes and hand sanitisers will be provided to all members of staff and 2 metre distancing will be maintained at all times. Masks will be available for members of the public who attend without a face covering.

2.3 Guidance will be sent with the summonses, reminding the individual that should they or anyone in their household test positive or show symptoms of Covid 19 or any illness then they should not attend the Town Hall. Instead, the individual can contact Council Tax or NNDR by telephone to discuss or adjourn their case.

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2.4 Staff guidance has also been prepared and advise on what do to if anyone in their household show symptoms or has tested positive for Covid 19, PPE to be worn and hygiene requirements. Staff are already aware and have guidance for how to manage individuals in a court environment.

2.5 Individual Covid 19 risk assessments have been conducted with all staff in both service areas. Service risk assessments have been also been carried out.

2.6 The training suite will be opened up into two rooms and will include the kitchen. One room will be used to see taxpayers and answer any queries they have relating to their Council Tax. The second room will be used where the individual and the Court Officers for Council Tax and NNDR can have a virtual hearing with the Magistrate. Social distancing will be maintained at all times during the virtual hearing with the Court Officers and tax payer with appropriate PPE.

2.7 Plain clothed security will be arranged for the first court and reviewed for future Courts as to the necessity of their presence. The Unions will also be engaged through this process.

3.0 Conclusion

3.1 Barkingside Magistrates court cannot accommodate liability order hearings due to social distancing and prioritising other matters. It may be some time before the Courts are ready to hear liability applications in court. To improve cash flow, virtual hearings at the Town Hall would seem the best option for the Council at this time.

OTHER OPTIONS CONSIDERED AND REJECTED

To do nothing and wait for the Courts to decide to hold liability order applications in Court was considered and rejected. HMCTS successfully conduct court business over video link and so it is unlikely, especially after successful multiple liability order application hearings have been granted over video link, that the Courts would invite summonsed individuals into a Court and risk exposure to Covid19. The Council's cash flow has already been severely affected by the absence of court and recovery action and further delays would compound this matter.

PRE-DECISION CONSULTATION

None

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Jane West

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Designation: Chief Operating Officer

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council's temporary approach to debt collection in March is considered reasonable and proportionate to mitigate the immediate and significant financial pressures experienced by households and businesses as a result of the government mandated lock down.

It is sensible for the Council to consider its fiduciary responsibility to tax payers now that the lockdown is easing. Individuals and businesses continue to have a legal responsibility to discharge debts for which they are liable and the Council's right to full recovery is reserved.

FINANCIAL IMPLICATIONS AND RISKS

Six months into the new financial year and Council Tax income is £2.2 million lower than expected due to the Council's initial softening in its approach to debt collection during Covid19 full lockdown. What is recognised through experience, is the longer debts are left uncollected the lower the likelihood of being able to collect them at all. Notwithstanding the economic climate created by the Coronavirus, conducting liability order applications in the Council's offices, will improve collection rates.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

Prior to Covid19, staff within Council Tax and NNDR services attended Barkingside Magistrates Court staff to assist individuals who had been summonsed for non-payment of taxes. Following the restrictions imposed by the Coronavirus and the need to collect taxes, the services propose to hold applications in the training room of the Town Hall where summonsed individuals will be required to attend only if they wish to contest the application where staff will assist them.

Risk assessments have been undertaken and security has been arranged in the unlikely event of contentious behaviour on the part of the summonsed individual. The unions will be engaged throughout the process. Staff will be fully briefed and provided with PPE, partitions, sanitisers and cleaning equipment will be in place ready for use on the day of the virtual hearings.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The measures imposed by government and the Council in response to the threat posed by the Coronavirus, interrupted the usual statutory functions of collection and recovery of debts. Therefore, the resumption of these legal operations from a different location do not require an Equality and Health Impact Assessment to be undertaken.

While Council Tax is due from almost every domestic property in the borough, there are a range of discounts, exemptions and reductions that can assist households with people who have disabilities or are unable to pay all of their Council Tax. Prior to taking recovery action through the Courts, the Service will have sent a minimum of

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three notifications encouraging the liable person to contact them so that assistance by means of Council Tax Support or a disability band reduction can be considered. Only those liable people who won't pay as opposed to those individuals who can't pay will be taken through the recovery process.

The Council Tax Debt Recovery Policy clearly sets out principles and good practice to ensure the actions of the service are fair and reasonable as well as meeting Government standards and guidelines. This Policy shows due regard to the health and wellbeing of individuals when taking recovery action which is only used as a last resort after all other options have been considered.

BACKGROUND PAPERS

None

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____