Report to the Cabinet

Report reference: C-018-2012/13
Date of meeting: 10 September 2012

Epping Forest District Council

Portfolio: **Finance & Technology**

Subject: **Non Domestic Rates - Debt Recovery Budget**

Responsible Officer: **Rob Pavey** **(01992 564211).**

Democratic Services Officer: **Gary Woodhall** **(01992 564470).**

Recommendations/Decisions Required:

(1) That research be continued on appropriate enforcement methods to protect the Council's financial position;

(2) That any underspends on salaries in the Revenues Group in 2012/13 be used for the purposes of debt recovery; and

(3) That £25,000 be included as a Continuing Services Budget growth item for 2013/14 for insolvency action to be taken against certain Non-Domestic Rates debts.

Executive Summary:

From 1 April 2013 50% of the Non-Domestic Rates (NDR) income collected by the Council is to be retained locally and therefore the effective management of NDR accounts will increase in significance to the financial position of the authority. Some NDR debts are uncollectable and with an on-going liability the arrears position worsens. The proposal is to create a fund from which insolvency action can be taken against these companies and individuals to finalise the accrual of the debt and allow occupiers to take up premises who will meet their rating liability.

Reasons for Proposed Decision:

To assist in the efficient management of NDR accounts with the aim of increasing collection rates to the authority.

Other Options for Action:

To take no insolvency action against these companies and individuals and allow the debts to accrue.

Report:

1. The Local Government Finance Bill which is currently working its way through the Parliamentary stages is due to come into effect from 1 April 2013. One major component of the new legislation will be the local retention of 50% of NDR by EFDC, shared with the County Council, currently proposed as an 80:20 split. Currently, all the Non-Domestic Rates that EFDC collects is passed back to the Government and the Council receives a sum back

as part of its overall grant funding package. The amount received back is not determined on the collection rate, other than a general duty to act diligently in the collection of Non-Domestic Rates, which is audited both internally and externally each year. The clear difference from 1 April 2013 is that collection levels will have a direct impact on the finances of the authority as 50% is retained locally.

2. The Council receives a grant from the Government each year for NDR administration and collection which is currently £173,981 per annum. This amount of grant has only increased by 3.5% over the last ten years, despite the number of accounts administered growing by 16% and the amount collected increasing by 70% over the same period. The effect has been that the revenue expenditure on NDR administration, collection and recovery currently exceeds the grant level by £43,000 per annum. The current arrangements mean that the financial incentive to commit additional revenue expenditure to NDR collection is limited given that the Council does not directly retain any additional monies collected.

3. In the recovery of NDR, officers will seek to come to a payment arrangement where a business or individual is experiencing financial difficulty. If the payment arrangement is a longer term arrangement then a key requirement for such an arrangement would be to ensure that the ratepayer can meet the current year's liability and pay off any arrears gradually. If the payment offered means the ratepayer cannot meet any existing liability then all that happens is the ratepayer gets further and further into arrears and this is not a sustainable position.

4. The Council has the option, either through its internal or external bailiffs of attempting to seize goods to the value of the debt. This is not always possible, however, because the company or individual concerned may have little in the way of physical assets or goods or is trading with goods which are essentially on sale or return or in the name of a third party. In these cases recovery of the debt is difficult especially with no payment arrangement in force and the debt continuing to accrue.

5. Another option the Council has is to instigate insolvency proceedings against an individual or company. The Council already undertakes this action with regards to Council Tax where other recovery methods have failed and it is identified that the individual has assets to meet the outstanding liability and any costs incurred in taking the action. The situation that is increasingly being faced with regard to NDR debts is that an individual or company is trading and is unable to meet its on-going liabilities. There may be insufficient, or no assets or goods to seize to the value of the debt, and the only option open is to take insolvency action. Typical fees to wind up a company can be £4,000 per case and in some cases there may be little chance of recouping the fees or collecting the debt.

6. An obvious question would be, why take the action, incur additional costs with little prospect in some cases of getting paid? The answer is that, if the company cannot or will not enter into a payment arrangement that meets the debt and with no other recovery action available, the arrears will continue to grow with no end to the situation. By taking insolvency action and winding up the company the on-going liability would have been finalised with the hope being that the next ratepayer taking over the premises would meet their NDR liability.

7. With other winding-up petitions there may be better prospects of recovering the debts and associated costs and currently the Council engages Morgan Cole solicitors for its bankruptcy actions. Morgan Cole have indicated that they would undertake the work on a funded position provided that the Council can satisfy them regarding the financial status of the Company. The Council would obtain full company searches before considering a winding up petition. The cost of placing an individual into bankruptcy is less to the Council but in the interests of finalising some NDR debts, there would be no guarantee that there would be sufficient assets to clear the debts and costs.

8. There are other factors to consider in relation to this issue. Firstly, by winding up a company, businesses will close and people may lose their jobs. There is an obvious potential public relations issue and a cost back to the authority in terms of Local Council Tax Support. There is also the fact that there may be little in practical terms that can be done if the directors of a company merely change its name and start up again. However, such is the crucial nature of NDR revenue to the Council's finances in the future that pragmatic decisions will need to be taken with some accounts to finalise some debts.

9. There are a number of NDR accounts which currently would be considered for a winding up petition. As has been discussed, such action requires additional revenue expenditure which in some cases may mean no dividend is paid to meet the debt and costs. What is requested in this report is for a CSB growth item of £25,000 per annum to fund around 10 cases per year with a combination of winding up petitions and bankruptcy actions. Successful actions could lead to the costs collected being placed back into the funds to use against future actions.

Resource Implications:

At the end of the first quarter there is a salary underspend in the Revenues Group of approximately £2,500. It is proposed that this and other underspends arising in 2012/13 be utilised on debt recovery.

CSB growth item proposed for 2013/14 of £25,000, however this is an invest to save item as over the longer term these actions are intended to improve the overall financial position of the Council.

The total NNDR billed by the authority during 2011/12 was £30.784 million. The value of NNDR arrears outstanding for all year's bills at 31 March 2012 was £1.445 million.

Legal and Governance Implications:

None.

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

None.

Background Papers:

None.

Impact Assessments:

<u>Risk Management</u>
The move to the Local Retention of NDR provides an increased financial risk to the authority. The prompt and efficient management of arrears and bad debts is a key component in managing this risk.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?	Yes
Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?	No

What equality implications were identified through the Equality Impact Assessment process?
There is the potential for companies to be closed and individuals to be made bankrupt. This could lead to individuals being made unemployed. However, NDR collection is to become a critical aspect of the Council's finances and the effective management of NDR debts will be essential to the funding of the overall provision of Council services. With regard to bankruptcy action taken officers undertake checks against the potential vulnerability of debtors, including any mental health issues, prior to taking any action.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
N/A.