

**CABINET  
5 DECEMBER 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 £557,011.93, 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 1 June 2018, effective from 7 June 2017, following the provision of evidence by the head lessee that the ratepayer was operating under a franchise agreement.
- 3.6. The ratepayer was taken through all the normal stages of recovery culminating in the granting of a liability order on 17 September 2018.
- 3.7. In view of the level of the debt and the fact that liability was ongoing, enquiries were made of an insolvency practitioner as to the viability of initiating winding up proceedings. The purpose of such proceedings would be primarily to stop ongoing debt from accruing and secure the Council's position with regard to the arrears.
- 3.8. Enquiries were also made of Companies House because the company was showing as having made a proposal to be struck off. Companies House confirmed that notice was issued in the London Gazette on 23 October 2018 and that if no objections were received, the company would be struck off the register in approximately two months.
- 3.9. A visit was made to the premises on 17 October 2018 to try to establish contact before action but the ratepayer had vacated. The landlord confirmed the vacation date as 10 October 2018.
- 3.10. Enforcement agents were immediately instructed with a view to tracing the ratepayer and securing payment before dissolution.
- 3.11. The enforcement agents continued to try and make contact with the ratepayer but recovery action had to cease when the company was dissolved on 28 May 2019.

Case 2

- 3.12. The ratepayer was registered via a telephone call on 22 September 2014 and initially made payment via direct debit.
- 3.13. The direct debit facility was cancelled in August 2015 following two successive rejections 'refer to payer' and the ratepayer was taken through the normal stages of recovery, with a liability order being granted on 21 October 2015 for the 2015/16 debt.
- 3.14. Enforcement agents were instructed and they successfully collected two payments in January 2016.
- 3.15. The ratepayer telephone on 17 March 2016 advising that he had left the property and was applying for bankruptcy. It was subsequently ascertained that he had vacated on 4 February 2016.

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- 3.16. The ratepayer called on receiving a summons for the balance owing from 22 September 2014 to 31 March 2015. He advised that he was in significant debt and was only in receipt of employment and support allowance. He confirmed in writing that he was in the process of selling his property (address out of area) and had an Individual Voluntary Arrangement in place but would pay from the proceeds of sale.
- 3.17. The enforcement agents continued to press for payment but returned the case in March 2017 having been unsuccessful.
- 3.18. Although contact has been made via a family address, it has not been possible to locate the ratepayer's home address. It has also not been possible to verify whether the rates were covered by any form of insolvency proceedings.
- 3.19. In view of the age of the debt and what is known of the ratepayer's circumstances, there is no realistic chance of recovery and the debt is therefore submitted for write off.

Cases 3 & 4

- 3.20. The ratepayer was responsible for two properties and had paid regularly by direct debit since 1998 and 2006 respectively.
- 3.21. The direct debit instructions were cancelled in October 2018 but full payment for 2018/2019 was made following the issue of summonses on 29 November 2018.
- 3.22. When payment was not made for the 2019/20 year the ratepayer was taken through all the normal stages of recovery with liability order hearings set for 23 May 2019.
- 3.23. Recovery action had to cease when the ratepayer went in to administration on 22 May 2019. Claims have been lodged with the administrators and the debt is submitted for write-off pending the payment of any dividends to unsecured creditors.

Case 5

- 3.24. The ratepayer went into administration on 27 October 2017 but the administrators continued to trade and were billed accordingly.
- 3.25. Payment was due from 01 January 2018 but this was not received until 15 March 2018. On 16 April 2018 a closing balance bill was issued as the administrators had ceased to trade on 5 February 2018.

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- 3.26. Attempts were made to contact the administrators to obtain payment but recovery had to cease when the company was placed into liquidation on 7 November 2018.
- 3.27. Proof of debt has been lodged and the debt is submitted for write-off pending the payment of any dividends to unsecured creditors.

Case 6

- 3.28. The ratepayer was registered on 14 January 2016, effective from 4 December 2015 as per information from the landlord. Liability subsisted until 24 June 2016.
- 3.29. The ratepayer was taken thorough all the normal stages of recovery culminating in the granting of liability orders on 30 March 2016 and 25 May 2016.
- 3.30. Enforcement agents made an arrangement and collected payments totalling £6,028.44 between May 2016 and July 2016. However, further attempts did not elicit payment and they returned the cases together with certificates of 'nil effects'.
- 3.31. A second company of enforcement agents were instructed but they too were unsuccessful.
- 3.32. Records at Companies House indicate that there had been proposals to strike off the company as early as 18 April 2017 but action was suspended on several occasions.
- 3.33. Recovery action had to cease when the company was finally dissolved on 10 September 2019.

Cases 7 & 8

- 3.34. The ratepayer was registered for the first property on 27 July 2011, effective from 19 April 2011 as per information from the landlords.
- 3.35. Liability orders were obtained on 26 October 2011, 28 June 2012, 23 May 2013, 24 April 2014, 22 May 2014, and 21 May 2015.
- 3.36. Records indicate that the ratepayer ceased trading from the property on 19 November 2013.
- 3.37. Enforcement agents have been instructed at various times with limited success, having only collected a total of £500.00.
- 3.38. Investigations have shown that the ratepayer appears to still be resident at the address held for him and in receipt of Universal Credit. However, no contact has ever been established.

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- 3.39. In view of the age of the debt and the ratepayer's personal circumstances, recovery action is unlikely to be successful. The debt is therefore submitted for write-off as irrecoverable.
- 3.40. The ratepayer jointly took on the second property for a period of only three months. Investigations indicate that no business operated from the premises during this time.
- 3.41. There is no trace of the ratepayer's business partner and therefore this debt is also submitted for write off as irrecoverable due to age and the ratepayer's personal circumstances.

Case 9

- 3.42. The ratepayer was registered on 5 September 2013, effective from 19 August 2013, as per information from the landlord.
- 3.43. Payments were made regularly up to and including January 2019. The ratepayer was then taken through all the normal stages of recovery culminating in the granting of a liability order on 23 May 2019.
- 3.44. The ratepayer made an arrangement for payment over four months from July 2019 to October 2019, making the initial payment of £48,539 on 15 July 2019.
- 3.45. Recovery action had to cease when the ratepayer went into administration on 5 August 2019. Proof of debt has been lodged and the debt is submitted for write-off pending payment of any dividends to unsecured creditors.

Case 10

- 3.46. The ratepayer was registered on 20 March 2019, effective from 5 February 2019, following provision of a lease.
- 3.47. The bill was sent to the registered office address but returned undelivered. On 16 April 2019 the owners of the premises confirmed that the tenant had vacated and that they were unaware that the unit had been sub-let to the ratepayer.
- 3.48. Recovery action was attempted but documents were returned undelivered.
- 3.49. Companies House showed an active proposal to strike the company off the register on 11 June 2019 and the company was dissolved on 27 August 2019.

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3.50. The debt is therefore submitted for write off.

Cases 11 & 12

3.51. The ratepayer occupied two premises from 9 May 2005 and 7 August 2014 respectively.

3.52. Regular payments were made by direct debit up to and including 1 April 2019 but then the direct debit was cancelled.

3.53. Revised bills were issued for payments commencing 1 June 2019 and reminders sent on 18 June 2019 when payment was not received.

3.54. On 20 June 2019 notice was received that the ratepayer intended to enter in to a Company Voluntary Arrangement. Under the terms of the arrangement only a proportion of the ongoing business rates for 2019/20 was to be paid (20% in one case and 40% in the other) and expected dividends for the arrears were set at 15% and 10%.

3.55. The proposals were accepted by the majority of creditors (although opposed by the Council) on 3 July 2019.

3.56. Write-offs have therefore been submitted so as to leave the agreed balances payable under the Company Voluntary Arrangement.

Case 13

3.57. The ratepayer was retrospectively registered on 10 January 2017 as being liable from 1 November 2014 to 13 December 2015.

3.58. There had been alleged occupation by a third party but investigations were unable to verify this and so liability reverted to the ratepayer as the known tenant.

3.59. Extensive efforts were made to trace the ratepayer who is now believed to reside in Scotland.

3.60. Although a liability order was granted on 27 March 2017, as the ratepayer is out of jurisdiction, it cannot be enforced and therefore the debt is submitted for write-off.

4. Relationship to the Corporate Plan

Not applicable.

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

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Financial Implications	<p>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 &amp; Medway Fire and Rescue Authority.</p> <p>As such, the potential cost to Dartford Borough Council is normally up to £222,805 this being 40% of the total debt recommended for write-off.</p> <p>A provision is set aside for these potential costs and the level of the provision is reassessed each year.</p>
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

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