

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

CABINET – 14 JUNE 2016

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
Contacts	<p>Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Interim Director of Resources 01530 454833 andrew.hunkin@nwleicestershire.gov.uk</p> <p>Financial Planning Manager and Deputy Section 151 Officer 01530 454707 pritesh.padaniya@nwleicestershire.gov.uk</p>
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	<p>There is no additional financial effect as all the debts are met from the Authority's bad debt provision.</p> <p>None</p> <p>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.</p> <p>Not applicable.</p> <p>None discernible.</p> <p>Not applicable.</p>

Comments of Head of Paid Service	Report is satisfactory
Comments of Deputy 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>1. THAT CABINET APPROVES THE WRITE OFFS OVER £10,000 DETAILED IN THIS REPORT.</p> <p>2. THAT CABINET NOTES THE AMOUNTS WRITTEN OFF UNDER DELEGATED POWERS.</p>

1.0 DOUBTFUL DEBT PROVISIONS

1.1 Provision is made in the accounts as follows:

	As at 1 April 2016	Write offs to date (under delegated powers)	Amounts written off over £10,000 approved by Members	Balance Available
Council Tax	£1,932,901.22	£23,229.87	£0.00	£1,909,671.35
Non Domestic Rates	£317,369.40	£18,589.77	£0.00	£298,779.63
Housing Rents	£125,000.00	£2,349.46	£0.00	£122,650.54
Sundry Debtors/Housing Benefit Overpayments	£1,163,090.44	£6,568.26	£0.00	£1,165,622.18

2.0 FORMER TENANT RENT ARREARS

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

2.2 The amounts written off under delegated powers in accordance with the thresholds outlined in the write off policy are as follows: six cases under £1,000 which amount to £420.84. Of these, four are uneconomical to pursue (£10.66) and two where the tenant is deceased and there is no estate (£410.18). There were six cases who received a bereavement allowance which amount to £1,928.62.

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: 12 cases under £100 which amounts to £820.25. Of these, seven cases have absconded (£482.56), two cases are deceased with no assets (£147.24), one case is insolvent (£78.00), one case is uneconomical to collect (£59.49) and one case has a debt relief order (£52.96). There are 25 cases between £100 and £1,000, which amount to £10,561.64. Of these, nine have absconded (£2,842.70), seven are insolvent (£3,313.34), two are debt relief orders (£351.14), two cases are statute barred (£1,428.18) and 5 are uneconomical to collect (£2,626.28). There are seven cases between £1,000 and £10,000 which amount to £11,847.98. Of these, three have absconded (£5,725.20), two are uneconomical to collect (£3,828.36) and two have debt relief orders (£2,294.42).

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 currently four Non Domestic Rate debts over £10,000 which amount to £144,481.64 for which Cabinet's approval for write off is sought. There is one case where the company has gone into liquidation (£42,514.55) and legally we can take no further recovery action against these debts. There are two cases where the companies are in administration (£86,188.08) and one case which is uneconomical to pursue due to the company no longer trading and there is no prospect of payment. Consideration has been given to all of the available recovery options in this case but the company has no assets and the owner intends to dissolve the company (£15,779.01).
- 5.2 The amounts written off under delegated powers in accordance with the policy thresholds are as follows: There are six cases between £1,000 and £10,000 which amount to £18,589.77. Of these, three cases have absconded (£6,502.29) and three cases that are insolvent (£12,087.48).
- 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 currently 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 Head of Finance's 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 sundry debtor 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: Five cases under £100 which amount to £106.05. Of these, four have debt relief orders (£91.45) and one is uneconomical to collect (£14.60). There are 10 cases between £100 and £1,000 which amount to £3,623.51. Of these, three cases have absconded (£744.56), five have debt relief orders (£2,238.99) and two cases are insolvent (£639.96). There are two cases between £1,000 and £10,000 which amount to £2,838.70. Of these, one case is deceased with no assets (£1,394.70) and one case has absconded (£1,444.00).
- 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)