

AGENDA MANAGEMENT SHEET

Name of Committee Corporate Services and Community Safety Overview and Scrutiny Committee

Date of Committee 02 March 2010

Report Title Debt Recovery – Update

Summary The Committee is invited to review and comment on the progress of debt recovery.

For further information please contact: Rob Phillips
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Would the recommended decision be contrary to the Budget and Policy Framework? No.

Background papers None

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

- Other Committees
- Local Member(s)
- Other Elected Members Cllr Appleton, Cllr Gittus, Cllr Davis, Cllr Moss – for comment
- Cabinet Member Cllr Heatley – for information
- Chief Executive
- Legal Sarah Duxbury – for comment
- Finance Dave Clarke – Reporting Officer
- Other Chief Officers
- District Councils
- Health Authority
- Police

Other Bodies/Individuals

FINAL DECISION YES

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by
this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Agenda No

Corporate Services and Community Safety Overview and Scrutiny Committee - 02 March 2010.

Debt Recovery - Update

Report of the Strategic Director, Resources

Recommendation

That Committee is asked to review and comment on the progress of debt recovery since the last report in September 2009.

1 Background

- 1.1 At the Resources, Performance and Development Overview and Scrutiny Committee meeting on 24th April 2007, members requested the continuation of regular reporting on the large outstanding debts of the authority. This report presents a snapshot of these large outstanding debts as at 9 February 2010, providing an update on changes since the last report in September 2009.

2 Over-42 Days, Over-£30,000 Debt

- 2.1 The Audit Commission recommends referral of unpaid invoices for legal action after 42 days. Our experience has been that the first legal letter, sent out by Legal Services shortly after receipt of a referral from a directorate is effective in recovery of debt. Based on this experience the following provision is included in our Statement of Recognised Practice:

Strategic Directors are required to:

'Refer all debts not paid within 42 days for legal action. If a debt is not referred for legal action at 42 days, Strategic Directors must be able to justify the reason for not doing so.'

- 2.2 Members will recall the report in September 2009 gave a list of the over 42 days debt greater than £30,000. An update of this list is given in table 1 overleaf. The debts previously reported to members in September are highlighted in bold in the shaded area. Members should note that the table includes disputed as well as undisputed debts and therefore no adverse inference should be drawn as to the conduct or financial standing of any organisation listed.

Table 1: Outstanding over 42 days, over £30,000 debt					
	Invoice No	Debtor Name	Value of Invoice £	Outstanding Amount £	Invoice Date
E & E	00166068	Color Estates Ltd	£80,602	£55,602	05/09/2007
Capital	00184299	Hilltop Developments (UK) Ltd	£38,468	£38,468	01/07/2008
AHCS	00186311	Warwickshire Primary Care Trust	£65,607	£65,607	12/08/2008
Res	00186405	Warwickshire Community & Voluntary Action	£36,618	£36,618	13/08/2008
AHCS	00190137	Warwickshire Primary Care Trust	£30,904	£30,904	17/10/2008
AHCS	00199159	Warwickshire Primary Care Trust	£312,840	£312,840	27/02/2009
Capital	00200079	George Wimpey (West Midlands) Ltd	£101,057	£101,057	05/03/2009
Capital	00200082	George Wimpey (West Midlands) Ltd	£1,034,724	£1,034,724	05/03/2009
AHCS	00201381	Warwickshire Primary Care Trust	£33,914	£33,914	24/03/2009
Capital	00202934	Barratt Homes (Mercia)	£90,205	£90,205	28/04/2009
E & E	00207221	Paul Hultberg Transport	£42,580	£42,580	07/07/2009
Capital	00208825	Banner Homes	£94,873	£94,873	20/08/2009
CYPF	00209561	WCC Harris School	£51,670	£51,670	07/09/2009
CYPF	00210100	Warwickshire Primary Care Trust	£133,193	£133,193	14/09/2009
AHCS	00210176	Warwickshire Primary Care Trust	£35,741	£35,741	15/09/2009
AHCS	00210749	Cherry Trees Care Home	£101,209	£101,209	25/09/2009
Capital	00210819	WCC The Ferncumbe C of E School	£75,000	£75,000	28/09/2009
AHCS	00211142	Martin Greenwood	£32,936	£32,936	01/10/2009
Res	00211556	WCC Bilton C of E Junior School	£67,679	£67,679	07/10/2009
E & E	00211591	Louis Group international (UK) Ltd	£68,737	£51,553	07/10/2009
CYPF	00211762	WCC Alcester High School	£117,381	£117,381	08/10/2009
CYPF	00211811	WCC Kenilworth School	£378,132	£378,132	09/10/2009
Res	00212248	WCC Bilton School	£75,255	£75,152	13/10/2009
CYPF	00212540	WCC Harris School	£37,911	£37,911	16/10/2009
Capital	00213282	Our Lady's R C Primary School	£125,000	£125,000	02/11/2009
E & E	00213946	National Grid	£31,000	£31,000	11/11/2009
Capital	00213977	Taylor Wimpey Ltd	£90,597	£90,597	12/11/2009
Capital	00213984	Lagan Homes	£169,416	£119,416	12/11/2009
CYPF	00215081	Janet Plant	£102,950	£102,950	27/11/2009
E & E	00215535	Esprit Homes Ltd	£31,751	£31,751	03/12/2009
			Total	£3,595,663	

2.3 The total of outstanding over 42 days, over £30,000 debt is £3.596 million. This is £0.335 million more than the figure reported to this Committee in September 2009. A summary table of the level of debts cleared from the list in the previous report in September is included in Table 2 below:

Table 2: Over 42 days, over £30,000 debt cleared		
Debtor	No. of Invoices	Value of Invoices £
Warwickshire Primary Care Trust	8	575,769
Other	10	880,080
Total	18	1,455,849

- 2.4 There are 10 debts remaining from the list presented to this Committee in September. Four of these debts relate to Warwickshire Primary Care Trust. It should be noted that the PCT have been concentrating on prompt payment of current invoices and hence only 2 of the 20 new debts added to the list relate to them. However, the authority is in regular contact with the PCT and has been assured that the problems in clearing the older debts are being addressed. The Cherry Trees debt is related to an overpayment which the authority is claiming back from the Care Home as the PCT had become responsible. The Care Home are having to wait until the PCT have paid the money to them to avoid financial difficulties. The Martin Greenwood debt has been queried. This is being resolved and the debt is being chased.
- 2.5 8 of the 20 new debts relate to WCC Schools. In some instances the debts have been queried meaning that payment was delayed, in other cases the schools are waiting for a transfer of funds from other accounts. All these debts are being chased. The debt for Janet Plant relates to ongoing funding for learners within the 14 to 19 Development Team. This invoice has been queried and is being resolved. The debt continues to be chased.
- 2.6 Both the debts for the Louis Group International (UK) Ltd and Color Estates Ltd are being cleared through instalments and therefore will feature in this list in future reports. The National Grid and Paul Hultberg Transport are being chased and payment is expected shortly.

3 Section 106 and Section 278 Agreements

- 3.1 When the previous debt recovery report was presented to this Committee in September, members requested details on the possibility of receiving developer contributions in advance of the schemes commencing. This section comments on the debts outstanding in the list above and outlines the progress made against this request.
- 3.2 The remaining invoices from Table 1, relate to developer contributions to capital schemes. The debt outstanding reflects the impact of the economic recession on the ability of developers to make agreed contributions to infrastructure works on new developments. On all of these debts discussions are ongoing with the developer and have been for a number of months. In some cases, these negotiations are being undertaken jointly by the directorate and Law and Governance. For section 106 agreements, the security for debts is the land that is being developed but this security might not be enforceable immediately (e.g. if it is necessary to wait for market conditions to improve) or at all (e.g. if the land has been sold to individual homeowners). For section 278 agreements, bonds provide surety against insolvency or inability to pay but not

against a developer who successfully disputes liability. In the case of both types of agreement, interest is payable on the debts.

- 3.3 For section 106 agreements, developers have to pay WCC's legal costs incurred in negotiating the terms of the agreement. It is now current practice to request a payment upfront and any balance owing is required to be paid before the agreement is signed. The Section 106 agreement provides for certain contributions to be paid at certain trigger points. These trigger points are specified in the agreement, for example when the development commences or when a certain number of properties are occupied. Because the contributions aren't payable until the trigger points are reached, it is not possible to require these contributions to be paid in advance.
- 3.4 Developers also have to pay WCC's legal costs for section 278 agreements and again it is now current practice to request a payment upfront with the balance payable before the agreement is signed off. Developers also have to pay Design Services' fees for design, contract and tender preparation. In the past Design Services were willing to wait until the section 278 agreement was signed before recovering these fees. This practice has now been amended and fees are being collected in advance. As part of the section 278 agreement developers have to reimburse WCC for the cost of any highway works. These costs are not collected in advance but instead a bond is secured to cover the costs in the event of default. Whilst this protects WCC in the majority of cases, developers do sometimes dispute liability and the largest debt on the list (George Wimpey £1,034,724) is one of those cases.

DAVID CLARKE
Strategic Director, Resources
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10 February 2010