

16 November 2021		ITEM: 9
Corporate Overview and Scrutiny Committee		
Fair Debt Update		
Wards and communities affected: All	Key Decision: N/A	
Report of: Andy Brittain, Strategic Lead for Revenues and Benefits		
Accountable Assistant Director: Jonathan Wilson, Assistant Director Finance		
Accountable Director: Sean Clark, Corporate Director of Finance, Governance and Property		
This report is Public		

Executive Summary

This report provides an update on enhancements and initiatives delivered within the Debt Recovery Service following the independent review by the Institute of Revenues, Ratings and Valuation (IRRV) in 2017 and the Fair Debt Summit which was held in September 2018.

The Fair Debt Summit which was a joint initiative between Children’s Services and Finance and divided into two sections; section one looking at young people’s understanding around managing finances and section two focused on identifying improvements in the council’s collections process as to how we communicate with people who owe money to the council, in a fair way with the “right message, in the right way, at the right time” providing the opportunity for those that “can’t pay but want to” to gain support, whilst ensuring those that “can pay but won’t” are brought to justice.

This report will focus on section two which focussed on the Council’s collection process.

1. Recommendations:

- 1.1 To note the initiatives delivered since the Fair Debt Summit.**
- 1.2 To review and comment on the performance.**
- 1.3 To review and comment on the draft revised Fair Debt Policy.**
- 1.4 To endorse that the Council uses all legal powers available to it to recover money owed by those who “can pay but won’t” including committal.**

2. Introduction and Background

2.1 Thurrock Council recognises that debt remains one of the most difficult issues facing some of the Borough's residents and is committed to ensuring effective support is provided to assist people in overcoming the burden of debt. In order to guide this, the following activities took place:

- In 2017 the Council Commissioned the Institute of Revenue, Ratings and Valuation (IRRV) to undertake an independent review of the Debt Recovery service. Having completed its review, the IRRV provided an extremely positive report of the debt recovery service, its management and current practices. It also endorsed the planned developments whilst making some further recommendations to assist in shaping the service plan.
- In 2018, the council hosted its first Fair Debt Summit. The event brought together members from across the different political parties, experts and representatives from local public and voluntary sector organisations to explore the reasons people get into debt, the consequences, and how the support the council and its partners provide can be improved for people who want to pay but can't. Conversely, the summit also considered the appropriate approach for those than "can pay but won't".

2.2 The Fair Debt Summit built further on the service plan and IRRV recommendations to provide: an enhanced framework of good practice, with a rich source of ideas and suggestions as to how processes can continue to improve.

2.3 A number of key development activities were identified to enhance the Fair Debt approach. This report is intended to provide an overview of what has been achieved to date, how the Fair Debt approach provided additional support throughout the pandemic and an overview of the next planned steps.

3. Initiatives Delivered

3.1 Single View of Debtor

The first phase of this project went live for debt staff in March 2020. The technical solution developed with Xantura has brought together relevant debt information held across multiple different systems, along with any information held throughout the council that may suggest vulnerability into a single view. This enables staff to consider the overall debt position and relevant circumstances to guide the approach to supportive resolution.

This ground breaking project has already achieved wider recognition winning the 'Solutions Partner' category at the the Public Finance Awards 2020'. It is intended the solution be further enhanced through future phases of the project which are outlined later in this report.

3.2 Financial Inclusion

Building on the success of the initiative developed in the Housing Service, the Financial Inclusion offering has been enhanced to cater for wider council debts dealing with the most vulnerable residents who may need additional support in claiming benefits, budgeting etc.

Initially, this initiative has been focused on care leavers working with 'Inspire'. However, following positive feedback, it is now being expanded to cater for wider referrals from the debt team.

3.3 Breathing Space

Working in partnership with Xantura, a case management system was built to take electronic data flows from the Insolvency Service for people entering the Breathing Space Moratorium. This application was delivered and ready for the 4th May when it went live.

This system ensures all cases entering the process are validated against all debt portfolios within Thurrock and collection action placed on hold for the 60 day Moratorium (or longer for Mental Health cases) to ensure no further action or costs are incurred.

This gives the Debt Adviser (Citizens Advice, StepChange, etc) the opportunity to negotiate with all the creditors for that person experiencing difficulty to implement a sustainable payment plan.

The next stage of this solution is the implementation of the Statutory Debt Repayment Plans due later this year.

3.4 Revised Fair Debt Policy

Building on the themes and outcomes identified and enhanced at the Fair Debt Summit, the Fair Debt Policy has been enhanced to achieve the overall Fair Debt objective of "Right message, Right way, Right time".

The draft policy, which is included for review in appendix 1, has been developed in conjunction with key partners who attended the Fair Debt Summit.

3.5 Focus on early resolution

Following on from the education developments, (outlined in a previous report) which considers how we better educate people to reduce the numbers of getting into serious debt, when somebody does fall into arrears, the priority turns to encouraging them to make contact at the earliest opportunity to enable a resolution to be discussed or assistance sort.

The initiative to date has involved issuing various communications in addition to the legislative requirements by different channels, urging those in debt to make contact either with the council or the signposted support to find suitable resolution without the need for enforcement action.

The success of the drive towards front end collection can clearly be seen from the comparative data provided in appendix 2 which shows the significant reduction over recent years of those reaching court stage. This will be further enhanced through further developments highlighted later in this report.

3.6 Fair Debt Approach during the Pandemic

Clearly the significant financial burden/uncertainty placed on many residents and businesses due to restrictions and social distancing, meant that we had to carefully consider how to maintain income to support vital services, whilst ensuring collection action for residents and businesses was appropriate and supportive during this difficult time.

As a result, many standard recovery stages were paused and replaced by tailored “reaching out” initiatives to ensure that those experiencing difficulties in this unprecedented period, were provided with the opportunity to seek assistance including the opportunity to revise payments plans where appropriate.

This approach fits squarely within the associated principle agreed at the Fair Debt Summit in 2018 to support those who want to pay, but can't.

4. Impact and performance

4.1 The cumulative effect of the ongoing improvements can clearly be seen in appendix 2 with the service continuing to deliver:

- Above average collection performance equating to additional in year collections of £2.7m per annum compared to the national average and an arrears position £12.4m better than the national average.
- An improved proportion of cases being resolved without the need for court/enforcement action.
- Complaints against the debt team held at low levels equating to 0.03% upheld against debt actions taken.

5. Next steps

In order to ensure the service continues to improve, the service plan for the forthcoming 12 months will focus on the following deliverables:

5.1 Continue SVoD Development

Building on the success of the first phase, the second phase will offer further refinements to the information available to officers to guide the recovery of

debts. Additionally, the next phase will consider the business case to further improve contact rates by delivering tailored debt collection activities by debtor type through varied communication channels.

5.2 Tackling those that ‘can pay but won’t’

Sadly, whilst the Thurrock approach drives excellent collection rates, there are still a small cluster of routine offenders who continue to choose not to pay, even though they can. There is currently close to £1m outstanding that is associated to debtors who have multiple Liability Orders issued against them and who have exhausted all other collection channels.

Council Tax – unlike other most other debts carry legal sanctions for non-payment. It is the council’s intention to pursue those who can pay but choose not to pay through all legal avenues available including asking the court to undertake a means enquiry which ultimately could lead to Committal.

6. Consultation (including Overview and Scrutiny, if applicable)

6.1 The Fair Debt Summit brought together a number of experts and support organisations to consider current processes and initiatives to improve.

The output of the Fair Debt Summit also informed the revised policy, which attendees have been invited to review and comment.

Key comments received from Citizens Advice endorse the collaborative approach as follows:

- Citizens Advice welcomes the revised Fair Debt Policy and was pleased to have had the opportunity to be involved in the Fair Debt Summit
- The revised policy will be all the more critical in a post-COVID environment where we anticipate an increase in debt issues.

7. Implications

7.1 Financial

Implications verified by: **Jonathan Wilson**
Assistant Director Finance

The financial implications are set out in the body of the report.

7.2 Legal

Implications verified by: **Gina Clarke**
Corporate Governance Lawyer

Local authorities have a fiduciary duty to its taxpayers to seek to recover outstanding debt wherever possible, and to act fairly and proportionality in the

collection and enforcement of debt. The Council has a number of options available to recover debts. The options available will depend on the nature of the debt as some methods of enforcement arise out of a particular statutory provision that apply only in certain contexts. The Local Government and Finance Act 1992 and the Council Tax (Administration and Enforcement) Regulations 1992 set out councils' powers to collect and recover council tax.

The individual circumstances of a particular debtor may also restrict the options available to the Council. The Government did introduce a number of measures in relation to the enforcement of debt during the current pandemic which had an impact on the Council's ability to recover debt.

There is no legal requirement on the Council to use committal orders to enforce debt, this an option amongst other methods of recovery. The Local Government and Social Care Ombudsman has in a number of reports recommended that local authorities consider the implications of bankruptcy and only use it as a last resort when all other debt recovery methods have been exhausted because of the impact that it can have on a debtor and their family. The effect of bankruptcy on a debtor can be significant in relation to both the loss of assets and the costs that can increase the original debt substantially.

Decisions about pursuing bankruptcy, seeking committal to prison or applying for a charging order should be recorded and the records retained together with the information considered by the decision maker where a senior officer has decided that pursuing bankruptcy is a fair and proportionate action after reviewing an accurate history of the origin of the debt and the debtors personal circumstances.

In developing a fair debt the policy the Council needs to ensure that information sharing arrangements and gathering information about individuals for the purpose of recovering debts are compliant with an individual's rights under General Data Protection Regulations (GDPR) and Human Rights legislation.

The Council in exercising its functions must have due regard to its Public Sector equality duties under the Equalities Act 2010. Prior to reaching a decision to adopt the Policy, the Council is required to assess and consider how the proposed policy is likely to impact on persons who have certain protected characteristics specified under the Act, and what steps can be taken to mitigate any negative impact.

7.3 **Diversity and Equality**

Implications verified by: **Natalie Smith**
Strategic Lead Community Development and Equalities

'The Fair Debt Policy has been developed with stakeholder engagement to help consider the needs of vulnerable people and those with protected characteristics. A Community Equality Impact Assessment will be carried out, and implementation monitored, to ensure the policy achieves the intended outcomes'

7.4 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Working Papers held by Corporate Finance and Revenues and Benefits.

9. **Appendices to the report**

Appendix 1 – Revised Fair Debt Policy (Draft)

Appendix 2 – Performance Measures

Report Author:

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