

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
CHIEF FINANCIAL OFFICER	EXECUTIVE COMMITTEE	5 MARCH 2024	5

WRITE-OFF OF UNCOLLECTABLE DEBTS 2023/24

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Finance and Resources (Councillor Gaunt).

PURPOSE OF THE REPORT

This report sets out details of write-offs of un-collectable debts in relation to Business Rates, Council Tax, and the recovery of Housing Benefit overpayments.

RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

RECOMMENDATION

The Committee is recommended to:

1. Note the write-off by the Chief Financial Officer under delegated powers of the eight uncollectable debts below £25,000, details of which are set out in Appendix A to this report.
2. Approve the write-off of the one uncollectable debt over £25,000, details of which is also set out in Appendix A.

REPORT

Background

1. The Council is responsible for collecting substantial amounts of income each year in respect of Business Rates (NNDR), Council Tax and Sundry Debtors. In addition the Council seeks to recover any overpayment of Housing Benefit.
2. Historically, the Council's overall collection rate of income for Business Rates and Council Tax is high with approximately 98% of all income due to the Council eventually collected. Similarly, non-collection of sundry debts is at a low level.
3. Good recovery procedures are in place and the recovery teams within the Revenues and Benefits Shared Service and the Fylde Council Finance Administration team pursue all monies due with vigour and continue to explore new avenues of debt recovery in pursuit of challenging performance targets. Debt write-off is only considered in exceptional circumstances when other recovery options have been exhausted.

4. Where an amount outstanding has not been collected due to the debtor absconding, officers make enquiries of various agencies with a view to obtaining a forwarding address. Unfortunately, there are usually a small number of cases in each year for which it is not possible to trace the debtor and where the action taken has been unsuccessful in recovering the debt.
5. In respect of the debts in relation to Business Rates, Council Tax and the recovery of Housing Benefit overpayments the Head of the Revenues and Benefits Shared Service has presented these debts for write-off and is satisfied that every effort has been made to recover the money owed to the Council. However, for absconders, should the Shared Service become aware of the debtor's location, the amount written-off will be re-instated and action taken to recover the amount outstanding.
6. In some cases where a debtor has been declared bankrupt, or a company has gone into liquidation, the Council has little control. However, the debt, or part of it, may be re-instated at a later date upon payment of a dividend. Further information in relation to bankruptcy and liquidation terminology is provided at Appendix B.
7. Under the Council's Constitution the Head of Revenues, Benefits and Customer Services has delegated authority to write-off uncollectable Business Rate debts up to £10,000 and uncollectable Council Tax debts of up to £5,000.
8. Additionally, the Council's Constitution provides delegated authority to the Chief Financial Officer (Section 151 Officer) to write-off uncollectable debts in excess of those levels up to £25,000 per individual debt, such write offs to be subsequently reported to the Executive Committee for information purposes.

Current Year Write-offs

9. Following advice and recommendations from the Revenues and Benefits service, the Chief Financial Officer has recently exercised this delegated power by writing-off four Council Tax debts and four Housing Benefit overpayments. To meet the requirement that the written-off sums are reported to the Executive Committee details of the debts are provided at Appendix A.
10. The writing-off of any debt in excess of £25,000 requires the approval of the Executive Committee. There is one Housing Benefit overpayment in excess of the £25,000 limit at this time, details of which are included in Appendix A.
11. Appendix A also includes details of write-offs approved over the last few financial years.

Implications

12. The collection of revenue is of vital importance to the financial management of the Council. Failure to collect debts, and in a timely manner, has adverse implications to the Council's finances and cash flow.
13. All of the uncollectable debts for which write-off is requested (or is being reported) relate to the period up to 31st March 2024. The cost of writing off these debts will be met from the appropriate bad debt provision. In respect of Business Rates and Council Tax the provision is funded by contributions by all the recipients of Business Rate or Council Tax income (those being Lancashire County Council, the Lancashire Combined Fire Authority and the Police and Crime Commissioner for Lancashire, together with Fylde Council).
14. Although this report seeks approval to write-off a number of uncollectable debts, any debt that is written-off can be re-instated at a later date should there be a further opportunity to recover part or all of the debt.
15. The names of individual debtors and their address have not been published because to do so may infringe the Data Protection Act 2018.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	

IMPLICATIONS	
Finance	The financial implications are detailed within the body of this report.
Legal	The Council's Constitution determines that the writing-off of debts in excess of £25,000 requires the prior approval by the Executive Committee. Additionally, amounts above a specified level that have been written-off by the Chief Financial Officer under delegated powers are required to subsequently be reported to the Executive Committee for information purposes. This report fulfils those requirements.
Community Safety	No implications arising from this report
Human Rights and Equalities	No implications arising from this report
Sustainability and Environmental Impact	No implications arising from this report
Health & Safety and Risk Management	No implications arising from this report

SUMMARY OF PREVIOUS DECISIONS
N/A

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
N/A	N/A	N/A

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul O'Donoghue Chief Financial Officer	www.fylde.gov.uk	February 2024

Attached documents

Appendix A – Information on debts written-off and for which write-off is requested plus a summary of previous write offs reported to Finance and Democracy Committee.

Appendix B – Terminology

Section 1: Debts in excess of £25,000: (Authority sought to write off debt)

Housing Benefit		
Name	Amount (£)	Reason
Individual: Name not disclosed due to Data Protection	£28,567.43	Deceased
Address: Address not disclosed due to Data Protection		
<p>The claimant was living alone and in receipt of state benefits and claiming Housing Benefit. Following written correspondence it became apparent that the claimant had capital over £16,000 and therefore should not have been entitled to Housing Benefit. The claim was suspended in September 2022 and referred to the fraud team and in February 2023 it was confirmed that the claimant had held capital of over £16,000 since February 2015. A Housing Benefit overpayment was raised for £31,758.68. The claimant was 94 years of age by the time this invoice was raised. The claimant's capital had reduced significantly and she was therefore able to claim Housing Benefit again from May 2023, having paid her rent and council tax herself since September 2022. A clawback from ongoing benefits was put in place and a one off payment of £3,000 had also been made towards the balance. We were notified the claimant had passed away in September 2023 and it was confirmed that there was no estate to settle the remaining debt.</p>		

Section 2: Debts under £25,000: (For information only)

Council Tax		
Name	Amount (£)	Reason
Individual – name not disclosed due to Data Protection	£15,013.29	Deceased
Address: Address not disclosed due to Data Protection		
<p>This debt relates to a period of 15 years where recovery was not possible due to extreme vulnerabilities with this individual. They have now sadly now passed away and having previously lived in rented accommodation there is no estate and no funds to repay this debt.</p>		

Council Tax		
Name	Amount (£)	Reason
Town Manor Developments Ltd	£9,929.02	Insolvency
Address: Flat 1 Chadwick Garage, Heeley Road, Lytham St Anne's, FY8 2JX		
<p>This debt relates to a company which owned the property but which has now been repossessed. The debt was for a prior period between 2016 and 2021 where the company had been placed in administration, but as there is no Council Tax exemption for such circumstance, plus the fact the long term empty premium had been triggered, the charge increased significantly in a relatively short period. As the company is in administration we are prevented from recovering this charge so have little choice but to put forward for a write off.</p>		

Council Tax		
Name	Amount (£)	Reason
Individual – name not disclosed due to Data Protection	£6,112.02	Insolvency
Address: Address not disclosed due to Data Protection		
<p>This is a debt for an individual who entered an Individual Voluntary Arrangement (IVA) during May 2023. Prior to this the Council had obtained liability orders from the court and had pursued collection of the debt via an</p>		

Attachment of Earnings Order to deduct payments from their salary. Should the Council receive any dividend payments from the IVA these will be offset these against the sum which has been put forward for write off.

council Tax		
Name	Amount (£)	Reason
Individual – name not disclosed due to Data Protection	£5,977.13	Debtor Absconded
Address: Address not disclosed due to Data Protection		
This is a debt for an individual who has absconded without trace. Despite their best efforts to trace the individual the recovery team have been unsuccessful and put the debt forward for write off, as their whereabouts is unknown. Prior to this the debt had been collected via an Enforcement Agent.		

Housing Benefit		
Name	Amount (£)	Reason
Individual: Name not disclosed due to Data Protection	£7,887.46	Debtor Absconded
Address: Address not disclosed due to Data Protection		
The claimant lived alone and was in receipt of state benefits. A fraud investigation began in June 2012, at which time the claim was suspended, and in July 2012 we were notified that state benefits had been cancelled with effect from October 2010, creating an overpayment of Housing Benefit of £7,928.80. The overpayment was able to be reduced slightly due to a returned cheque offsetting the overpayment but by the time the invoice was raised the debtor had left their address. Despite numerous attempts to trace them over the years the debtor was unable to be traced.		

Housing Benefit		
Name	Amount (£)	Reason
Individual: Name not disclosed due to Data Protection	£6,321.99	Deceased
Address: Address not disclosed due to Data Protection		
The claimant lived alone and was in receipt of state benefits. An overpayment was raised for the period January 2006 to August 2006 for £11,178.99. Deductions from ongoing Housing Benefit were made for numerous years until the claimant passed away at the age of 87 in July 2019, at which time the balance of the overpayment was £6,321.99.		

Housing Benefit		
Name	Amount (£)	Reason
Individual: Name not disclosed due to Data Protection	£5,183.71	Deceased
Address: Address not disclosed due to Data Protection		
Following a joint fraud investigation with the Department for Work and Pensions the claimant was found to have been working whilst claiming benefits. The claim was recalculated and an overpayment was created for the period May 2012 to July 2013, totalling £5,514.93. The claimant moved several times following the creation of the overpayment so we were unable to trace them but occasionally they were back in receipt of benefits at which time we were able to apply to the DWP to recover the overpayment on our behalf, reducing the balance owed. However, in September 2021 we were notified that the claimant had passed away so no further deductions could be applied.		

Housing Benefit

Name	<i>Amount (£)</i>	Reason
Individual: Name not disclosed due to Data Protection	<i>£22,021.47</i>	Deceased

Address: Address not disclosed due to Data Protection

In June 2017, we receive notification from the Department for Work and Pensions (DWP) fraud team that the claimant was being investigated for potential non-disclosure of a partner and the claim was suspended pending their enquiries. In September 2018 we were notified of the outcome of their investigations and the claimant had had a partner since March 2010. An overpayment of £22,595.16 was created. During 2017 and 2018, numerous checks were made to see if an attachment of benefits or earnings could be applied but nothing was successful. In early 2019 we established the claimant was back in receipt of state benefits and an attachment of benefits was successfully applied for. The overpayment was reduced via these payments from state benefits until the claimant passed away in January 2023.



Comparison between this year's and prior year write offs (as reported to Finance and Democracy Committee)

Year	Council Tax Under £25K	Business Rates Under £25K	Business Rates Over £25K	Housing Benefits Under £25K	Housing Benefits Over £25K
2023/24 (current year)	£37,031.46 (4 cases)	N/A	N/A	£41,414.63 (4 cases)	£28,567.43 (1 case)
2022/23	£32,928.69 (4 cases)	£25,228.69 (2 cases)	£83,081.02 (2 cases)	£14,277.20 (2 cases)	N/A
2021/22	£5,099.99 (1 case)	£44,405.69 (3 cases)	£281,108.89 (5 cases)	£11,402.74 (2 cases)	N/A
2020/21	£16,064.65 (2 cases)	£15,843.94 (1 case)	£26,998.06 (1 case)	N/A	N/A
2019/20	£6,039.67 (1 case)	N/A	£58,241.18 (2 cases)	£22,281.51 (1 case)	N/A

Whilst these debts have been written off in the years shown above they are more than likely to have been created in a number of prior years and have only been put forward for write off when all avenues of recovery have been exhausted.



APPENDIX B

TERMINOLOGY

Bankruptcy

Bankruptcy is the legal process involving an individual who is unable to repay outstanding debts when they become due. It is a legal procedure started either by the debtor (voluntary) or by creditors (involuntary) when the debtor is unable to make their payments.

A trustee is appointed by the court to measure, evaluate and dispose of the debtor's assets and distribute any proceeds to the creditors.

Liquidation

Where a limited liability company cannot repay their debts the Director(s) may call a creditors meeting to have the company voluntarily wound up. Also, a creditor who is owed outstanding sums may apply to the court to have the company wound up.

Once a company is wound up a liquidator is appointed to dispose of any assets and distribute any proceeds to the creditors.

Receivership & Administration

Administration is where a business is in danger of becoming insolvent and has an administrator appointed in order to try to improve the financial viability of the business to achieve a better outcome for creditors. This may include the sale of parts of the business or the continuation of trade whilst 'in administration'.

Receivership is where an individual or company cannot meet its debts and creditors, usually a debenture holder or a mortgagee, have applied to the court for the appointment of a receiver or administrator. Unlike liquidation, the business may not necessarily be wound up.

The task of the receiver or administrator is to protect the interest of the appointer, not the creditors as a whole. They will attempt to sell the business as a going concern, whether as a whole or in part, and any remaining proceeds from the sale will be distributed to the creditors after the debenture or mortgage has been paid.

Proposal to strike off - Dissolution

A company may apply to the Registrar of Companies House to be 'struck off' the register and dissolved. The company can do this if it is no longer needed. For example, the directors may wish to retire and there is no one to take over from them; or it is a subsidiary whose name is no longer needed; or it was set up to exploit an idea that turned out not to be feasible. Some companies who are dormant or non-trading choose to apply for strike off.

The registrar publishes a notice in the relevant Gazette stating his intention to strike the company off the register unless he is shown reason not to do so. Companies House records will show "active - proposal to Strike off" and this indicates there is dissolution pending.

If the registrar sees no reason to do otherwise, he will strike off the company not less than two months after the date of the notice. The company will be dissolved on publication of a further notice in the relevant Gazette.

In administering these cases, the outstanding debt is written off on systems but records at Companies House are continually checked to confirm that the dissolution of the company has been completed.

Voluntary Arrangements (IVA or CVA)

A Voluntary Arrangement is a formal proposal to creditors to pay part or all of the debt.

An individual will be subject to an Individual Voluntary Arrangement (IVA) and a company will be subject to a Company Voluntary Arrangement (CVA).

An insolvency practitioner will act as the supervisor and application is through the court for an "Interim Order" which prevents creditors from recovery proceedings against the debtor while the interim order is in force.

The supervisor tells the court the details of the proposal and whether in his opinion a meeting of creditors should be called to consider it. At the meeting, the creditors vote on whether to accept the proposals. If enough creditors (over 75% in value of the creditors present in person or by proxy, and voting on the resolution) vote in favour, the proposals are accepted. They are then binding on all creditors who had notice of, and were entitled to vote at, the meeting.

The supervisor pays the creditors in accordance with the accepted proposal.

The voluntary arrangements avoid the restrictions that apply to bankruptcy or liquidation and give the debtor more say in how his assets are dealt with and how payments are made to creditors.

Debt Relief Order (DRO)

The DRO is a cheaper, quicker and easier alternative to bankruptcy for individuals who have less than £2,000 in assets, aren't homeowners and have less than £75 in disposable income per month.

To qualify for a DRO individuals must have less than £30,000 in qualifying debts and haven't had an existing Bankruptcy Order, Individual Voluntary Arrangement or a Debt Relief Order in the last six years.

A DRO usually lasts for 12 months, and listed Creditors are not able to take action to recover the amounts owed, however normal expenses that fall due during the period, such as utility bills, council tax and rent, must be paid.

Arrangements to repay creditors must be made if the financial circumstances of the individual improve during the 12 month period.

The courts are not involved in the process and individuals contact an approved debt adviser like the Citizen's Advice Bureau who can check if the relevant conditions are met and assist in completing the relevant application.