

CABINET

13 February 2024

WRITE OFF OF IRRECOVERABLE DEBTS

Report of the Portfolio Holder for Governance and Resources

Strategic Aim	A Modern and Effective Council	
Exempt Information If yes, please state relevant paragraph from Schedule 12A LGA 1972: Exemption authorised by Chief Executive or in his absence by Strategic Director:	Yes Paragraph 2, information relating to an individual. Further details can be seen in paragraph 13.1 below	
Cabinet Member(s) Responsible:	Cllr A Johnson, Deputy Leader, and Portfolio Holder for Governance and Resources	
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Ward Councillors	N/A	

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

1.1.1 This report requests approval to write off debts, over the value of £2,500, where officers believe that there is little or no prospect of recovering them.

1.2 Recommendations

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

1.3 Reasons for Recommendations

1.3.1 There is no prospect of collecting the debts detailed in Appendix A; it is therefore prudent to write off the debts in accordance with the Council's policy.

2 REPORT

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 (Strategic 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 £157,454.22 which officers believe cannot be recovered.

2.2 The Council has a good track record of collecting debt and in the context of these collection rates, the level of proposed write off is low.

2.3 Options Considered

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

2.5 The Council could continue to chase the debt, however the cost of chasing the debt becomes disproportionate to the value of the debt with limited recourse to recovery.

2.6 Background

2.6.1 Council Tax

2.6.2 The Council has above average collection rates. The national average for all councils in England and Wales is 96.0% for 2022/23. Our collection rates are typically around 97.8% in year. Our forecasted collection rate for 2023/24 is 98.0%.

2.6.3 There are 2 'difficult to collect debt' with arrears totalling £12,557.16 where the statutory process has 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).

2.6.4 We are requesting write off of 3 debts totalling £12,013.07 where we are unable to trace the debtors and 11 debts amounting to £40,906.36 whereby the taxpayers have entered an Individual Voluntary arrangement (IVA) or have been declared bankrupt with no prospect of any dividends being received.

2.6.5 There is a credit amount of £230.52 that we are unable to refund. This can be reversed if the executors come forward.

2.6.6 Business Rates

2.6.7 The Council has above average collection rates, but Members should note that only 445 businesses (22% 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.

2.6.8 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. We are requesting write off of 8 cases that fall into this category totalling £48,150.06.

2.6.9 We are requesting write off of 1 debt where the ratepayer has absconded, totalling £3,552.76.

2.6.10 **Sundry Debts**

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

- Social care debtors
- Commercial rents

2.6.12 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 must take on managing the person's finances either informally or formally by Power of Attorney. If there are no family members or are signs of financial abuse, we apply for Deputyship which takes a long time to obtain.

2.6.13 The process of recovering unpaid social care invoices is therefore not straightforward. It is a problem for many Councils. Currently we have 76 cases where there are debts outstanding of over 90 days old. These debts total £576k, of these:

- 23 debts are awaiting probate (£120k)
- 6 cases are waiting for the Court of Protection to award a deputyship order to enable RCC officers or family members to manage their finances (£361k);
and
- 1 case relate to a debtor who has been identified as vulnerable (£5.5k).

2.6.14 We are requesting write off of one debt totalling £9,495.95. We are also requesting write off of a credit of £6,162.81.

2.6.15 In terms of commercial rents, there are no debts to present for write off. We have 3 cases where we believe there is a risk of non-recovery, but repayments are being made. We have not reached write off stage in any cases.

2.6.16 **Overpaid Housing Benefit**

2.6.17 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 because of fraudulent claims e.g. undeclared savings. HB overpayments are difficult to collect because claimants 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 £12.75 per week.

- 2.6.18 Recovering overpaid HB is exceedingly 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.
- 2.6.19 Collection rates are low nationally (between 25% - 35%). A high percentage 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.
- 2.6.20 We are seeking approval to write off 7 cases of overpaid housing benefit amounting to £37,152.19.

2.7 Consultation

- 2.7.1 Consultation is not required for the decision being sought.

3 IMPLICATIONS OF THE RECOMMENDATION

3.1 FINANCIAL IMPLICATIONS

- 3.1.1 This section has been approved by Andrew Merry, Head of Finance.
- 3.1.2 There are no financial issues arising from this Report. 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.

3.2 LEGAL IMPLICATIONS

- 3.2.1 This Section has been approved by Sarah Khawaja, Head of Legal and Democratic Services.
- 3.2.2 There are no legal implications.

3.3 Risk Management Implications

- 3.3.1 The main risks to this Report and the Council achieving its objectives are as follows:
- 3.3.2 Risk/s: There are no risks arising as the provision set aside for bad debt is sufficient.
- 3.3.3 Assessment of Risk (Low)
- 3.3.4 Mitigation: none, it is prudent to write off irrecoverable debts.
- 3.3.5 Residual Risk (Low)
- 3.3.6 Record of Risk: None

3.4 DATA PROTECTION IMPLICATIONS

- 3.4.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no identified risks or issues to the rights and freedoms of individuals.

3.5 EQUALITY IMPLICATIONS

- 3.5.1 An Equality Impact Assessment (EqIA) has not been completed because there are no specific issues arising.

3.6 COMMUNITY SAFETY IMPLICATIONS

- 3.6.1 The Council has a duty in accordance with S17 Crime and Disorder Act 1988, when exercising its functions, to have due regard to the likely effect of that exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social behaviour).
- 3.6.2 This duty has been considered and there are no community safety implications relating to the recommendations.

3.7 HEALTH AND WELLBEING IMPLICATIONS

- 3.7.1 There are no health and wellbeing implications.

3.8 ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS

- 3.8.1 On 11 January 2021 Rutland County Council acknowledged that it was in a climate emergency. The Council understands that it needs to take urgent action to address it.
- 3.8.2 There are no environmental and climate change implications of the Recommendations.

3.9 PROCUREMENT IMPLICATIONS

- 3.9.1 There are no procurement implications.

3.10 HUMAN RESOURCE IMPLICATIONS

- 3.10.1 There are no Human Resource implications.

4 BACKGROUND PAPERS

- 4.1 There are no background papers.

5 APPENDICES

- 5.1 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.

An Accessible Version of this Report is available upon request – Contact 01572 722577.