

Report of the Strategic Director Corporate Resources to the meeting of the Corporate Overview & Scrutiny Committee to be held on 6 February 2020

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Subject:

Business Rate Collection

Summary statement:

This report sets out the Council's performance in, and the challenges for, the collection of Business Rates

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Overview & Scrutiny Area:

Corporate

1. SUMMARY

- 1.1. This report sets out the Council's performance in, and the challenges for, the collection of Business Rates

2. BACKGROUND

- 2.1. Business Rates are set by Government. The Rateable Value of business properties across the district are determined by the Valuation Office Agency - an Executive Agency of Her Majesty's Revenue and Customs.
- 2.2. It is the Council's responsibility to issue Business Rate bills, collect monies invoiced and to implement a number of nationally and locally defined schemes to help local business with their rates bill. There are approximately 19,000 Business Rate bills issued; and once exemptions and reliefs are applied, the actual number of accounts to be collected reduces to around 11,000.
- 2.3. Business Rates have always been an important source of income for local authorities, but this importance increased in 2013 when the government partially localised the system; through which, the Council retains 49% of business rates collected, 50% is paid to central government, and 1% is paid to the West Yorkshire Fire Authority.
- 2.4. The importance of Business Rates will grow as Government makes progress towards establishing a system that is completely localised. In 2018/19, the Council was part of a rate retention pilot (comprising the five West Yorkshire Local Authorities, York and Harrogate); a one year scheme. The Council is involved in a similar pilot in 2019/20 comprising a greater number of authorities.
- 2.5. This report sets out the Council's performance in, and the challenges for, the collection of Business Rates.

3. OTHER CONSIDERATIONS

- 3.1. The key measure of performance is the "in-year" collection rate; that is, the amount of business rates collected in the year for which it was raised. Whilst this is used nationally to compare the Council's performance, it takes no account of the differing demographics of each area. More important is the eventual collection level, although this figure is not widely reported.
- 3.2. Comparing collection figures and collection rates with previous years should be treated with caution. There are a number of factors that can affect both the amount to be collected and the amount collected not only in the current year, but also across previous years:
 - New developments and business closures will affect the amount of business rates charged. Consequently, the amount to be collected at the start of a year is likely to be a different amount than at the end of the year
 - Successful appeals against rateable values will reduce, in year, the amount of business rates to be collected; and, if backdated, will affect previous years 'to

be collected' figure

- The variable introduction, reduction and closure of business rate support schemes affects the amount to be collected in each year; i.e. discount schemes, singly and collectively, will help improve the collection rate.

3.3. To provide an analysis of collection, Table 1 shows the in-year and third quarter collection rates, and the amount to be collected, for the each of the years in which the business rates were raised.

	Business Rates to be collected	Amount collected in year	In year collection rate	Collection Rate at End Dec
2015/16	£142,981	£138,599	96.94%	79.21%
2016/17	£148,989	£144,537	97.01%	78.35%
2017/18	£140,753	£137,270	97.53%	78.93%
2018/19	£140,869	£137,973	97.94%	79.03%
2019/20 (Q3 Data only)	£143,300	£113,256	-	79.03%

Table 1

3.4. The amount of business rates to be collected in each year, since the 2017 revaluation, is fairly consistent. The in-year collection rate has, however, shown sustained year-on-year improvement. While all businesses rates that can be collected will be collected over time, increasing in-year collection improves the Council's cash flow.

3.5. The calculation of business rate arrears is similarly complex. For example, some or all of an 'outstanding debt' can be negated by a successful appeal. This could mean the Council having to make refunds backdated over a number of years. This impacts not only debt collection, but also on the Council's budget position. Consequently, the Council makes provision for this in its Budget process.

3.6. The total arrears still being collected is around £4.2m. On-going collection efforts ensure that all the business rates that can be collected are collected - although it can take years to achieve. To illustrate, Table 2 shows the arrears profile over the last four years as at December 2019.

Year of Charge	Outstanding Debt
2015/16	£207,949
2016/17	£345,167
2017/18	£816,359
2018/19	£2,198,472

Table 2

3.7. The majority of businesses do pay their charge as billed; or following receipt of a reminder notice. However, where non-payment does occur, prompt enforcement action is taken in accordance with the Council's collection policies.

3.8. The collection procedure is designed to maximise income, but is flexible enough to assist businesses with short term difficulties. However, some businesses will be made bankrupt or wound up through this process. Where assets are not sufficient to clear the debt, it must be 'written-off'. These debts can be considerable.

- 3.9. As at December 2019, almost £1.5m was written off as uncollectable debt. It should be noted that this is the year that the debt is written off, not necessarily the date the debt was accrued. As illustrated in table 3, some debts go back a number of years. This could be the result of the back-dating of a revaluation, or simply that the debtor has been making payments from the time the debt was accrued.

Entry To Year	Count	Sum of Entry amount
2009	1	£1,560
2010	2	£8,347
2011	3	£11,746
2012	1	£17,681
2013	3	£10,201
2014	5	£27,602
2015	11	£20,224
2016	54	£176,320
2017	85	£311,931
2018	202	£631,819
2019	235	£230,858
Grand Total	602	£1,448,289

Table 3

- 3.10. There are around 2,000 accounts where the Council takes court action to enforce payment each year. In cases where a Liability Order is obtained, and the debtor still does not pay, and it is appropriate, Enforcement Agents will be instructed to collect the debt.
- 3.11. Enforcement Agents will try and negotiate payment with the taxpayer, but if this is not possible they can seize and remove goods of a value sufficient to meet the outstanding debt. There were 677 cases passed to Enforcement Agents in 2018/19, and they were able to recover £1.35m in unpaid business rates.
- 3.12. If a debt is not collectable, or the Enforcement Agents cannot recover the debt, the council can seek a winding up, or bankruptcy, order. Insolvency proceedings are taken, not with the expectation of securing payment of the debt, rather to ensure the debt does not increase and to release a property so that liability passes back to the owner; and subsequently for occupation by a business that is able to pay its business rates.
- 3.13. Whilst the collection of income to the council is important, maintaining and growing the tax base is even more critical; made more so by the Government's intention to move to 100% rates retention.
- 3.14. In 2018/19, the Council was part of the Leeds City Region rate retention pilot (comprising the five West Yorkshire Local Authorities, York and Harrogate); a one year scheme. The key feature of the pilot was that 100% of the growth above the business rates baseline could be retained by the pilot area - based on the actual business rates collected.
- 3.15. MHCLG revised arrangements for bids to be part of a 2019/20 pilot scheme. The pilot area now includes all the North Yorkshire authorities; and the retention rate has been reduced to 75%. Consequently, the financial benefit is likely to be less

than the previous pilot.

Service Improvement

Tackling Avoidance

- 3.16. A significant amount of officer time is being spent on tackling avoidance cases and ensuring liability is properly assessed. Using the 'system' to avoid or minimise business rate liability is not illegal, but it does reduce the amount of business rates the Council is able to collect. However, there are those that will try to use avoidance techniques that do not properly apply to their circumstances.
- 3.17. Where a businesses has made a claim for relief and there is doubt about whether that relief should properly apply, or where there is a propensity to use a particular relief for the purpose of avoidance, the claim is rigorously investigated; including on-site investigation where appropriate,
- 3.18. The Council has also engaged specialist solicitors to assist the Council to deal with the rate avoidance and other non-payment issues. This is particularly useful in more complex cases where the business try to mount a defence. The case study below highlights one such case.

Case Study

A ratepayer owed the authority a significant sum in un-paid business rates: no payments had been made towards their business rate liability and they refused to make an arrangement to clear the debt. The Council secured a Liability Order in respect of one period in which a debt was created, and sought a further Liability Order covering a later period.

The authority engaged specialist solicitors to seek a winding up order for the business. In response to the filing of the winding up petition the ratepayer decided to continue to contest liability for the debt and filed a "set aside" application in respect of the liability orders.

The specialist solicitors were able to organise representation on behalf of the authority, successfully countering the arguments put forward. They also negotiated a payment plan on behalf of the authority to secure payment of the outstanding debt, plus the legal costs incurred by the authority.

Joint Working

- 3.19. The Council is working with other billing authorities to better coordinate responses to rate avoidance and more complex technical matters where organisations are looking to reduce their rates liabilities, and which impact upon more than one authority area. One local authority, in consultation with the others, will take the lead role in responding to a particular issue; with the costs shared amongst participating authorities.
- 3.20. The most high profile case recently was to successfully defend an appeal by NHS Trusts seeking an 80% reduction in their business rates which, had they won, would have cost the Council around £10m, and Local Authorities nationally around £1.5bn. However, it is likely that the NHS Trusts will appeal the decision.

Future Challenges

- 3.21. The rise of the digital market place is changing the way consumers shop; with on-line businesses providing access to products from across the world to people from the comfort of their own homes, sometimes at a lower price than can be found on the high street. Many businesses in the retail sector have struggled to compete in the face of this competition, resulting in many small shops closing completely. Larger retailers have similarly struggled, resulting in some going into liquidation or reducing the number of retail outlets.
- 3.22. The result can be clearly seen in the decline of the high street across the country. There have been calls for reforms to the current business rate system to help the retail sector; particularly as high levels of business rates have been cited in many cases as contributing to the closure of businesses. The Government has said that it will undertake a fundamental review of business rates and that they would take steps to help high street businesses. It is anticipated that the Budget Statement in March will provide more clarity about what that support will be.

Revaluation

- 3.23. Historically, non-domestic properties have been re-valued every five years, most recently in 2017. To limit the impact caused by the introduction of a new rating list, the Government introduces transitional relief to limit the changes to the amount a business has to pay
- 3.24. To further limit this impact, the Government has committed to reducing the period between revaluations. The next revaluation has been brought forward to 2021; with subsequent revaluations on a three year cycle.
- 3.25. It is difficult to predict the impact that the next revaluation will have on businesses locally. It will be determined by how rent levels have changed across the Country.

The Future of Business Rate Administration

- 3.26. HMRC is currently working on the introduction of a new system of Business Rates. Their aim is to have the new system in place for the 2024 revaluation; but no sooner. There has been an assurance that any new system will not affect the move towards 100% Rate Retention. However, HMRC have stated that the Making Tax Digital platform will form part of the new system.
- 3.27. The Making Tax Digital platform is already being used by businesses to make, and pay, their VAT returns on-line. Trials are also running with self employed and landlords to test and develop the Making Tax Digital service for Income Tax.
- 3.28. It has been suggested that Making Tax Digital may be introduced for some businesses for the payment of business rates, if it is thought necessary, before 2024. It has not yet been made clear what the criteria for this might be, but it is likely that, in keeping with HMRC's current approach, some businesses will be used to test and develop the new payment method.
- 3.29. The development of a new business rates system and the commitment to include the Making Tax Digital platform to collect business rates does, therefore, create uncertainty about the future of business rates administration locally.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1. The Council collected 97.94% of the business rates due in 2018/19; collection of arrears will continue. The total amount of business rate arrears, including costs at 31 March 2019 was £7.7m but now stands at £4.2m.
- 4.2. Generally, Bradford's experience has been of receiving less business rates income than anticipated. This has mainly been due to successful appeals against rateable values, leading to a high cost of refunds backdated over a number of years. For example, a successful appeal against the Rateable Value set on purpose built doctors' surgeries and medical centres resulted in reductions of up to 70%; in some cases back dated as far as 2005. This resulted in approximately £10 million being refunded. The Council continues to review the Business Rates appeals provision based on the estimated cost of appeals.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1. Planning for the consequences of successful Business Rate appeals is already built in to the Council's Budget process. Based on previous experience, a prudent approach is being taken when considering the likely impact and scale of appeals; and will be monitored to ensure that the Council's reserves policy continues to meet the Council's financial planning needs.

6. LEGAL APPRAISAL

- 6.1. The Local Government Finance Act 1988 gives authority to the Council, as the Billing Authority, to issue Billing notices for, and the collection of, Business Rates.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

None within the context of this report

7.2 SUSTAINABILITY IMPLICATIONS

The sustainability of local business is linked to the sustainability of the local economy and of communities. Rate relief schemes help to support the sustainability and growth opportunities of small businesses.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None within the context of this report

7.4 COMMUNITY SAFETY IMPLICATIONS

None within the context of this report

7.5 HUMAN RIGHTS ACT

None within the context of this report

7.6 TRADE UNION

None

7.7 WARD IMPLICATIONS

None within the context of this report

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS
(for reports to Area Committees only)**

N/A

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

N/A

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

N/A

10. RECOMMENDATIONS

- That this committee notes, and gives its view on, progress in the collection of Business Rates

11. APPENDICES

N/A

12. BACKGROUND DOCUMENTS

- Local Government Finance Act 1988
- Corporate Overview & Scrutiny Committee Report: Business Rate Collection, 15 November 2018