

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Corporate Services

Corporate and Efficient Governance Committee : 26 May 2010

Subject : Proposed Private Member's Bill on Prescribed Periods of Debt – Consultation Paper

1. Purpose

- 1.1** The purpose of this report is to seek the approval of Committee to submit a response to the proposed Private Member's Bill being submitted by John Wilson, MSP in respect of proposals to align local authority powers to pursue tax debts with those for other debts.

2. Background

- 2.1** Current legislation in terms of council tax and community charge collection provide a prescription period of 20 years for recovery. Ordinary debts prescribe after a period of 5 years. In addition, local authorities can use the summary warrant procedure for the collection of local taxes whereas ordinary creditors have to apply for a court decree or an action using the small claims procedure.
- 2.2** John Wilson, MSP is proposing to bring forward a Private Member's Bill to align the periods of prescription and to abolish the summary warrant procedure.
- 2.3** A consultation paper has been issued and responses are invited from interested parties by 10 June 2010. The consultation paper has been attached as Appendix 1.

3. Main Issues

- 3.1** Each year the Council issues demand notices for council tax. In accordance with the statutory enforcement regulations, the Council will issue a reminder notice and then a final notice to a taxpayer before seeking to obtain a summary warrant. A summary warrant is also required by the Department for Work and Pensions before any deduction from ongoing benefit can be applied to meet the charge. When a summary warrant is obtained, a 10% surcharge is added to the balance outstanding from the taxpayer. In 2009/10 the Council issued demand notices to 44,400 properties. During 2009/10, we applied for 12,340 summary warrants in respect of these notices and also 5,327 summary warrants in respect of prior year debts.

- 3.2** The Council is an involuntary creditor in respect of council tax debts. Whereas a trader can choose to cease trading with a debtor so as to minimise their exposure to bad debts, the Council must continue to levy council tax on all households and seek to use all powers at its disposal to collect the sums due. In addition, although it is the responsibility of each taxpayer to inform the Council of any changes in their circumstances, these changes often come to light after the event and, as such, the Council will often require to issue backdated assessments in respect of prior year liabilities.
- 3.3** Studies by the Scottish Government and Audit Scotland have identified deprivation as a factor affecting council tax collection performance. In areas of higher deprivation, Councils on average will take longer to collect the charges than more affluent areas.
- 3.4** A copy of the proposed response to the questions raised in the consultation paper is attached as Appendix 2, however, the main issues arising from the proposal are:
- There is uncertainty if the courts could deal with the additional volume of ordinary actions that would be required to cover the void left by abandoning the summary warrant procedure. During 2009/10 the Council obtained 17,667 summary warrants.
 - There is a strong likelihood that the costs of ordinary actions would be significantly greater than the summary warrant procedure. The Council would seek to recover these costs from the debtor and as such the level of indebtedness could increase beyond the 10% surcharge imposed by the summary warrant procedure.
 - A blanket write off of all charges aged 5 years would give out the wrong message to taxpayers. It gives an incentive to the taxpayer to hold off paying as long as possible but does not take into account the efforts made by the majority of taxpayers who pay their charges on time.
 - There would be a cost to the Council in writing off all debts aged 5 years. During 2009/10, approximately £875,000 was recovered from debts over 5 years old.
 - The consultation paper is silent on non domestic rates and national taxation. As such, the changes proposed could lead to a disparity in collection methods within the Council.

4. People Implications

- 4.1** There would be implications for a greater solicitor resource and legal support for the Council to draft writs and manage the increased volume of court work if the proposal was to be passed.

5. Financial Implications

- 5.1** If the proposed changes to the powers available to the Council to collect local taxes are approved by the Scottish Parliament, there could be an adverse impact on the collection performance of the Council. The Council's costs of collection would increase due to additional legal costs required to service the additional court workload.

6. Risk Analysis

- 6.1** The Council's general services budget for each year assumes a yield from council tax. Failure to collect these sums and/or incur additional costs of collection would have an adverse effect upon the Council's budget.

7. Equalities Impact

- 7.1** No significant issues were identified in a screening for potential equality impact of this measure.

8. Conclusions and Recommendations

- 8.1** This report seeks Committee approval for the responses detailed in Appendix 2 of the report to be submitted in response to the consultation paper.

Joyce White
Executive Director of Corporate Services
Date: 7 May 2010

Person to contact: Vincent Gardiner, manager of Exchequer
Telephone 01389 737192
Email: Vincent.Gardiner@west-dunbarton.co.uk.

Appendices Appendix 1: Copy of Consultation Paper
Appendix 2: Detail of Proposed Response

Background Papers: None

Wards affected: All Council wards