



**CABINET**

**15<sup>TH</sup> SEPTEMBER 2016**

**AGENDA ITEM (10)**

**REVIEW OF ENFORCEMENT PROCESS - COUNCIL TAX AND BUSINESS RATES**

<b>Accountable Member</b>	Councillor Lynden Stowe Leader of the Council
<b>Accountable Officer</b>	Jon Dearing Group Manager - Revenue and Housing Support 01285 623304 jon.dearing@cotswold.gov.uk

<b>Purpose of Report</b>	To review the administration of the 'Compliance' stage of the enforcement process in respect of Council Tax and Business Rates
<b>Recommendation(s)</b>	(a) That the Compliance stage of the enforcement process be internalised with effect from 1 <sup>st</sup> April 2017; (b) that the Joint Operations Manager be authorised to act as 'Certified Enforcement Agent' to carry out this function on behalf of the Council; (c) that Officers ensure that, when cases are passed to the enforcement stage, debtors do not get charged a second compliance fee.
<b>Reason(s) for Recommendation(s)</b>	To retain and control the Compliance stage of the enforcement process
<b>Key Decision</b>	No
<b>Recommendation to Council</b>	No

<b>Financial Implications</b>	There would be a cost incurred of approximately £800 for an Officer to become qualified and certified. Training and certification will require updating every two years.  There will be some additional costs associated with the production of compliance letters and making additional contact with defaulters  There is a potential financial benefit of £32,500 per annum
<b>Legal and Human Rights Implications</b>	An officer will need to have to hold the appropriate County Court certification in order for this function to be internalised.
<b>Environmental and Sustainability Implications</b>	None

<b>Human Resource Implications</b>	None; the process will be delivered using existing resources
<b>Key Risks</b>	There could be a reputational risk of the Council being perceived to benefit from customers in financial difficulty. However, Officers will endeavour to recover any outstanding debts, and to engage with customers through legislative processes pre- and post-Liability Order stage. The thrust of this proposal is to offer to try to minimise the final enforcement stages, which can incur significant costs for debtors
<b>Equalities Analysis</b>	No effect on protected groups identified

<b>Related Decisions</b>	None
<b>Background Documents</b>	None
<b>Appendices</b>	None

<b>Performance Management Follow Up</b>	The Revenues and Housing Support service will closely monitor the process inline with enforcement legislation.
-----------------------------------------	----------------------------------------------------------------------------------------------------------------

<b>Options for Joint Working</b>	The responsibility for ensuring that the Compliance Stage of enforcement will sit within the Revenues and Housing Support Service which is already a shared service. The certified enforcement agent will have responsibility in ensuring that the Compliance Stage is adhered to.
----------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>Background Information</b>	
<p>1. The 'Taking Control of Good Regulations 2013', which form part of the Tribunals, Courts and Enforcement Act 2007, came into effect on 6<sup>th</sup> April 2014. The Regulations bring conformity and clarity to the various forms of enforcement, and the fee structure has been reformed.</p> <p>2. When a Council Tax Payer fails to meet their tax payment obligations, the Council follows a standard process set down by regulation in relation to debt recovery. This process involves the following steps, with the appropriate penalty:-</p> <ul style="list-style-type: none"> <li>• issue of a reminder - £nil;</li> <li>• issue of a Final Notice - £nil;</li> <li>• Summons to Court - £65.00;</li> <li>• issue of a Liability Order - £10.00</li> </ul> <p>3. After a Liability Order is received, the Council undertakes a series of activities to recover the debt, including a request for information (including from an employer for an Attachment of Earnings).</p> <p>4. Should a debtor still fail to pay (or fail to provide information) then, currently, the Council passes the debt onto an enforcement agent who undertakes the full process of enforcement against the Liability Order. The fees associated with action fall under three categories, as follows:-</p> <ul style="list-style-type: none"> <li>(i) Compliance fee - £75.00;</li> <li>(ii) Enforcement fee - £235.00 (plus 7.5% of the value of debt over £1,500);</li> <li>(iii) Sale fee - £110 (plus 7.5% of the value of the debt over £1,500).</li> </ul>	

5. The Compliance Stage is the first stage in which the Enforcement Agent sets up an account in respect of a debtor. The fee is then added to the account and a Notice of Enforcement, giving details of the outstanding debt, is sent. The Enforcement Agent has to give the debtor a minimum of seven clear days' notice that a visit will take place to take control of goods.

6. A new Enforcement Agent contract has recently been tendered for, and Bristow & Sutor were the successful Enforcement Agents who secured the contract.

7. Within the contract terms, the Revenues and Housing Support Service has stipulated the expected minimum administration of the 'Compliance Stage'. This is to, wherever possible, give written notice to the debtor in accordance with legislation, but to follow-up any written notice by either telephone contact or a further letter.

8. That stage of the process has been reviewed and the conclusion is that it could reasonably be retained in-house so that Officers can ensure that all efforts are made at the Compliance Stage to make contact and to afford defaulters every opportunity to minimise the risk of the Enforcement Stage being commenced prematurely and thereby incurring very significant costs.

9. This approach would also allow the service to take close control of such accounts and to work with those customers who are struggling to pay, and for those customers who will not pay, the Council would still be in a position to refer their accounts to the appointed Enforcement Agent.

10. In the opinion of Officers, this additional service would not only mean a better deal for defaulters, but also for Council Tax Payers in general, with the Council retaining the £75.00 Compliance fee, rather than it being paid to the Enforcement Agent. To give an indication of any financial benefits, the figures below relate to accounts referred to the Enforcement Agent in the financial year 2015/16:-

Council Tax	839 cases;
Business Rates	<u>106 cases;</u>
Total	945 cases.

11. Given that around 46% of debtors pay at the Compliance Stage, this means a revenue stream in an approximate sum of £32,500 that would otherwise go to the Enforcement Agent would now be retained by the Council.

12. In order for the Council to be compliant with the legislation, and in order for it to administer the Compliance Stage of the enforcement process, an Office would need to become a certified Enforcement Agent. This would entail an Officer joining the Chartered Institute for Credit Management, passing the 'Taking Control of Goods' examinations, and then appearing before the County Court to become a certified Enforcement Agent.

13. Bristow & Sutor have already been consulted over any potential Compliance work being carried out by the in-house service, and would be happy with the suggested approach. In fact, Stroud District Council is already processing its own Compliance Stage, and still maintains a close working relationship with Bristow & Sutor.

14. In those cases where the Compliance Stage fails due to the debtors not engaging, the cases would be referred to Bristow & Sutor, who would then reset the recovery action back to Compliance. In these cases, it is recommended that the Council removes its Compliance Fee as that would now become chargeable by the Enforcement Agent and would therefore avoid double charging to the defaulter.

15. Although there is nothing in the Regulations that state that Compliance fees cannot be claimed on more than one occasion, Officers believe that the suggested approach offers the fairest balance between defaulters and general Council Tax Payers, who fund such administrative action.

16. The alternative is that the Council continues to send all cases from the Compliance Stage to Bristow & Sutor.

(END)