

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET – 22 SEPTEMBER 2015**

Title of report	<b>FORMER TENANT RENT ARREARS, CURRENT TENANT RENT ARREARS, COUNCIL TAX, NON DOMESTIC RATES AND SUNDRY DEBTOR WRITE-OFFS</b>
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	There is no additional financial effect as all the debts are met from the Authority's bad debt provision.
Link to relevant CAT	None
Risk Management	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.
Equalities Impact Screening	Not applicable.
Human Rights	None discernible.
Transformational Government	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><b>1. THAT CABINET APPROVES THE WRITE OFFS OVER £10,000 DETAILED IN THIS REPORT.</b></p> <p><b>2. THAT CABINET NOTES THE AMOUNTS WRITTEN OFF UNDER DELEGATED POWERS.</b></p>

## 1.0 DOUBTFUL DEBT PROVISIONS

1.1 Provision is made in the accounts as follows:

	As at 1 April 2015	Write offs to date (under delegated powers)	Amounts written off over £10,000 approved by Members	Balance Available
Council Tax	£1,576,011.00	£50,687.35	£0.00	£1,525,323.65
Non Domestic Rates	£602,296.00	£25,505.38	£44,423.77	£532,366.85
Housing Rents	£170,790.00	£5,640.45	£0.00	£165,149.55
Sundry Debtors/Housing Benefit Overpayments	£1,230,487.16	£211,836.01	£0.00	£1,018,651.15

## 2.0 FORMER TENANT RENT ARREARS

2.1 The amounts written off under delegated powers, in accordance with the thresholds outlined in the write off policy are as follows: 31 cases under £1,000 which amount to £2,759.53. Of these, nine are uneconomical to pursue (£156.62), four where the former tenant cannot be located (£1399.73) and two have been barred by statute (£1203.18). There were 16 cases put through for a bereavement allowance this period amounting to £3,873.21

2.2 There are eight Former Tenancy Arrears over £1,000, amounting to £16,654.56. Five of these cases are where the former tenant cannot be located (£10,395.39), two are statute barred (£4,539.17) and one is due to a debt relief order (£1,720) Attached to this report you will find a summary table of these arrears.

2.3 There are no Former Tenancy Arrears over £10,000 for which we seek approval.

2.4 The Bad debt provision for 2015/16 is £170,790

### **3.0 CURRENT TENANT RENT ARREARS**

3.1 There are currently no current tenant rent arrears for which we seek approval for write-off. There were no current rent arrears written off under delegated powers.

### **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: One case under £100 which amounts to £20.71 that is uneconomical to collect. There are 12 cases between £100 and £1,000, which amount to £5,526.84. Of these, one is deceased with no assets (£739.46), 10 have absconded (£4,641.36) and one is insolvent (£146.02). There are four cases between £1,000 and £10,000 which amount to £5,270.70. Of these, two Debt Relief Orders (£2,130.06), one has absconded (£1,232.11) and one is insolvent (£1,908.53).

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. A leaflet is included with the reminders 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 bailiff 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 £750, 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 currently two Non Domestic Rate debts over £10,000 which amount to £248,218.95 for which Cabinet's approval for write off is sought. In both of the cases the debtors have gone into liquidation (£248,218.95), therefore we cannot legally take any further recovery action against these debts.

5.2 The amounts written off under delegated powers in accordance with the policy thresholds are as follows: There is one case between £100 and £1,000 which amounts to £116.14 where the debtor has absconded. There are five cases between £1,000 and £10,000 which amount to £19,846.90. Of these, two cases have absconded (£5,462.07), one case is deceased with no assets (£6,293.26), one case is uneconomical to collect (£4,060.15) and one case is insolvent (£4,031.42).

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 bailiffs. 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 currently no sundry debtor cases over £10,000 for which Cabinet's approval for write off is sought

6.2 There are 293 cases totalling £206,563.56 that have been written off under the Head of Finance's delegated powers most of which are old cases where recovery action can no longer take place. These consist of:

£204,562.83	Overpaid Housing Benefit that is statute barred (270 cases)
£729.08	Piper Lifelines where the person is deceased (3 cases)
£16.90	Bed and Breakfast Charge due to bankruptcy (1 case)
-£9.61	Credits that are uneconomical to pursue (17 cases)
£1,264.36	Piper Lifelines where there is either no trace or where the person is now in a nursing home (2 cases)

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 sundry debtor cases over £10,000 for which Cabinet's approval for write off is sought.

7.2 The housing benefit overpayment debt under £100 written off under delegated power in accordance with the policy thresholds are as follows: Five cases under £100 which amount to £102.41. Of these, four have absconded (£85.87) and three are uneconomical to collect (£16.54). There are two cases between £100 and £1,000 which amount to £309.82. Of these, one has absconded (£180.00) and one is deceased with no assets (£129.82).

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 an attachment of benefit is appropriate. If benefit cannot be attached the account is sent to an external bailiffs 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. Attachments of Earnings (deduction of customer's wages, at source by employer)
2. Warrants Control (the use of County Court Bailiff, or High Court Sheriff)
3. Third Party Debt Orders (Utilises the customer's bank account to extract payment)
4. Charging Order (the debt is secured on the customer's house)
5. Insolvency (petition for bankruptcy)