

CABINET
25 JULY 2019

WRITE-OFF OF NATIONAL NON-DOMESTIC RATES

1. Summary

- 1.1 To consider writing-off Non Domestic Rate debts where it has not been possible to obtain payment because of insolvency, because the ratepayer cannot be traced or where the debt is otherwise irrecoverable.

2. RECOMMENDATION

- 2.1. That the sums shown at Appendix A, in the confidential part of the report, amounting to £1,108,229.03, be written off as uncollectible.

3. Background and Discussion

- 3.1. In each of the cases shown in Appendix A the debts are considered uncollectible for the reasons set out in this report.
- 3.2. The normal stages of recovery referred to in subsequent paragraphs are the issue of bills, reminders, final notices and the application for a liability order. Thereafter, a case may be subject to further action which can include the instruction of bailiffs, the commencement of insolvency proceedings or an application for a warrant of commitment to prison.
- 3.3. Where a case has been recommended for write-off because there appears to be little or no prospect of a dividend to unsecured creditors, should such a dividend subsequently be paid, the amount of the dividend will be written on to reduce the sums written off as bad debt.
- 3.4. Where a case has been recommended for write-off because the ratepayer has gone away and all attempts to trace have proven unsuccessful, should their whereabouts subsequently become known, the debt will be re-instated.

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Case 1

- 3.5. The ratepayer was registered on 8 November 2018, effective from 10 October 2018, as per information from the landlord.
- 3.6. The ratepayer was taken through all the normal stages of recovery culminating in the granting of a liability order on 23 January 2019.
- 3.7. The case was passed to enforcement agents on 13 February 2019 but action had cease when the company went into liquidation on 20 March 2019.
- 3.8. Details from the Insolvency Practitioner indicate that there is little or no prospect of a dividend to unsecured creditors. The debt is therefore submitted for write off.

Case 2

- 3.9. The ratepayer was registered on 13 December 2016 effective from 23 August 2016, as per information from the landlord.
- 3.10. Payments were made by Direct Debit until 1 July 2017. When further requests were returned unpaid, the ratepayer was taken through all the usual stages of recovery culminating in the granting of a liability order on 26 March 2018 for 2017/18 and on 23 July 2018 for 2018/19
- 3.11. The 2017/18 debt was collected by the enforcement agents and the ratepayer made arrangements to pay weekly towards the 2018/19 balance.
- 3.12. Action to recover the remaining balance had to cease when the company went into administration on 2 May 2019. There appears to be little or no prospect of a dividend to unsecured creditors and the debt is therefore submitted for write off.

Cases 3, 4 and 5

- 3.13. The ratepayer was initially registered on 10 July 2014, effective from 16 March 2012, as per information from the landlords who were the previous occupiers. Part of the premises had been sub-let to the ratepayer.
- 3.14. The ratepayer was taken through all the normal stages of recovery culminating in the granting of a liability order on 25 September 2014. The case was passed to enforcement agents but was returned as they had been unsuccessful in locating the ratepayer.

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- 3.15. Liability for this property was amended on 13 May 2015, effective from 1 May 2014, when the property was split into two new units.
- 3.16. Again the ratepayer was taken through all the normal stages of recovery with a liability order being granted on 16 July 2015. Enforcement agents were instructed but were unable to locate the ratepayer.
- 3.17. The ratepayer incurred one further liability from 31 January 2016 to 1 March 2016 when the sub-tenant of the second property vacated. A liability order was granted for this debt on 25 July 2016. Different enforcement agents were instructed but were again unsuccessful.
- 3.18. Although the company is still showing as active, filed accounts show no evidence of trading either at the premises or elsewhere. No definitive link has been established between the ratepayer and the company operating from a shop with the same name in the area.
- 3.19. All attempts to trace have proven unsuccessful and therefore the debts are submitted for write off.

Case 6

- 3.20. The ratepayer was registered on 6 August 2012, effective from 16 July 2012 as per information from the landlord.
- 3.21. Payments were made regularly up to and including 1 June 2018. A reminder produced on 16 July 2018 but action had to cease when the ratepayer entered in to a company voluntary arrangement (CVA) on the same day.
- 3.22. A proof of debt has been submitted to the Supervisor and the debt is submitted for write-off pending the receipt of any dividends.

Case 7

- 3.23. The ratepayer was registered on 7 January 2019, effective from 22 September 2018 following the provision of evidence confirming the company was in rateable occupation.
- 3.24. The ratepayer was taken through all the normal stages of recovery culminating in the granting of a liability order on 20 March 2019.
- 3.25. Information was received on the day of the hearing confirming that the company had vacated on 1 February 2019.
- 3.26. On 2 April 2019 the Registrar of Companies issued a notice for compulsory strike off and the company was subsequently dissolved on 18 June 2019.

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Case 8

- 3.27. The ratepayer was registered on 12 December 2017 as per information from the landlords.
- 3.28. The ratepayer was taken through all the normal stages of recovery culminating in the granting of liability orders on 23 July 2018 and 19 November 2018.
- 3.29. The first liability order was passed to enforcement agents on 22 August 2018 but was returned by them 'gone away – no trace' on 21 September 2018.
- 3.30. A visit to the premises on 9 October 2018 confirmed that the unit was empty and all subsequent attempts to contact the ratepayer were unsuccessful.
- 3.31. On 18 December 2018 the Registrar of Companies issued a notice for compulsory strike off and the company was later dissolved on 5 March 2019.

Case 9

- 3.32. The ratepayer was registered on 16 June 2014 effective from 30 July 2013.
- 3.33. Payments have been made regularly and promptly up to and including 3 June 2019.
- 3.34. On 22 May 2019 information was received indicating that the company was proposing to enter in to a CVA. Under the proposals Rating Authorities could expect to receive an estimated return of 5p in the £.
- 3.35. A claim and proof of debt was submitted to the Nominees and a vote was cast to reject the proposal unless ongoing Business Rates were to be paid in full.
- 3.36. On 12 June 2019 the CVA was approved and there were no modifications in respect of Rating Authorities. The estimated return therefore remains at 5p in the £.
- 3.37. The debt is therefore submitted for write-off pending receipt of any dividend.

Case 10

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- 3.38. The ratepayer was registered on 16 August 2013 effective from 9 August 2013.
- 3.39. Payments have been made regularly and promptly up to and including 3 June 2019.
- 3.40. On 22 May 2019 information was received indicating that the company was proposing to enter in to a CVA. Under the proposals Rating Authorities could expect to receive an estimated return of 25p in the £.
- 3.41. A claim and proof of debt was submitted to the Nominees and a vote was cast to reject the proposal unless ongoing Business Rates were to be paid in full.
- 3.42. On 12 June 2019 the CVA was approved and there were no modifications in respect of Rating Authorities. The estimated return therefore remains at 25p in the £.
- 3.43. The debt is therefore submitted for write-off pending receipt of any dividend.

Case 11

- 3.44. The ratepayer was registered on 5 June 2008 effective from 28 July 2006 as being the owner of an empty property.
- 3.45. The property has been empty since 28 July 2006 and as an industrial hereditament was exempt from empty rates for the years 2006/07 and 2007/08.
- 3.46. Empty rate legislation changed from 1 April 2008 and full rates became payable for 2008/09. Further changes allowed an exemption for 2009/10 and 2010/11. From 2011/12 onwards empty rates became due again until the property was deleted from the Rating List from 1 April 2013.
- 3.47. The ratepayer was the owner of the premises but his whereabouts could not be established and ranged from Spain to the West Country. In view of this coupled with the age of the debt, the balance for 2008/2009 was submitted for write-off. It was duly approved by the Strategic Director (Internal Services) on 8 November 2017.
- 3.48. Further attempts to trace the ratepayer and collect the remaining debts for 2011/12 and 2012/13 have proven unsuccessful. Therefore, these debts are also now submitted for write-off.

Cases 12 & 13

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- 3.49. The ratepayer entered in to a Company Voluntary Arrangement on 14 August 2018.
- 3.50. On 6 March 2019 the debt for one of the units for the period 1 April 2018 to 13 August 2018 was approved for write off under delegated authority by the Revenues Manager.
- 3.51. On 7 March 2019 Cabinet approved the write off of the balance for the second unit from 1 April 2018 to 13 August 2018 (Minute: 130).
- 3.52. Initially the ongoing rates for 2018/19 were said to have been excluded from the CVA. However, it was subsequently confirmed that the debts from 14 August 2018 to 31 March 2019 should also have been included.
- 3.53. Claims and proofs of debt were submitted and the debts are referred for write-off pending the receipt of any dividends.

4. Relationship to the Corporate Plan

Not applicable.

5. Financial, legal, staffing and other administrative implications and risk assessments

Financial Implications	Under the Business Rate Retention rules the cost of writing off uncollectible debt is shared between Central Government, Dartford Borough Council, Kent County Council and Kent & Medway Fire and Rescue Authority. As such, the potential cost to Dartford Borough Council is normally up to £443,291.61 this being 40% of the total debt recommended for write-off. A provision is set aside for these potential costs and the level of the provision is reassessed each year.
Legal Implications	As set out in the body of the report
Staffing Implications	None
Administrative Implications	None
Risk Assessment	No uncertainties and/or constraints

6. Appendices

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Appendix A Non-Domestic Rate debts submitted for write-off.

This appendix has been placed on the closed part of the agenda because it relates to exempt information within the category contained in Standing Order 46(1) (b) Annex 1, namely paragraph 3 information relating to the financial business affairs of any particular person (including the authority holding the information) and in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date</u>	<u>File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
NNDR Write-off papers	Various		Sue Cressall 01732 227041	Revenues	Appendix A SO46 (1) (b) Annex 1 Para. 3