

CABINET

18 February 2020

WRITE OFF OF IRRECOVERABLE DEBTS

Report of the Strategic Director for Resources

Strategic Aim:	Sound Financial and Workforce Planning	
Key Decision: No	Forward Plan Reference: FP/151119	
Reason for Urgency:	N/A	
Exempt Information	Appendix A of this report contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972. Further details can be seen in paragraph 14.1 below	
Cabinet Member(s) Responsible:	Mr G Brown, Deputy Leader and Portfolio Holder for Planning, Environment, Property and Finance.	
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Ward Councillors		

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 Section 151 Officer (Director for Resources) 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 £82,021.98 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.

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 97.0% for 2018/19. Our collection rates are typically around 98.8% in year. Our forecast collection rate for 2019/20 is 98.7%.
- 2.2.2 There are a small number of "difficult to collect debts" (c13 cases with arrears on average of £5k) 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).
- 2.2.3 Our specialist recovery lead officer has undertaken committal action for several cases in 2019/20 and this has resulted in contact from debtors and payments are being made.
- 2.2.4 We are requesting write off of 2 credit balances totalling £7,553.87 where we are unable to trace the recipient of a refund which has arisen from a band reduction and 3 debts amounting to £8,398.24 whereby the taxpayers have been declared bankrupt.

2.3 Business Rates

- 2.3.1 The Council has above average collection rates, but Members should note that only c568 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 One of our risk areas is around Business failure or 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 new ventures struggling to stay in business and often close down. We are requesting write off of eight cases that fall into this category totalling £42,479.58.

2.4 Housing Benefit Overpayments

2.4.1 The Council pays out £4m 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.

2.4.4 In October 2019, the Housing Delivery Division of the Department for Work and Pensions (DWP) conducted a two day health check on the recovery of overpaid housing benefits. They found that:

- We had correctly coded 100% of our overpayments which is important because this enables us to claim the money back from central government under subsidy arrangements;
- We make excellent use of the recovery methods available to us;
- We are considerate of individuals circumstances; and
- Our letters are clear and concise.

They have also helped us to access the new Housing Benefit Debt Service tool which allows us access to HMRC employment information to enable us to attach wages. This is particularly useful for debtors who have left the area and are no longer in contact with us.

2.4.5 We are seeking approval to write off 2 cases of overpaid housing benefit amounting to £8,406.63.

2.5 Sundry Debts

2.5.1 The Council raises on average £9m 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.

The process of recovering unpaid social care invoices is therefore not easy. It is a problem for many Councils. Currently we have 26 cases where there are debts outstanding that are over 90 days old. These debts total £95k, of these:

- 8 debts are awaiting probate (£28k);
- 3 cases are waiting for the Court of Protection to award deputyship orders to enable RCC officers or relatives to manage their finances (£50k); and
- 15 cases relate to a debtor who has been identified as vulnerable (£17K).

2.5.4 We are requesting write off of three debts that fall into this category amounting to £30,291.40.

2.5.5 In terms of Commercial rents, there are no debts to present for write off.

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 ENVIRONMENTAL IMPACT

7.1 There are no environmental implications arising from this report.

8 DATA PROTECTION IMPLICATIONS

- 8.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks/issues to the rights and freedoms of natural persons.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment questionnaire has not been completed as there are no specific issues arising from the write off of uncollectable amounts.

10 COMMUNITY SAFETY IMPLICATIONS

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

11 HEALTH AND WELLBEING IMPLICATIONS

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

12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

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

13 BACKGROUND PAPERS

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

14 APPENDICES

- 14.1 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 Version of this Report is available upon request – Contact 01572 722577.