

Report of:	Ian Wright, Director of Finance
Submitted to:	Corporate Affairs and Audit Committee – 30 September 2021.
Subject:	Payment of Council Tax – Councillors

Summary

Proposed decision(s)

That the Committee notes the findings of the report.

Report for:	Key decision:	Confidential:	Is the report urgent?
To note	Not applicable	No	Not applicable

Contribution to delivery of the 2021-24 Strategic Plan		
Business	People	Place
Maximising Council Tax Collection.	Not applicable	Not applicable

Ward(s) affected
Not applicable

What is the purpose of this report?

1. To outline the council's position and approach in regards to the collection of Council Tax from Councillors and the obligations on Councillors around meeting payment requests and provide information on councillors compliance with their legal duties in relation to the payment of Council Tax.

Why does this report require a Member decision?

2. This report has been requested by the Chair of this Committee which has oversight of the Council's Corporate Governance framework.

Report Background

Councillors and Council tax

3. The payment of Council Tax is a statutory obligation and is governed by the Local Government Finance Act 1992. Payment of Council Tax is due in regular intervals,

and would normally be on a monthly basis. Both the date of payment and the amount to be paid are shown on the Council Tax bill, therefore having access to the most recent bill is of the upmost importance as it holds essential information, such as the account number, how and when to pay. Should non-payment result in further action, the legislation is very clear on the stages that can be taken to secure payment when payment becomes a problem.

4. Following the issue of a bill, if payment is not made as indicated on the bill, a reminder notice will be issued within 14 days of the amount becoming overdue. If payment is still not forthcoming, the account will be selected for a summons and the full years council tax will become payable. If full payment is not forthcoming the Council will make a request to the Courts for a Liability Order and if granted provides additional powers to recover monies due. One of these powers is an attachment to the member's allowances. At no point prior to this is the Local Authority permitted to take such action¹. If an attachment is undertaken, a percentage of the allowance can be deducted on a monthly basis until the amount due is cleared.
 - Checks made from 2015 show that no Councillor has been excluded from voting, albeit a small number may have fallen behind with payment, this did not prevent any Councillor from voting.
 - All Councillor Accounts are up to date, in some instances the full year's amount has been paid.
5. Revenues Service provide monthly checks against each Councillor account. Notification is forwarded to Democratic Services should any Councillor hit triggers and fall behind with payment by 2 months or more. It should be noted that although the service undertake these checks, the responsibility for meeting payment obligations and raising non-payment issues rests entirely with the Councillor - see para 8, as it would also apply to any other resident within the borough. The Council does not provide any variation in service that would result in Councillors being treated preferentially over other residents.
6. Middlesbrough Council has 46 Councillors excluding the elected Mayor of which one vacancy will be filled on 16 September 2021. 87.5% of Councillors pay by monthly direct debit with the remainder choosing to pay by cash on a monthly basis. Whilst cash is a payment option which is offered to residents, the most obvious way to ensure payment is made on the due date is for payment to be made by the councils preferred method which is direct debit as it avoids any oversight with late or missed payments, however the method of payment is an individual choice.

Councillors and compliance with Council Tax legal obligations

7. The legislation which governs the payment of Council Tax and the obligations of Councillors is contained within Section 106 of the Local Government Finance Act 1992 (LGFA 1992) which makes it a criminal offence for any Member who has arrears of Council Tax which have been outstanding for two months or more to attend any meeting at which a decision affecting the budget is to be made, unless the Member concerned declares at the outset of the meeting that he or she is in arrears and will not be voting on the decision for that reason.

¹ SI 613 LGFA 1992

8. The application of Section 106 of the 1992 Act is very wide and Members should be aware that the responsibility for ensuring that they act within the law at all times rests solely with the individual Member concerned.
9. It is accepted that payment difficulties can arise, and in exactly the same way as is offered to residents, support and payment plans can be put in place for elected members. Para 27 of the Members Code of Conduct, provides that the elected member must at the earliest opportunity make arrangements to repay. Any service response to this will be dealt with confidentially, provided non-payment has not resulted in triggers – also note para 10.
 - Para 27 Members Code of Conduct (Appendix A):-
 - i. The law makes specific provision that if an elected member is in two months arrears with payment of Council Tax that elected member may not participate in certain decisions concerning Council Tax issues.
 - ii. If you owe a debt to the Council, you must put in place at the earliest opportunity arrangements for repayment. You must avoid being in a situation which might lead the public to believe that preferential treatment is being sought you must not participate in any decision which may create suspicion or a conflict of interest.

10. Section 4 and Section 8 of the Members Handbook (Appendix B) provide members with the information pertaining to S106 of the Local Government Finance Act 1992.

- Public Interest
 - i. Decisions made by information tribunals and also courts make it clear that elected officials should have a greater expectation of scrutiny regarding the payment of their Council Tax than an ordinary member of the public, Information regarding late and non-payment of Council Tax in regards to elected members may be released if it falls within the public interest test.

11. Regulation 3, Statutory Instrument 1992/613 also provides that as a resident any Councillor must report any changes in circumstances such as an address change, change to a discount entitlement etc., within 28 days of this occurring. Following any reported change a new bill will be issued and forms the basis of any future payments to the Local Authority.

What decision(s) are being asked for?

12. That the committee notes the contents findings of the report.

Why is this being recommended?

13. The report sets out the legal and statutory obligations/requirements of meeting their council tax payments for councillors and residents and the steps the authority takes to ensure compliance with those duties for all.

Other potential decisions and why these have not been recommended

14. Not applicable.

Impact(s) of recommended decision(s)

15. Not applicable.

Legal

16. Elected members are responsible for complying with Section 106 of the Local Government Finance Act 1992.

Financial

17. There are no financial implications arising as a result of this report.

Policy Framework

18. Not applicable.

Equality and Diversity

19. Not applicable. This report is for information only.

Risk

20. Not applicable, this report is for information only, however links into the following risks on the risk register 08-105, 08-075, 08-054, 08-055, 08-059.

Actions to be taken to implement the decision(s)

21. Not applicable. The service will continue to follow existing processes and take action where appropriate to do so.

Appendices

22. Appendix A = Members Code of Conduct.

23. Appendix B = Members Handbook (Section 4 and Section 8)

Background papers

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