

CABINET

14 February 2023

WRITE OFF OF IRRECOVERABLE DEBTS

Report of the Portfolio Holder for Finance, Governance and Performance, Change and Transformation

Strategic Aim:	All	
Key Decision: No	Forward Plan Reference: FP/251122	
Exempt Information	Appendix A of this report contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972.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 13 below	
Cabinet Member(s) Responsible:	Councillor Karen Payne, Portfolio Holder for Finance, Governance and Performance, Change and Transformation	
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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 Exempt 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 effective and appropriate 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 £86,585.93 which officers believe cannot be recovered.
- 2.1.3 The Council has a good track record of collecting debt and in the context of collection rates, the level of proposed write off is relatively low. Current issues in relation to the 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 was 95.8% for 2021/22. Our collection rates are typically around 97.9% in year. Both figures are lower than in previous years due to a combination of more support given to taxpayers through local council tax support and reduced recovery action being taken because of the Covid-19 pandemic and more recently administering the Energy Rebate Payments of £150. Our forecasted collection rate for 2022/23 is 98.4%.
- 2.2.2 Many of the Council's residents pay by direct debit (82%) which helps keep the Council's recovery rate high. However, in a bid to support all residents, Officers are piloting a new recovery tool in 2022/23 provided by Voicescape Ltd. The new process and approach will encourage debtors to talk to us to discuss their arrears and help us to set up an arrangement that is affordable before the case is sent to Civil Enforcement Agents (CEA) for collection. The Council's preference is to not use CEA but this can be unavoidable. It also gives us an opportunity to signpost to further support if this is needed.
- 2.2.3 There are a total of 9 'difficult to collect debts' with arrears totalling £40,145.46 where the statutory process has largely been exhausted. Officers are left with 3 choices: a) we monitor and continue to pursue as best we can; b) we write off the debt 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).
- 2.2.4 We are requesting write off of 2 debts totalling £8,012.20 as we are unable to trace the debtors, 2 debts amounting to £6,157.44 whereby the taxpayers have entered into an Individual Voluntary arrangement (IVA) with no prospect of any dividends being received and 5 debts totalling £25,975.82 whereby collection is not viable due to the length of time it would take e.g., c10-20 years.

2.3 Business Rates

- 2.3.1 The Council has above average collection rates, but Members should note that only 441 businesses out of 1,746 hereditaments on the rating list (25% of the businesses in Rutland) were required to pay the full charge in 2022/23 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 for 1 case that fall into this category totalling £9,815.53

- 2.3.3 We are requesting write off of 1 debt of £2,647.61 where recovery action has been exhausted and it would not be cost effective to pursue the debt further due to legal fees and 1 debt of £3,962.91 where recovery action has been taken but continued collection is not viable due to the length of time it would take to clear.

2.4 Sundry Debts

- 2.4.1 The Council raises on average £10m sundry invoices every year. There are two key types of sundry debt:

- a) Social care debtors; and
- b) Commercial rents.

- 2.4.2 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 sometime 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 or refer to a Panel Deputy which takes a long time to obtain.

- 2.4.3 The process of recovering unpaid social care invoices is therefore not straightforward. It is a problem for many Councils. Currently we have 88 cases where there are debts outstanding of over 90 days old. These debts total £297k, of these:

- 41 debts are awaiting probate (£104k). Claims have been submitted to either solicitors or executors and debts can't be settled until probate is granted subject to sufficient funds being available;
- 4 cases are waiting for the Court of Protection to award a deputyship order to enable RCC officers or family members to manage their finances (£132k). This will enable the deputy to access bank accounts and release assets to pay the debt e.g. sell property or make card payments; and

- 2.4.4 We are requesting write off of 3 debts totalling £12,639.93.

- 2.4.5 In terms of commercial rents, there is 1 debt of £6,577.52 to submit for write off. Commercial tenants were given the opportunity to defer rental payments during the pandemic.

- 2.4.6 Most tenants have now repaid the debt and we have only have one case where we believe there is a risk of non-recovery but repayments are currently being made. The details of this debt are noted on Appendix A for information.

2.5 Benefit Overpayments

- 2.5.1 The Council pays out £3.6m 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 £11.55 per week.

2.5.2 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

2.5.3 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. The bad debt provision is reviewed as part of budget monitoring.

2.5.4 We are presenting 3 overpayments for write off totalling £17,324.49.

3 CONSULTATION

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

4 ALTERNATIVE OPTIONS

4.1 Cabinet could choose not to write off the debts but based on advice from officers this is not recommended.

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 DATA PROTECTION IMPLICATIONS

7.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no specific issues arising from the write off of irrecoverable amounts.

8 EQUALITY IMPACT ASSESSMENT

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

9 COMMUNITY SAFETY IMPLICATIONS

9.1 There are no community safety implications arising from this report.

10 HEALTH AND WELLBEING IMPLICATIONS

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

11 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

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

12 BACKGROUND PAPERS

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

13 APPENDICES

- 13.1 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 12A of the Local Government Act 1972, namely information that is likely to reveal the identity of an individual.

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