

CABINET

20 March 2018

WRITE OFF OF IRRECOVERABLE DEBTS

Report of the Director of Resources

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| Strategic Aim: | Sound Financial and Workforce Planning | |
| Key Decision: No | Forward Plan Reference: FP/240817 | |
| Exempt Information | Yes - APPENDIX A contains exempt information as defined in paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 | |
| Cabinet Member(s) Responsible: | Mr Gordon Brown Portfolio Holder for Regulatory Services, Waste Management, Property Services, Culture & Leisure, Finance. | |
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| Ward Councillors | N/A | |

DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the action taken to recover outstanding debts.
2. Approves the write off of the debts shown in Appendix A.

1 PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek approval to write off debts, over the value of £2,500, where officers believe that there is little or no prospect of recovering them.

2 BACKGROUND AND MAIN CONSIDERATIONS

2.1 Overview

- 2.1.1 The Council collects council tax, business rates, overpaid housing benefit and sundry debtor income. Every effort is made to collect all monies due by the most appropriate and effective method. This includes reminder letters, attachment of earnings and benefits, civil enforcement action and special arrangements to pay.
- 2.1.2 The Assistant Director-Finance has delegated authority to write off debts up to £2,500 and debts above that level are written off by Cabinet. Cabinet are being asked to write off debts of £87,863.85 which officers believe cannot be recovered.
- 2.1.3 The Council has a good track record of collecting debt and in the context of these collection rates, the level of proposed write offs is relatively low. Current issues in relation to type of debt are given below. The Corporate Debt policy is also being reviewed this year.

2.2 Council Tax

- 2.2.1 The Council has above average collection rates. The national average for all Councils in England and Wales is 97.2% for 2016/17. Our collection rates are typically around 98.9% in year. Our forecast collection rate for 2017/18 is 98.9%.
- 2.2.2 The recovery process is defined in legislation and a set process must be followed. Instalments are due on the 1st of each month. For example, the first instalment is due on 1st April. If this first instalment is not paid the Council would only be able to obtain a Liability Order to take enforcement action towards the end of June, by which time further debt will accrue. If a Liability Order is obtained a number of measures can be taken to recover the debt which include attachment of earnings, attachment of benefits, referral to enforcement agents, bankruptcy and placing a charge on a property.
- 2.2.3 There are a small number of "difficult to collect debts" (c30 cases with arrears on average of £4,500) where the statutory process has been largely exhausted. Officers are left with three choices a) we monitor and continue to pursue as best we can; b) we write off the debt or c) we pursue committal action (but this can result in the debt being expunged if a prison sentence is given so this is only used as a last resort). We are requesting write off of one debt that falls into this category.
- 2.2.4 We have recruited a specialist recovery lead officer and this has had a significant impact on our difficult to collect debts. We have started committal action for three cases and this has resulted in contact from debtors and payments are being made.

2.3 Business Rates

- 2.3.1 The Council has above average collection rates, but Members should note that

only c500 businesses pay the full charge with many benefiting from reliefs. This has helped keep our collection rates high as most Small and Medium-sized Enterprises (SME) are not required to pay any rates.

2.3.2 The recovery process is defined in legislation and a set process must be followed as detailed at point 2.2.2.

2.3.3 Our experience tells us we have two problem areas:

- Businesses going into liquidation – in this event, we are a non-preferential creditor and as such we come below HM Revenues & Customs, employees' wages etc. as preferred creditors. In Rutland, we regularly see public houses struggling to stay in business and often close down. The Government has recognised this and given a £1,000 rate relief for public houses with a rateable value of less than £100,000 for 2017/18 and 2018/19. We are requesting write off of two cases that fall into this category.
- Undiscovered businesses (e.g. someone running a business unbeknown to us) – In this case, if we identify a new business then we can raise a bill accordingly but we can only collect amount owing for the existing year. We have an Outside Inspector who does identify such instances but there is always a high residual risk that businesses exist that we are not aware of. This is a common issue particularly in rural areas and two cases have been presented for write off.

2.4 Housing Benefit Overpayments

2.4.1 The Council pays out £5.2m Housing Benefit (HB) every year, overpayments arise when claimants have a change in their circumstances and are not entitled to the amount that they have been paid e.g. an increase in their earnings. As the Council is not aware of changes in circumstances until it is notified then an overpayment is inevitable. Overpayments can also arise as a result of fraudulent claims e.g. undeclared savings. HB overpayments are difficult to collect because claimants generally have low incomes, they may be affected by welfare reforms i.e. under-occupancy charges (bedroom tax) or they may have other debts. Overpayments collected from on-going entitlement to HB or other benefits are restricted by legislation which is currently £11.10 per week.

2.4.2 Recovering overpaid HB is very difficult as people tend to be on a low income and have numerous changes in their circumstance i.e. partner moves out, wages increase, grown up children move in or out, health deteriorates. We often see that people have other debts that they are repaying as well e.g. rent arrears, utility bills.

2.4.3 Collection rates are low nationally (between 25% - 35%). A high % of our debt is being recovered by repayment plans but these arrangements are often for low amounts and take a long time to repay e.g. £2.50 per week for the next 3 years. We are requesting write off of two cases that we are unable to pursue any further.

2.5 Sundry Debts

2.5.1 The Council raises on average £8.5m sundry debt invoices every year. There are two key types of sundry debts:

(a) Social care debtors

(b) Commercial rents

- 2.5.2 In terms of social care, people are often vulnerable i.e. have a learning disability, have dementia, are in and out of hospital. It is often difficult to contact the person to discuss payment of invoices and sometimes family members have to take on managing the person's finances either informally or formally by Power of Attorney. If there are no family members or there are signs of financial abuse we apply for Deputyship which takes a long time to obtain.
- 2.5.3 The Council has a duty of care and we cannot simply stop providing care even if people do not pay their invoices. Debt can accrue quickly e.g. £500 a week for residential care fees if unpaid for only 2 months can quickly accrue to a debt of £4,000. Where a person dies and there are no funds left in the estate, debts will be presented for write off. The family are not required to pay the debt. One of the write offs presented for approval is in this category.
- 2.5.4 The process of recovering unpaid social care invoices is therefore not easy. It is a problem for many Councils. Currently we have 28 cases where there are debts outstanding that are over 90 days old. These debts total £92k and the debtor has been identified as vulnerable and recovery is complex (7 of these debts account for £76k).
- 2.5.5 One of the key areas relates to business units. The Council's position, as indicated in its standard lease terms, is quite clear. If payment of any rent is 28 days overdue, even if it is not billed, then the tenancy is subject to forfeiture. There are some challenges in applying this strictly including:
- The Council tends to work with SME's and there have been many examples whereby tenants fall behind with their rent but then catch up – the Council wants to support businesses if this is the case rather than exacerbate the situation.
 - By evicting tenants, the Council effectively creates a void unit with no income coming in – where there is not waiting demand, giving the tenant more time to pay does not worsen the Councils position.
 - The position can change quickly making decision-making about when to take recovery action difficult.
- 2.5.6 The Council is presenting three write offs for approval that relate to the circumstances outlined above. Whilst nothing further can be done in these cases, the Council has revisited its approach and strengthened it by:
- Closer working relationships between Property Services and Exchequer which has resulted in issues being flagged earlier and an agreed approach being taken to recover the debt.
 - Rent Bonds now being taken for 3 month's rent as standards across all units.
 - Introduction of Direct Debits from April 2018.

3 CONSULTATION

- 3.1 Consultation is not required for any decisions being sought in this report.

4 ALTERNATIVE OPTIONS

- 4.1 The Council has a statutory duty for the proper administration of its financial affairs and this is detailed in the Council's Financial Procedure Rules.

5 FINANCIAL IMPLICATIONS

- 5.1 A bad debt provision is made for loss of collection for all debts and the provision is sufficient to cover these write offs. When the provision is reset any increase is charged to the Revenue Account.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 There are no legal and governance implications arising from this report.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 An Equality Impact Assessment questionnaire has been completed and there are no specific issues arising from the write off of uncollectable amounts.

8 COMMUNITY SAFETY IMPLICATIONS

- 8.1 There are no community safety implications arising from this report.

9 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 There are no health and wellbeing implications arising from this report.

10 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 10.1 There is no prospect of collecting the debts detailed in Appendix A; it is therefore prudent to write off the debts.

11 BACKGROUND PAPERS

- 11.1 There are no additional background papers to the report.

12 APPENDICES

- 12.1 Exempt Appendix A– Appendix A is marked as “Not For Publication” because it contains exempt information as defined in paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972, namely information which is likely to reveal the identity of an individual.

A Large Print or Braille Version of this Report is available upon request –
Contact 01572 722577.