

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	ORIGINALLY SCHEDULED FOR FINANCE AND DEMOCRACY COMMITTEE	30 MARCH 2020	
WRITE-OFF OF UNCOLLECTABLE DEBTS 2019/20			

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 two joint heads of the Shared Service (The Head of Revenues and Exchequer Services; and the Head of Benefits and Customer Services) each have 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, 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 one uncollectable Council Tax debt and one uncollectable Housing Benefit 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 prior approval by the Finance and Democracy Committee.

There are two uncollectable Business Rates debt in excess of the £25,000 limit for which write-off is now requested. Details of these are also 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 2020.

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 two 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 two 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

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	
Promoting Fylde as a great destination to visit (A Great Place to 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 are 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 joint heads of the Shared Service (The Head of Revenues and Exchequer Services

and the Head of Benefits and Customer Services) have 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 made 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 2020.

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 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 direct implications
Human Rights and Equalities	No direct implications
Sustainability and Environmental Impact	No direct implications
Health & Safety and Risk Management	No direct implications

LEAD AUTHOR	TEL	DATE	DOC ID
Paul O'Donoghue Chief Financial Officer	01253 658566	March 2020	

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 debt)

National Non Domestic Rates		
Name	Amount (£)	Reason
Individual - name not disclosed due to Data Protection	31,057.79	Insolvency
Address: Derby Arms, Church Road, Treales, Preston, PR4 3SH		
Property type – Public House & Premises. This relates to a two-year period between 2017 and 2019 where the landlord had struggled to make payments and the case had been passed to an Enforcement Agent by the Council for collection. Following pressure from a number of other creditors the ratepayer was declared bankrupt and the debt to the Council ranked as an unsecured debt which was dealt with by the trustee in bankruptcy. The trustee does not expect to be able to declare a dividend.		

National Non Domestic Rates		
Name	Amount (£)	Reason
A.H.Y Hotels Ltd	27,183.39	Insolvency
Address: 109/115 South Promenade, Lytham St Annes, FY8 1NP		
Property type – Hotel and Premises. This is the former Chadwick Hotel which has now been demolished. The debt relates to a period between 2016 and 2018. Following non-payment of the debt the case had been passed to an Enforcement Agent by the Council for collection. Following pressure from creditors the directors voluntarily wound the company up and placed it in creditor's voluntary liquidation in November 2018 with totals debts of £412k. The liquidator does not expect to be able to declare a dividend.		

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

Council Tax		
Name	Amount (£)	Reason
Individual - name not disclosed due to Data Protection	6,039.67	Insolvency
Address: Individual - address not disclosed due to Data Protection		
This taxpayer was approved for an Individual Voluntary Arrangement (IVA) in which the debt will be paid over 5 years and if this is successful we will receive a £0.13 in the pound dividend. As the IVA is a form of insolvency proceedings we are barred from taking further action to recover the debt. Prior to the IVA the debt was being recovered via an Enforcement Agent. Any dividend payments we receive will be offset against any sums previously wrote off.		

Housing Benefit Overpayment		
Name	Amount (£)	Reason
Individual - name not disclosed due to Data Protection	22,281.51	Unrecoverable per HM Courts & Tribunals Service
Address: Individual - address not disclosed due to Data Protection		
The claimant lived alone at the address in question until the end of February 2011 when she declared that someone had moved in with her. Some 4 years later it was discovered that the additional resident was actually the claimant's partner rather than a non-dependent. The claimant's housing benefit award was re-assessed and this resulted in a large overpayment. The claimant appealed against the overpayment and the case ended up with a hearing at HM Courts & Tribunals Service where the court decided that the overpayment should not be recovered from the claimant. Permission to appeal against this decision to the Upper Tribunal was sought but refused.		

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.