

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	28 MARCH 2022	4

### WRITE-OFF OF UNCOLLECTABLE DEBTS 2021/22

#### PUBLIC ITEM

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

#### SUMMARY

This report details the proposed write-off of debts in relation to Business Rates, Council Tax, and the recovery of Housing Benefit overpayments.

Under this 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.

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, with such write-offs to be subsequently reported to the Finance and Democracy Committee for information purposes.

The Chief Financial Officer has recently exercised this delegated power by writing-off three uncollectable Business Rate debts, two Housing Benefit overpayments and a single Council Tax debt. To meet the requirement that the written-off sums are reported to the Finance and Democracy Committee details of the debts are provided at Appendix A.

The writing-off of debts in excess of £25,000 requires the approval of the Finance and Democracy Committee. There are five uncollectable Business Rates debt in excess of the £25,000 limit for which write-off is now requested. Details are provided at Appendix A. There are no uncollectable debts in excess of the £25,000 limit in respect of any other category of debt.

All of the uncollectable debts for which write-off is requested (or is being reported) relate to the period to 31st March 2022. 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).

#### RECOMMENDATIONS

The Committee is recommended to:

1. Approve the write-off of the five uncollectable debts in excess of £25,000 details of which are provided at Appendix A this report; and
2. Note the write-off by the Chief Financial Officer under delegated powers of the six uncollectable debts below £25,000, details of which is also set out in Appendix A to this report.

## SUMMARY OF PREVIOUS DECISIONS

No previous decisions have been made in respect of these specific debts.

## 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

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Tourism – To create a great place to live and visit

## 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 from taxpayers and customers with fairness and 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 Shared Service (The Head of Revenues, Benefits and Customer Services) 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.

### Implications

7. 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.
8. All of the debts for which write-off is requested (or is being reported) within this report relate to the period prior to 31st March 2022.
9. 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.
10. The names of individual debtors and their address have not been published because to do so may infringe the Data Protection Act 2018.

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 Finance and Democracy 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 Finance and Democracy 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

LEAD AUTHOR	CONTACT DETAILS	DATE
Paul O'Donoghue Chief Financial Officer	paul.odonoghue@fylde.gov.uk	March 2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A	N/A	N/A

#### Attached documents

Appendix A – Information on debts written-off and for which write-off is requested

Appendix B – Terminology

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

Business Rates		
Name	Amount (£)	Reason
<b>Peel Hall Estates Ltd</b>	<b>149,621.73</b>	<b>No Prospect of Recovery</b>
<b>Address:</b> Peel Hall Business Village, Peel Road, Westby, Blackpool, FY4 5JX		
<b>Property type – Various (Stores, Nursery, Offices and Premises)</b>		
<p>This applies to various units on the Peel Hall Business Village. The company had purchased the former Peel Hall Farm and had gradually developed the land into an eco-focussed business park made up of a mix of small storage units, small warehousing units and a number of small offices.</p> <p>The debt relates to vacant individual units over a six-year period between 2011 and 2017 when the then owners had defaulted on their HSBC mortgage and the lender had appointed law of property act receivers to manage the business park. Despite our efforts to engage with the company and their receivers, no payment was forthcoming and the recovery options were significantly restricted given that the only asset held by the company was the business park, which was being marketed for sale and already subject to a secured debt which would exceed the resale value.</p> <p>The business park was sold to new owners in 2017 leaving the company legally active but without any assets. The company was dissolved via compulsory strike off in November 2020 signalling the final closure of the company.</p>		

Business Rates		
Name	Amount (£)	Reason
<b>Small and Shouty (North West) Ltd</b>	<b>41,981.69</b>	<b>No Prospect of Recovery</b>
<b>Address:</b> 23 Wood Street, Lytham St Annes, FY8 1QR		
<b>Property type – Restaurant and Premises</b>		
<p>This debt is for a former restaurant on Wood Street, St Annes which had previously traded as Nuvo between 2018 and 2020. The company was dissolved on 25 February 2020 via voluntary strike off. Prior to this, liability orders had been obtained from the court and the case had been passed to Enforcement Agents for collection but this did not ultimately result in recovery of the debt.</p>		

Business Rates		
Name	Amount (£)	Reason
<b>Aztex Venue CIC</b>	<b>33,540.34</b>	<b>No Prospect of Recovery</b>
<b>Address:</b> Club at the Island, South Promenade, Lytham St Annes, FY8 1LY		
<b>Property type – Club and Premises</b>		
<p>The debt relates to a former Community Interest Company operating from the former casino premises on the Island, in which the company was dissolved via compulsory strike off in September 2020. The collection attempts were hampered by late notification of a change in tenant by the landlord, which only left four months to collect the debt before the company was dissolved. The property remains empty.</p>		

<b>Business Rates</b>		
<b>Name</b>	<b>Amount (£)</b>	<b>Reason</b>
<b>Tiger TK Wood Ltd</b>	<b>28,360.87</b>	<b>Insolvency</b>
<b>Address:</b> Miller Arms, The Village, Singleton, Blackpool, FY6 8LL		
<b>Property type – Public House and Premises</b>		
<p>The company ran the Miller Arms public house from 2013 to 2019 but was ultimately placed in creditors voluntary liquidation following a special resolution of the directors. The original liquidator was appointed in September 2019 but was replaced in January 2020 and have now declared there will be no dividend available to unsecured creditors. Prior to the liquidation we had obtained liability orders from the court and had passed the case to the Enforcement Agents for collection.</p>		

<b>Business Rates</b>		
<b>Name</b>	<b>Amount (£)</b>	<b>Reason</b>
<b>Provincial Hotels &amp; Inns Ltd</b>	<b>27,604.26</b>	<b>Insolvency</b>
<b>Address:</b> The Windmill, Clifton Lane, Preston, PR4 0YE		
<b>Property type – Public House and Premises</b>		
<p>This is the former Windmill Pub in Clifton which closed in June 2021 following trading difficulties due to COVID19. The company owned nine pubs and two hotels which had all closed when the company was placed in administration. The premises are owned by the company and has been kept empty but the deemed value of the assets of the company (£2.5m) is less than the debt owed (£3.7m) so there remains no prospect of a dividend to unsecured creditors. Prior to the administration, there was no history of non-payment.</p>		

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

Business Rates		
Name	Amount (£)	Reason
Cucina Pazzo Ltd	17,645.09	No Prospect of Recovery
<b>Address:</b> 37-39 St Andrews Road South, Lytham St Annes, FY8 1PZ		
<b>Property type – Restaurant and Premises</b>		
<p>This debt relates to the former Italian restaurant on St Andrews Road South for the period 2013 to 2015. The company had struggled to pay their bills and we had passed the case to our Enforcement Agents for collection. The company was dissolved in 2018 via compulsory strike off.</p>		

Business Rates		
Name	Amount (£)	Reason
Westby Homes (Parkwater) Ltd	15,843.94	Insolvency
<b>Address:</b> 25-33 Fairhaven Road, Lytham St Annes, FY8 1NN		
<b>Property type – Hotel and Premises</b>		
<p>This debt is for a 6 month period in 2015 prior to the hotel being demolished and converted into domestic apartments. Liability orders had been obtained from the court and had pursued the debt via Enforcement Agents but the company was placed in administration. The administrator had marketed all of the remaining apartments for sale for the benefit of the company's creditors and the final sales were concluded in 2020. Following payment of the section 106 to the Council the company was therefore moved from administration to dissolution, but without any dividend for unsecured creditors. The company was dissolved following liquidation in February 2021.</p>		

Business Rates		
Name	Amount (£)	Reason
Individuals – name not disclosed due to Data Protection	10,916.66	Absconded
<b>Address:</b> address not disclosed due to Data Protection		
<b>Property type – Shop and Premises.</b>		
<p>The debt relates to a shop for the period 2011 to 2013. Liability Orders had been obtained from the courts and the case had been passed to the Enforcement Agents for collection, but despite our best efforts to trace the ratepayers we have not been able to find their current whereabouts.</p>		

Housing Benefit		
Name	Amount (£)	Reason
Individual – name not disclosed due to Data Protection	6,154.64	No Prospect of Recovery
<b>Address:</b> address not disclosed due to Data Protection		
<p>This is a housing benefit overpayment for a period between 2018 and 2021 but where the recovery is not thought to be appropriate given the age and health considerations of the claimant. The claimant is aged 67, lives alone and receives state pension, disability living allowance (care) middle rate and disability living allowance (mobility) high rate and an occupational pension.</p>		

<b>Housing Benefit</b>		
<b>Name</b>	<b>Amount (£)</b>	<b>Reason</b>
<b>Individual – name not disclosed due to Data Protection</b>	<b>5,248.10</b>	<b>No Prospect of Recovery</b>
<b>Address:</b> address not disclosed due to Data Protection		
<p>This is a housing benefit overpayment for a period between 2017 and 2021 but where the recovery is not thought to be appropriate given the age and health considerations of the claimant. The claimant is aged 74 and receives state pension, disability living allowance (care) middle rate and disability living allowance (mobility) high rate. Their partner is aged 71 and receives state pension, disability living allowance (care) high rate, disability living allowance (mobility) high rate and industrial disablement pension.</p>		

<b>Council Tax</b>		
<b>Name</b>	<b>Amount (£)</b>	<b>Reason</b>
<b>Individual – name not disclosed due to Data Protection</b>	<b>5,099.99</b>	<b>Insolvency</b>
<b>Address:</b> address not disclosed due to Data Protection		
<p>This is a Council Tax debt for a period between 2014 and 2021. Liability Orders were obtained and the case had been passed to Enforcement Agents for collection and despite the taxpayer making a number of payments they had sought accredited debt advice and had obtained a Debt Relief Order resulting in the debt being put forward for write off.</p>		

## 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 "action - 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 £1,000 in assets, aren't homeowners and have less than £50 in disposable income per month.

To qualify for a DRO individuals must have less than £20,000 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.