

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – TUESDAY, 18 SEPTMEBER 2018

Title of report	FORMER TENANT RENT ARREARS, CURRENT TENANT RENT ARREARS, COUNCIL TAX, NON DOMESTIC RATES AND SUNDRY DEBTOR WRITE OFFS
Key Decision	a) Financial No b) Community No
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Purpose of report	To agree write-offs over £10,000 and receive details of debts written off under delegated powers.
Reason for decision	To comply with proper accounting practices.
Council priorities	Value for Money
Implications: Financial/Staff Link to relevant CAT Risk Management Equalities Impact Screening Human Rights Transformational Government	There is no additional financial effect as all the debts are met from the Authority's bad debt provision for previous years arrears or from in year income if the debts relate to the current financial year. None. Regular reviews of debts for write off mitigates the risk that the Council's accounts do not reflect the true level of recoverable income. It is also part of an effective arrears management strategy. Not applicable. None discernible. Not applicable.

Comments of Head of Paid Service	Report is satisfactory.
Comments of Section 151 Officer	Report is satisfactory.
Comments of Deputy Monitoring Officer	Report is satisfactory.
Consultees	None.
Background papers	All papers used in compiling the report contain exempt information under paragraph 3 of Part 1 to Schedule 12A Local Government Act 1972
Recommendations	<p>THAT CABINET APPROVES:</p> <ol style="list-style-type: none"> 1. THE NON DOMESTIC RATES AND SUNDRY DEBT WRITE OFFS THAT ARE OVER £10,000; 2. NOTES THE AMOUNTS WRITTEN OFF UNDER DELEGATED POWERS; AND 3. NOTES THE AMOUNTS OF SUNDRY DEBTS PREVIOUSLY WRITTEN OFF UNDER DELEGATED POWERS IN 2016/17 AND 2017/18

1.0 WRITE OFFS

1.1 Write offs relating to prior years against Bad Debt Provision:

	Provision as at 1 April 2018	Write offs to date (under delegated powers)	Amounts written off over £10,000 approved by Members	Balance Available
Council Tax	£2,171,722.74	£54,699.19	£0.00	£2,117,023.55
Non Domestic Rates	£273,111.56	£8,565.71	£0.00	£264,545.85
Housing Rents	£582,403.98	£17,302.40	£0.00	£565,101.58
Sundry Debtors/Housing Benefit Overpayments	£1,638,123.39	£16,465.72	£0.00	£1,621,657.67

1.2 Write offs relating to 2018/19

	Write offs to date (under delegated powers)	Amounts written off over £10,000 approved by Members
Council Tax	£947.79	£0.00
Non Domestic Rates	£0.00	£0.00
Housing Rents	£1,084.85	£0.00
Sundry Debtors/Housing Benefit Overpayments	£464.31	£0.00

2.0 FORMER TENANT RENT ARREARS

2.1 The amounts written off under delegated powers, in accordance with the policy, are as follows: 26 cases under £1,000 which amount to £5,227.04. Of these 11 cases are deceased with no estate (£2,547.61) and 15 are uneconomical to pursue (£2,679.43). There are five cases between £1,000 and £10,000 amounting to £12,075.36. Of these, one is deceased with no estate (£1,895.09), one is statute barred (£2,638.55) and three are uneconomical to pursue (£7,541.72).

2.2 There are no former tenancy arrears write-offs over £10,000 for which we seek approval.

3.0 CURRENT TENANT RENT ARREARS

3.1 There are no current tenant rent Arrear write-offs for which we seek approval.

4.0 COUNCIL TAX

4.1 There are currently no council tax debts over £10,000 for which Cabinet's approval for write off is sought.

4.2 The amounts written off under delegated powers, in accordance with the thresholds outlined in the write off policy, are as follows: Nine cases under £100 which amount to £322.96. Of these, four cases have absconded (£148.66), two cases that are uneconomical to collect (£45.77), two cases are deceased with no assets (£87.04) and one is insolvent (£41.49). There are 16 cases between £100 and £1,000, which amount to £7,851.10. Of these, 11 have absconded (£5,285.55), two cases are insolvent (£995.34) and three are deceased with no assets (£1,570.21). There are nine cases between £1,000 and £10,000 which amount to £21,639.47. Of these, three cases have absconded (£6,492.18), five cases are insolvent (£12,615.79) and one is deceased with no assets (£2531.50).

4.3 The full list of reasons for writing off debt includes:

- Bankruptcy or a Debt Relief Order is in place
- Deceased – No assets in the estate.
- Debtor Absconded / No Trace
- Company in liquidation/dissolved or ceased trading with no assets
- Severe Hardship and/or Serious health Issues
- Statute barred i.e. we cannot legally pursue the debt as there has been six years since the debt fell due and no action has been taken to collect the debt.
- Uneconomical to collect i.e. it is not financially viable to take further action for e.g. due to the low level of the debt, they have gone abroad etc.

4.4 Writing off debts is only considered where all appropriate recovery and enforcement measures have been taken, or, where the council are legally prohibited from pursuing the debt.

4.5 Each year the council produces a recovery timetable which details the dates on which the statutory Reminders, Final Notices and Summonses are to be despatched. The letters issued are designed to maximise collection by prompting tax payers to pay their missed instalments in a timely manner, thereby avoiding further enforcement action taking place. Information is provided on the website to explain what happens next should payment not be made.

4.6 For all outstanding debt, the council takes the recovery action outlined in the bullet points below:

- If payment is not received by the instalment due date shown on the bill, a reminder notice is issued.
- If payment is received within seven days the tax payer may continue with their original instalment plan. If they default again within the year, then one further reminder notice is issued. If they do not pay, the following steps are taken.
- If payment is not received by the date on the reminder notice, a court Summons is issued. The Summons advises them of the date and time that the Council will attend a Magistrates Court hearing to apply for the award of a Liability Order against them.
- Once a Liability Order is obtained, the Council has a number of enforcement options open to them in order to secure payment of the debt.

4.7 Liability Order Action

Once a Liability Order has been obtained each debt is looked at and a decision is made as to the most appropriate course of action to take from the list of available options below. It is only after all of these have been considered and/or pursued that the debt is put forward for write off.

1. Apply to the debtor's employer for an Attachment of Earnings.
2. Apply to the DWP for a deduction from the debtor's benefits
3. Instruct an external enforcement company (bailiffs) to collect the debt on the council's behalf.
4. If the enforcement company are unsuccessful, the Council could commence committal proceedings against the debtor.

5. If the debtor owns their own home a Charging Order could be made against the property.
6. If the debt is over £5,000, bankruptcy proceedings could be commenced against the debtor.

When considering the final three options on the above list, the Council must always be mindful of the individual circumstances of the debtor and the financial impact on the Council of pursuing each option. Additional costs will be incurred when utilising any of these options.

5.0 NON DOMESTIC RATES (NNDR)

- 5.1 There are three Non Domestic Rate debts over £10,000 amounting to £319,897.50 for which Cabinet approval for write off is sought. Of these, two cases are insolvent (£308,024.00) and one case has absconded (£11,873.50).
- 5.2 The amounts written off under delegated powers in accordance with the policy thresholds are as follows: There is one case between £1,000 and £10,000 amounting to £3,242.11 which is insolvent.
- 5.3 As with the recovery of Council Tax, for Business Rates, writing off debt is only ever considered as a last resort. Often companies, sole traders or partnerships become insolvent and the Council is prohibited from taking any further action as all of their outstanding debts are included within the Administration, Liquidation or personal bankruptcy.
- 5.4 The Council follows the same recovery process for Business Rates as for Council Tax. However, once the Council has obtained a Liability Order there are only a limited number of enforcement actions that can legally be pursued. In most cases, where a payment arrangement or contact cannot be made, the Council refers the case to external Enforcement Agents. If they are unsuccessful, the Council then has three further options to consider before putting the debt for write off. These options are:
 - Committal (For sole traders and partnerships only)
 - Security for Unpaid Rate (this is the equivalent of a Charging Order on a property but this can only be done with the ratepayers agreement)
 - Insolvency Proceedings

6.0 SUNDRY DEBTORS (INCLUDES NON CURRENT HOUSING BENEFIT OVERPAYMENTS PRE 2011)

- 6.1 There are no sundry debtor cases over £10,000 for which Cabinet's approval for write off is sought.
- 6.2 There were no cases that have been written off under the Deputy S151 Officer delegated powers.
- 6.3 The recovery process varies dependant on the type of debt. Generally the debtor will receive a minimum of two reminder letters the final stating that recovery through the county court will take place in the event of non payment. Once judgement is obtained the normal recovery methods are available such as attachment of earnings/ benefit etc.

7.0 CURRENT HOUSING BENEFIT OVERPAYMENTS

- 7.1 There are currently no housing benefit cases over £10,000 for which Cabinet's approval for write off is sought.
- 7.2 The amounts written off under delegated powers, in accordance with the thresholds outlined in the write off policy, are as follows: There are three cases under £100 amounting to £81.78. Of these, one debtor is deceased with no assets (£68.01), two which are uneconomical to collect (£13.77). There are four cases between £100 and £1000 amounting to £1,729.96. Of these, two cases are deceased with no assets (£964.36), one case which has insufficient recovery data (£555.69) and one case which are uneconomical to collect (£209.91). There are two cases under £10,000 which are insolvent, amounting to £7,783.64.
- 7.3 For all outstanding benefit overpayment debt, the council takes the recovery action outlined in the bullet points below:
- An invoice is issued giving 14 days to make payment, or to contact the council.
 - If payment is not received a first Reminder is issued, followed by a second reminder two to three weeks later.
 - If payment is not received a 'CIS' (DWP database) check is carried out to assess if a deduction from benefit or an attachment of earnings is appropriate. If neither of these options is suitable the account is sent to an external collection team with no cost to the Council. However, they have no powers to enforce the debt at this stage only to collect it.
 - If the cases are returned, each case is checked and a decision is made as to whether it is appropriate to start legal proceedings in the County Court.
 - If judgement is obtained in the County Court, the following enforcement options are available to consider:-
 1. Warrants of Control (the use of County Court Bailiff, or High Court Sheriff)
 2. Third Party Debt Orders (Utilises the customer's bank account to extract payment)
 3. Charging Order (the debt is secured on the customer's house)
 4. Insolvency (petition for bankruptcy)

8.0 INTERNAL AUDIT RECCOMENDATION

- 8.1 Cabinet is invited to note the following internal audit finding and resultant recommendation arising on the internal audit of Sundry Debtors, completed in Quarter 1 of this financial year:

The Head of Finance is authorised to write off Sundry debts up to the value of £10,000 under S151 Officer delegated powers. Such write-offs should then be reported through to Cabinet periodically as part of a wider report which encompasses Former Tenant Rent Arrears, Current Tenant Rent Arrears, Council Tax, NNDR and Sundry Debt Write offs. A review of the Cabinet reports identified that a value for Sundry Debts written off under delegated powers was last reported in September 2015. All subsequent reports have incorrectly stated that no Sundry Debts have been written off under delegated powers. Testing identified that the following amounts have been written off under S151 Officer delegated powers:

- 2017/18 £86,000

- 2016/17 £95,444

Recommendation:

Sundry debts written off under S151 Officer delegated powers should be reported to Cabinet. A decision should be taken as to whether an update should be provided to Cabinet to inform them of Sundry Debts written off under S151 Officer delegated powers since September 2015.

- 8.2 By way of implementation of this recommendation, Cabinet are recommended to note that £86,000 in 2017/18 and £95,444 in 2016/17 were previously written off under S151 Officer delegated powers but were not reported to Cabinet in error.
- 8.3 All future sundry debtor debts written off under S151 delegated powers will be reported to Cabinet on a quarterly basis as appropriate moving forward. As detailed in 6.2 above, there were no cases that have been written off under the Deputy S151 Officer delegated powers in this period or in 2018/19 to date.