

COUNCIL
25th July 2019

Report of the Head of Resources

DATA MATCHING EXERCISE FOR COUNCIL TAX AND NON DOMESTIC RATES

PURPOSE OF REPORT

The purpose of this report is:

- to provide information about the outcome of a data matching exercise, and
- to seek approval for an approach relating to amounts due for historic cases that have been identified as part of the data matching exercise.

RECOMMENDATION

1. The Council is recommended to approve the approach detailed in 3.1 of the report when considering whether and how much of any backdated Council Tax or National Non-Domestic rates are recovered, subject to recommendation 2.
2. That, if the Council receives adverse comments from consultation with the Citizens Advice Bureau (CAB) and major preceptors, a further report on the options will be brought before the next Council meeting for consideration.
3. That Council is recommended to delegate authority to the Head of Resources by way of amendment to Financial Regulation B7 (a) to write off of any amounts of council tax or non-domestic rates not exceeding £5,000 per case that the above approach deems non-collectable.

WARDS AFFECTED

None

STRATEGIC LINK

1 BACKGROUND

- 1.1 The Council has a legal duty to collect Council Tax and National Non-Domestic Rates (“NNDR”) from properties in its area. To ensure that all properties are included on the council tax and business rates systems there is an ongoing process of reconciliation between these systems and data from the Valuation Office Agency (VOA) database. To supplement this, a recent data matching exercise has been undertaken to match properties on the council tax system with those on Local Land and Property Gazetteer

(LLPG) system. A similar exercise to match the LLPG system with the non-domestic rates system is currently underway.

- 1.2 It is now necessary to agree an approach to deal with any mismatches identified by the data matching exercises.

2 REPORT

2.1 The data matching exercise

The data matching exercise has identified mismatches. Many of the mismatches are simply slight differences in addresses; others relate to properties on the LLPG where no council tax or NNDR is due, such as derelict or demolished properties. However, the exercise has identified some properties on the LLPG that have never been included on the VOA's property databases or the Council's Council Tax or Non-Domestic Rates systems. These cases are all being investigated. In some cases, residents or businesses may have been aware that they had a liability to pay council tax or business rates, and did not inform or chase the District Council. In some cases, the potential liability dates back several years. Once this initial data matching exercise has been completed, it is intended to carry out data matching on a frequent basis in the future so that the backdating of bills is minimised.

2.2 The legal framework

There is no limitation on the time the Council can recover a council tax debt. However, regulations also state that the Council Tax Demand Notice (the bill) "is to be served as soon as practicable. Where the bill has not been served "as soon as practicable" the Council must consider whether this has "occasioned some procedural or substantive prejudice" to the council tax payer. Further, the Council should also conduct a balancing exercise between the "public interest" (i.e. the duty to collect council tax) and the "injustice caused" to the tax payer by the delay.

2.3 Officer comment:

While demands for Council Tax can be backdated, consideration should be given to the reputational consequences of doing so. Whilst it is only fair that each household pays their share of Council Tax, asking for several years' worth may be seen as being somewhat harsh. The legislation and case law suggests that these matters should be determined on a case by case basis.

- 2.4 For national non-domestic rates the principles are the same, parties should not benefit from a windfall due to the failure of the Local Authority to bill them. There is no limitation on the time the Council can recover a debt relating to Non-domestic rates.

- 2.5 While demands for NNDR can be backdated, consideration should be given to the reputational consequences of doing so. Whilst it is only fair that each organisation / business should pay their rates, asking for several years' worth may cause serious financial difficulties to a business. It is recommended that these cases should each be assessed on their own individual circumstances.

2.6 An issue that also needs to be taken into consideration is that business may have ceased trading or moved and can be difficult to trace. Consideration also needs to be given as to the impact of demanding a large outstanding sum in one go.

3. **PROPOSED APPROACH**

3.1 As case law suggests that the Council should consider the individual circumstances of each case, ensuring that the payer does not face prejudice, the following approach to backdated liabilities is proposed:

- a) That the Head of Resources determines the relevant period for backdating each case, based on the following criteria:
 - 1) Can the liable person be identified?
 - 2) Are they deceased with no assets to pay the debt?
 - 3) Have they absconded and can't be traced?
 - 4) Is the debt uncollectable due to other legislation like bankruptcy or insolvency?
 - 5) Is the account uneconomical to collect?
 - 6) Does the Council Tax or NNDR payer own the property or other assets that could cover the debt?
 - 7) For Council Tax debts, does the payer qualify for council tax support, state benefits or pension credit (i.e. do they have sufficient income to pay the backdated liability or would it cause hardship)?
 - 8) Is there any entitlement to discounts or reliefs?
 - 9) Are they from a vulnerable group such as those who have been relocated within the District after fleeing domestic abuse?
 - 10) What is the payer's knowledge of the system? (For example, they might have moved from abroad and did not know they had a Council Tax liability to pay or, on the other hand, they might have lived here all their lives and knew that they had to pay but didn't chase a bill).
 - 11) For Council Tax payers, is there evidence of a long-term serious health condition? (Such debts could be written off or enforcement suspended until the person has recovered).
 - 12) Evidence from the payer of where and how they would suffer prejudice if the Council backdates the bill.
 - 13) Could there be possible job losses if backdated NNDR is claimed?

Depending upon individual circumstances, it is recommended that a reasonable period (no more than five years) be allowed to settle the outstanding liability.

3.2 **Accounting for the liabilities**

As the Council has not raised these bills previously, and therefore has not accounted for the income, the write off would make no difference to the previous years' accounts. The cost is of income forgone.

Best practice is that the Council should raise accurate backdated bills i.e. backdated to the date that the VOA determines the properties should have come onto the council tax or NDR system. Officers would then need to identify the liable person(s), where possible, and determine what discounts and reliefs applied during that period (if possible) before seeking approval to write off any remaining balances for the financial years that the policy results in no demands (bills) being raised. As most of these write

offs would be for amounts over £1500, the Head of Resources seeks delegated authority for such write offs up to £5,000. Such delegation would require an amendment to Financial Regulations and a recommendation to that effect is made.

3.3 Consultation

It is recommended that consultation on the proposals should take place with major preceptors and with the Citizens' Advice Bureau or other debt advice agencies. Should there be any objections, these will be reported to the next meeting of the Governance and Resources Committee.

3.4 Equality Issues

An equality impact assessment (EIA) has been prepared and is attached at Appendix 1. It has been taken into account in developing the proposed approach. The EIA will be reviewed periodically.

4 RISK ASSESSMENT

4.1 Legal

The Council has an obligation to collect Council Tax and NNDR. Where the Council has failed to bill for these promptly in a financial year and is seeking a back dating of arrears, the Council must consider the impact of this action on the debtor personally and the wider community before taking enforcement action as well as the likelihood of being able to recover such sums

4.2 Financial

The financial implications are set out in section 3.2 of the report. The financial risk is assessed as low.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

6 CONTACT INFORMATION

Karen Henriksen, Head of Resources
Telephone: 01629 761284; Email: karen.henriksen@derbyshiredales.gov.uk

7 BACKGROUND PAPERS

None

8 ATTACHMENTS

Appendix 1: Equality Impact Assessment.