

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	29 MARCH 2021	5

WRITE-OFF OF UNCOLLECTABLE DEBTS 2020/21

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, 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 Business Rate debt and two uncollectable Council Tax debts. 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 is one 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 2021. 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 one uncollectable debt 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 three 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 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 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 2021.
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	01253 658566	March 2021

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 debt)

Business Rates		
Name	<i>Amount (£)</i>	Reason
Clifford House (2002) Ltd	26,998.06	No Prospect of Recovery
Address: 34-36 Orchard Road, Lytham St Annes, FY8 1PF		
<p>Property type – Offices and Premises.</p> <p>This relates to a two year period between 2016 and 2018 where the property was empty between tenants. The company has no assets other than the debt property which is subject to a legal charge which exceeds the property valuation. The only remaining option would be to liquidate the company, but this would be costly and the distribution of any proceeds would be paid to the charge holders and higher ranking secured creditors long before ourselves, as unsecured creditors. Therefore, there is no prospect of recovery and it is recommended that the debt be written off now that all avenues of recovery have been exhausted.</p>		

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

Business Rates		
Name	Amount (£)	Reason
Individual - name not disclosed due to Data Protection	15,843.94	Absconded
Address: address not disclosed due to Data Protection		
Property type – Public House and Premises.		
<p>This debt is for a 13 month period between 2015 and 2016 where the ratepayer ran a public house in Warton. Due to non-payment a court summons was served and a liability order obtained and the case was subsequently passed to an Enforcement Agent for collection. A number of payments were made before the ratepayer ceased to trade and moved onto welfare benefits. The ratepayer had been traced to a social housing property in the Fylde area but has since absconded and we have been unable to find her current whereabouts.</p>		

Council Tax		
Name	Amount (£)	Reason
The estate of a deceased person - name not disclosed due to Data Protection	10,757.24	Deceased
Address: address not disclosed due to Data Protection		
<p>This taxpayer sadly passed away in 2018 and at the time of her death the majority of debt had already been incurred. The taxpayer was elderly and deemed vulnerable, so court action was not deemed appropriate. The property was sold in May 2019 and the estate has now been wound up.</p>		

Council Tax		
Name	Amount (£)	Reason
Individual - name not disclosed due to Data Protection	5,307.41	Insolvency
Address: address not disclosed due to Data Protection		
<p>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 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 written 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.