

URN: 22-036

Subject: Revenues Write Off Report

**Report to: Executive Leadership Team – 1st March 2023
Policy and Resources Committee – 14 March 2023**

Report by: Stuart Brabben, Revenue & Benefits Service Manager

SUBJECT MATTER

This report seeks the approval and authorisation of a schedule of individual Business Rate and Sundry Debt accounts where the debt is recommended for write off.

RECOMMENDATIONS

That Committee:

- 1) Approve and authorise individual write offs as detailed within the Schedule 1 (Business Rates) and Schedule 2 (Sundry Debt)

1. INTRODUCTION

- 1.1 Members of the Committee are asked to note that the committee last considered the Revenues Write off report and schedules of debt in November 2022.
- 1.2 Consideration for writing off a debt is given where it is held to be uneconomical to recover, is time barred or is legally unenforceable.
- 1.3 All debts to be written off will be processed in accordance with the Council's Financial Procedure Rules.
- 1.4 The Council will always be flexible in its approach to recovery of arrears. Each case will be considered on its own merits.
- 1.4 The Council has a duty to minimise any loss to public funds. In seeking to recover arrears it will have regard to:
 - the period of time that the debt may take to be recovered;
 - the effect of recovery on the affected person from whom recovery is sought.
 - the ability to repay of the affected person from whom recovery is sought; and
 - the practicality of recovery of the debt and the cost of doing so.
- 1.5 Under the law, there is an obligation to take reasonable steps to collect debts. There are

however many situations where there is justification for writing off debts, provided reasonable steps have been taken regarding each individual case.

1.6 The scheme of delegation for the write off of uncollectable debt is as follows;

- (i) Council Tax and Benefits Manager and the Business Rates and Recovery Manager- up to £500
- (ii) Revenue & Benefits Service Manager - £501 to £5,000
- (iii) Revenues & Benefits Service Manager and Head of Customer Services - £5,001 to £7,500
- (iv) Head of Customer Services and Section 151 Officer - £7,501 to £10,000
- (v) Policy and Resources Committee - £10,001 and above

Only account numbers with debts over £10,000 are referred for member approval, some debtors can have more than one account in arrears where the scheme of delegation for debts up to £10,000 will apply.

1.7 The main circumstances where an unrecoverable debt will be considered for write off and their applicable codes are listed below:

Table 1

Write Off Code	Reason for Write Off
WO1	Where the person is made insolvent (bankruptcies, Liquidations, insolvencies and administration orders).
WO2	The person dies and there are no funds within the estate to pay the debt.
WO3	We are unable to trace the person's whereabouts.
WO4	Where the cost of collection will be greater than the amount of the debt (e.g. recommendations from our Legal representatives).
WO5	Hardship cases where the individual circumstances of the debtor may lead to a decision to write off a debt.
WO6	Company ceased trading/dissolved and has no assets.
WO7	Company is registered abroad. No recourse to any recovery actions within UK.
WO8	We are not able to make a legal claim for debt older than six years. This is laid down in the Limitation Act 1980 section 19 which states that "no action shall be brought to first recover arrears after the expiration of six years from the date on which the arrears became due."
WO9	After negotiations with the debtor and as part of an agreed revised payment plan to ensure that the revised outstanding debt is able to be paid.

2. RECOVERY PROCEDURES

2.1 Business Rates

- 2.1.1 The National Non-Domestic Rates recovery procedures are laid down by statute in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments.
- 2.1.2 If after a reminder or final notice has been issued payment is not made in full or an appropriate arrangement has not been set up, enforcement action is taken. A summons will be issued giving the date that the case will be heard at the magistrate's court.
- 2.1.3 After the court hearing a liability order will be issued. If the ratepayer then contacts the council and discusses the reasons why their account is in arrears, the council will if appropriate set up an arrangement to clear the arrears. This will be at the discretion of the council.
- 2.1.4 Where appropriate, the council will provide support or provide information to the ratepayer.
- 2.1.5 If an arrangement cannot be set up the authority may look to recovery by enforcement agents.
- 2.1.6 If the authority is unable to recover the debt by any of the above methods it may look to use other methods of recovery which may include charging orders, bankruptcy or winding up of the business. However, before any further action is taken checks will be carried out.
- 2.1.7 During the recovery process, if appropriate the council will consider entitlement to the different forms of rate relief to reduce the debt.
- 2.1.8 Reminder Notices are normally issued within 14 days of a missed instalment and if the instalment continued to be unpaid a court summons would normally be issued within a further 28 days in order to obtain a Liability Order.

2.2 Sundry Debts

- 2.2.1 If after a reminder and a final notice has been issued and payment is not made in full or an appropriate arrangement has not been set up, recovery action is taken.
- 2.2.2 A decision is then taken on the form of enforcement to recover the debt outstanding. This could be the use of collection agents or passed to NPLaw to enforce the debt through the County Court. If the ratepayer then contacts the council and discusses the reasons why their account is in arrears, the council will if appropriate set up an arrangement to clear the arrears. This will be at the discretion of the council.
- 2.2.3 Where appropriate, the council will provide support or provide information to the ratepayer.
- 2.2.4 Ultimately, If the authority is unable to recover the debt by any of the above methods it may look to use other methods of recovery which may include, bankruptcy or winding up of a business. However, before any further action is taken appropriate checks will be carried out.
- 2.2.5 Reminder Notices are normally issued within 28 days of the initial invoice and if the invoice continues to be unpaid a Final Notice would normally be issued within a further 14 days.

3. FURTHER INFORMATION

- 3.1 The table below shows by each financial year the total value of Business Rates write offs that are in Schedule 1 of this write off report. It also shows the current collection rate for these financial years, the amount still to be collected and the potential eventual collection rate.

Table 2 - Value by Year

Year	Total Amount Written Off by year to 31 January 2023 (£)	% collected for that year as at 31 January 2023	Still to be collected after these write offs (£)	% still outstanding after these write offs	Potential overall Collection rate
2016	291,271	98.9%	53,746	0.2%	99.1%
2017	244,549	98.7%	141,714	0.4%	99.1%
2018	163,023	98.6%	272,029	0.9%	99.5%
2019	86,154	98.4%	409,863	1.3%	99.7%
2020	18,761	97.3%	377,046	2.6%	99.9%
2021	1,597	98%	444,165	2%	100%

3.2 The table shows all the above years have a potential to reach over 99%, as we continue to pursue the debts outstanding.

4. FINANCIAL IMPLICATIONS

4.1 Where a debt is irrecoverable, prompt and regular write off of such debts is important, so that the Council can budget for bad debts. An integral part of debt recovery is the effective management of bad debts, to ensure resources are applied efficiently to the collection of monies outstanding which can reasonably be expected to be collected.

4.2 The Council has a bad debt provision within its financial accounts as part of its monitoring process and the amount of this provision is reviewed annually.

4.3 Where the Council writes off a debt and then later finds there has been a change in the customer's circumstances, it will reinstate and pursue recovery of the monies owed.

5. RECOMMENDATIONS

5.1 Approve and authorise the individual write offs as detailed within the Schedule 1 (Business Rates) and Schedule 2 (Sundry Debt).

Area for consideration	Comment
Monitoring Officer Consultation:	As part of ELT
Section 151 Officer Consultation:	As part of ELT
Existing Council Policies:	Debt Recovery Guidelines
Financial Implications:	As outlined in report, Bad Debt Provision
Legal Implications (including human rights):	No

Risk Implications:	No
Equality Issues/EQIA assessment:	No
Crime & Disorder:	No
Every Child Matters:	No

Schedule 1

Business Rates Committee Write Offs – Batch 364

Case No	Debtors name and Business Address in Great Yarmouth	Type of Business and VOA Property Description	Period of Debt	Amount to be Written Off	Reason for Write Off
771xxxx45x	CLS Global Solutions Ltd, Unit 3 Wellington Park, Gorleston, GT Yarmouth Referred to as "CLS"	Supplier of labour resources to the oil and gas sector	2019/20 to 2021/22	£687.62	<p>WO1</p> <p>CLS began operations in 2015 when it took over the assets and remaining business of CLS Offshore Ltd which had gone into administration.</p> <p>The financing of CLS was based on predicted annual turnover of £10m+ but in the first year the turnover achieved was c£3m. Consequently, the company found its business premises were underused but still incurring high interest costs and business rates bills.</p> <p>Steps to support the company at the time were around selling the freehold of the site at Malthouse Lane alongside a cost cutting programme.</p> <p>COVID and the stepping down of CLS's managing director in June 2021 further contributed to trading difficulties. Despite part of the freehold property being sold in June 2021, the pulling of CLS's finance facility in that month led to CLS's cessation of trading.</p> <p>In the following month, receivers were appointed by the mortgagee of the remainder of the freehold property and CLS went into a creditors liquidation on the 26 August 2021.</p>
771xxxx25x		Occupying a number of business rated properties at Malthouse Lane, Gorleston, GT Yarmouth:		£2,607.69	
771xxxx24x				£12,369.93	
771xxxx20x				£33,536.00	
771xxxx19x				£6,064.04	
		<ul style="list-style-type: none"> • Land used for storage & premises • Workshop & premises • Offices & premises • Warehouse & premises • Workshop & premises 	£12,509.14		
			£7,114.00		
				£3,052.25	
				£3,592.80	
				£1,070.75	
				Total	
				£83,131.93	

				<p>CLS's statement of affairs in August 2021 showed that the surplus of liabilities over assets was £3.6m.</p> <p>The liquidator's next annual statement made available in October 2022 advised that part of the freehold property at Malthouse Lane remained unsold. All proceeds from any sale of that property were expected to be taken by the mortgagee. The annual statement further advised that there would be insufficient funds from the liquidation for a dividend to be paid to either unsecured or secured creditors.</p> <p>The background to the arrears is that CLS's business rate payments were initially kept up to date but began to fall behind at the end of 2019.</p> <p>CLS made contact with the Business Rates Team in April 2020 advising that the company was not in a position to pay. At that time, opportunity to challenge the non-payment and take recovery action was limited due to the restrictions on enforcement action that were put in place as result of the COVID pandemic.</p> <p>In November 2020, as a result of part of the freehold premises being sold in June 2020, the Valuation Office changed the rating on the sites at Malthouse Lane. This created revised Business Rates demands on the company and fresh bills were issued.</p> <p>From that point recovery action progressed and liability orders were obtained in July 2021 for all outstanding business rates of CLS.</p>
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					<p>No payment or contact from the company was made after the liability order notices were served and the company then went into liquidation the following month.</p> <p>To protect the Council's position and as a matter of course, a proof of debt and claim in respect of the unpaid business rates was made to the liquidators shortly after CLS went into liquidation. However, the liquidators report of October 2022 and the forecasted absence of a dividend for even preferential creditors supports the decision to write the unpaid business rates off now.</p>
771xxx58x	Mr XXXXXXXX Albion Tavern 87 Lowestoft Road Gorleston	Public House & Premises	2016	£4,002.18	W01 Publican from May 2016 until January 2017. In absence of any payment of business rates a liability order was obtained in August 2016. The outstanding balances were then referred to two sets of enforcement agents to recover the arrears. Neither referral was successful and the cases were returned without payment being made.
771xxx32x	Mr XXXXXXXX Gallon Pot Market Place Great Yarmouth	Public House & Premises	2016-2017	£5,242.33 £8,598.77 Total £17,843.28	Publican from December 2016 to 22 October 2017. Liability orders obtained in absence of payment and outstanding balances referred to two sets of enforcement agents. No recovery of arrears made and the accounts were returned from

					<p>enforcement agents in 2019 after the debtor's period of occupation of business premises had finished.</p> <p>In contact with the enforcement agents the debtors had refused to pay referring to business debts of over £60k accruing from his period of running two public houses.</p> <p>Contact by the Council continued with the customer in respect of the two premises above, in order to attempt to negotiate a payment plan (which also included his) council tax).</p> <p>Debtor made bankrupt in October 2022 with debts exceeding assets by £63k.</p>
771xxxx069	Mr XXXXXXX Unit 2 Fenner Road Great Yarmouth	Industrial Warehouse	01/12/2016 to 30/09/2018	<p>£2,807.86 £8,155.00 <u>£4,211.51</u></p> <p>Total £15,174.37</p>	<p>W03</p> <p>Debtor was made liable for business rates on the basis of information taken during visit to business premises in December 2016.</p> <p>Debtor subsequently vacated the property in October 2018 when the premises were noted by our visiting officer as no longer occupied.</p> <p>During period of occupation debtor was billed and served with reminder and cancellation notices.</p> <p>Liability orders were obtained and the outstanding balances referred to enforcement agents.</p>

					<p>The outstanding balances were returned by the enforcement agents as uncollected in 2019. Attempts by enforcement agent to contact debtor had been unsuccessful.</p> <p>Tracing actions have been subsequently taken to ascertain the Debtor's whereabouts but they remain unknown.</p> <p>Decision made to recommend that the balances are subject to write off as uncollectable.</p>
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Schedule 2

Sundry Debts Committee Write Offs – Batch 274

Case No	Debtors name and address in Great Yarmouth	Nature of Debt	Period of Debt	Amount to be Written Off	Reason for Write Off
1	<p>CLS Global Solutions Ltd, Unit 3 Wellington Park, Gorleston, GT Yarmouth</p> <p>Account No. 43044X</p> <p>Invoice No. Various</p>	<p>Quarterly rent for 3 Wellington Park Beacon Park Gorleston, NR31 7RQ</p>	<p>Period of lease 01/10/2019 to 22/02/2022</p>	£29,252.55	<p>Write Off Code: WO1</p> <p>CLS took out a lease with GYBC on the 21 June 2019 for self-contained office accommodation at 3 Wellington Park, Gorleston which is part of Beacon Park, Gorleston.</p> <p>The rent payable was £4,950 per quarter with invoices being raised quarterly from the 12 September 2019.</p> <p>Initially the invoices raised were paid on time but by March 2020 the company was not paying the rent due.</p> <p>Enforcing action at this time was limited due to the COVID pandemic restrictions that were placed on the recovery of commercial rent arrears by landlords.</p> <p>Contact was received from CLS from the summer of 2020 onwards advising that they were not in a position to pay but proposing to make an instalment offer to clear arrears over a 24 month period.</p> <p>As part of an instalment arrangement two amounts of £825 were paid in early 2021 but the instalment agreement then failed and in August 2021 the company went into creditors liquidation with rent arrears of £28,050.</p>

				<p>The lease on 3 Wellington Park was not formally ended until it was disclaimed by the liquidators on the 22 February 2022.</p> <p>This has resulted in further rent becoming due for the period between the liquidation date and the date of disclaimer. As the property was not being used by the liquidator during this post liquidation date period it can't be claimed as an expense of the liquidation. All the rent unpaid has therefore been claimed through the lodging of a proof of debt and our position as an unsecured creditor.</p> <p>The total amount of rent to be written off is net of a £7,500 deposit paid as part of the terms of the lease.</p> <p>The annual statement by the CLS liquidator, which was made available in October 2022, advised that part of a freehold property owned by CLS remained unsold but all proceeds from any sale of that property were expected to be taken by the mortgagee. It further advised that there will be insufficient funds for a dividend to be paid to either unsecured or secured creditors.</p> <p>It is therefore anticipated that no recovery of the rent arrears will arise from the claim made to the liquidators and it is appropriate to write the debt off at this point.</p>
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