

BIRMINGHAM CITY COUNCIL

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

18 JANUARY 2017
ALL WARDS

COST RECOVERY AT COURT

1. Summary

- 1.1 Members of the Committee have asked officers to establish the amount of Court costs that are received by the Council as a percentage of the amount that are ordered to be paid by the Courts.
- 1.2 As a result of this question, officers have worked with HM Courts and Tribunal Service over recent months to improve the way in which payments are made to the Council by the Court. An improved system of BACS payments has been agreed that will be more accurate, however, due to the disparity between the time that a costs order is made and the receipt of the final sum it will not be possible to provide an accurate figure for costs received as a percentage of costs awarded. The amount of work required to produce such a figure would be disproportionate to the benefit.

2. Recommendations

- 2.1 That outstanding minute number 603 will be discharged.
- 2.2 That the report be noted.

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3. Background

- 3.1 At every meeting of the Licensing and Public Protection Committee, a report is presented which lists the results of prosecutions cases in the preceding month or months. The report includes information on the costs that have been awarded by the courts as a percentage of the amount claimed by the Council. Members of the Committee have asked officers to establish the amount of Court costs that are recovered from defendants as a percentage of the amount that the Courts have ordered.
- 3.2 Officers established that the Council's systems are such that it could not directly relate the income transactions from HM Courts and Tribunal Service to the costs of individual cases. Therefore, it has not been possible to say with any accuracy what percentage of costs awarded at Court are received by the Council.
- 3.3 In order to improve the system of payments, officers have engaged with officers from the Magistrates Court over recent months to examine how costs are dealt with. An improved system has been agreed with the Court which is explained below.

4. New System

- 4.1 With effect from 1 December 2016, Birmingham Magistrates Court has stopped making cheque payments to the City Council. This is part of a wider modernisation project for HM Courts and Tribunal Service. All payments are now made through the BACS system. Prior to this change, the Court was making some BACS payments and some cheque payments, which was potentially confusing and harder to manage.
- 4.2 The Courts computerised payment system classified Birmingham City Council as a 'Major Creditor'. This enabled the Courts to produce remittance reports showing amounts paid to the City Council overall but not to individual departments within the Council. Officers have agreed with the Court that individual departments within the Council will now be classified as 'Major Creditors' in their own right. This will allow monthly remittance reports to be produced by the Court to show payments that have been made to Trading Standards, Licensing and Environmental Health. Officers have used this opportunity to cleanse and update the Courts records for all of the Council's prosecuting departments. It has been possible to replace the Courts list of 26 Minor Creditors with 12 Major Creditors. The new system will provide us with greater confidence that Court costs are paid to the correct department.
- 4.3 Each summons that the Council issues will contain the name of the prosecuting department to enable the Court to know where to send costs by BACS. Monthly remittance reports will identify the name of each defendant and the date and amount paid.

4.4 Having made a costs order, the responsibility rests with the Court to recover the costs from the defendant which might be on an instalment basis dependent on their ability to pay. The Courts have various processes and procedures which they employ to recover costs from defendants such as:

- Collection Order Notices.
- Further Steps Notices.
- Attachment of Benefit Orders.
- Deducting payments straight from Attachment of Earnings Orders.
- Distress Warrants.
- Warrants of Arrest.
- Referring the matter back to Court for a committal warrant to be issued.

5. Calculation of Cost Recovery

5.1 Although the new system will provide more certainty that costs are paid to the correct prosecuting department, it will still not be possible to calculate with any degree of accuracy the amount of costs that are paid as a percentage of the amount awarded. This is because payments are not necessarily made in the same financial year as the year in which they are ordered and it is very common for defendants to pay costs in monthly instalments spread over a year or more. Sometimes it might be several months after a conviction before a defendant starts to pay their costs order.

5.2 The remittance reports that the Courts will send will itemise each payment by reference to the name of the defendant. From this it will be possible to calculate the amount that each defendant has paid although this would be a manual calculation although the Court has offered to provide reports on individual defendants upon request.

5.3 The time and cost involved in trying to match each defendants costs order to a monthly remittance report, spread over many months and even years in some cases, would be disproportionate compared to the benefits that such information would provide.

6. Implications for Resources

6.1 It is important that the highest possible level of cost recovery is achieved to reduce the burden of prosecution costs falling on the public purse.

7. Implications for Policy Priorities

7.1 The Councils Corporate Charging policy expects that officers will maximise income wherever possible.

8. Implications for Equality and Diversity

- 8.1 No specific implications have been identified. Costs are payable by all convicted defendants when ordered by the Court regardless of their protected characteristics.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: nil