

CABINET – 16 JANUARY 2019

SUBJECT: WRITE-OFF OF DEBTS OVER £20,000 – BUSINESS RATE ARREARS FOR LTD COMPANIES

REPORT BY: CORPORATE DIRECTOR FOR EDUCATION AND CORPORATE SERVICES

1. PURPOSE OF REPORT

- 1.1 On 15th September 2009, Cabinet approved a revised write-off procedure for debts that are material, where the individual debt is greater than £20,000. Approval is sought to write-off two national non-domestic rate (NNDR), also known as business rate, debts where, in each case, the individual debt is greater than £20,000.

2. SUMMARY

- 2.1 This report gives details of an amount of business rate that the Authority is required to write off as a bad debt.

3. LINKS TO STRATEGY

- 3.1 To comply with Financial Regulations.
- 3.2 The writing-off of unrecoverable debts is an important element of prudent financial management. Effective financial management contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:-
- A prosperous Wales
 - A resilient Wales
 - A healthier Wales
 - A more equal Wales
 - A Wales of cohesive communities
 - A Wales of vibrant culture and thriving Welsh language
 - A globally responsible Wales

4. THE REPORT

- 4.1 Policy & Resources Scrutiny Committee receives half yearly reports on monies due to the Council which cannot be collected. Unpaid business rate is pursued through a magistrates' court liability order that empowers the Authority to instruct bailiffs.
- 4.2 Due to debtors absconding, declaring themselves insolvent through bankruptcy/liquidation or other proceedings, ceasing to trade, dying with no estate, and because of limited means there are inevitably circumstances when debts cannot be collected. After all legal means have been exhausted a decision is made to write-off debts. Policy and Resources Scrutiny Committee receive a report every 6 months summarising the value of debts written off by the Authority. It should be noted that business rate is an unsecured debt in the event of bankruptcy/liquidation.

- 4.3 Members are reminded that the Authority collects Business Rates on behalf of the Welsh Government which then redistributes the total amount collected by all 22 local authorities in Wales, along with the Revenue Support Grant.
- 4.4 The first case involves Solarwise Renewables Ltd, a company that occupied Unit B & D 3-4 De Clare Court, 5 Sir Alfred Owen Way, Pontygwindy Industrial Estate, Caerphilly. The unpaid rates of £26,256.39 are in respect of an occupied rate liability (reference no. 510362850) covering the period 1st April 2016 to 2nd November 2016 inclusive and an unoccupied rate liability covering the period 3rd November 2016 to 24th August 2017 inclusive. The company had operated from this unit since January 2014 and previously paid the business rate by direct debit. However, when the direct debit failed, the Authority obtained a liability order in respect of the outstanding debt for the financial year 2016/17. An enforcement agent was instructed to recover the debt in December 2016 and, as no contact or payment was made, following a visit to the premises in January 2017 it was discovered that the company had absconded in November 2016. Although the property was unoccupied, as the company held the lease it remained liable for the unoccupied business rate to 24th August 2017, albeit the company did not trade again after vacating the premises. The lease was determined by the landlord on 25th August 2017 and the company was dissolved on 20th February 2018, according to Companies House records. In the unlikely event that any future payment is received in respect of these arrears, an equivalent amount of the debt will be reinstated.
- 4.5 The second case involves a company, GKD One Ltd, who occupied 3 shops in the Caerphilly and Blackwood Area. The company was dissolved on 24th October 2017 according to Companies House records. In the unlikely event that any future payment is received in respect of the arrears detailed in points 4.5.1 to 4.5.3, an equivalent amount of the debt will be reinstated.
- 4.5.1 The first account concerns unpaid rates of £9,594.57 for the property at 59 Cardiff Road, Caerphilly which are in respect of a rate liability covering the period 3rd November 2014 to 25th October 2015 inclusive (reference no. 510337767). The company did not inform the Authority of their occupation which delayed the issuing of rate demands until June 2015. The Authority subsequently obtained a liability order in respect of the debt. A voluntary payment plan was agreed and payments of £10,625.78 were collected between November 2015 and January 2017. The total liability (including £57.30 court costs) was £20,220.35, of which £10,625.78 has been collected, leaving an unpaid balance of £9,594.57.
- 4.5.2 The second account concerns unpaid rates of £5,550.48 for the property 181 High Street, Blackwood which are in respect of an occupied rate liability covering the period 29th September 2016 to 18th January 2017 inclusive (reference no. 510353984). The Authority issued a rate demand in October 2016 and subsequently obtained a liability order in respect of the debt. An enforcement agent was instructed to recover the debt but no monies were collected.
- 4.5.3 The third account concerns unpaid rates of £10,588.10 for the property Unit 8 Castle Court, Caerphilly which are in respect of occupied periods covering 6th November 2015 to 1st February 2016 inclusive and 6th October 2016 to 20th January 2017 inclusive (reference no. 510345360). The Authority issued rate demands in March and October 2016 respectively and subsequently obtained a liability order in respect of the debt. A voluntary payment plan was agreed and payments of £2,400.00 were collected between May and December 2016. The total liability (including £70.00 court costs) was £12,988.10, of which £2,400.00 has been collected leaving an unpaid balance of £10,588.10. An enforcement agent was instructed to collect the debt but no further monies were collected.
- 4.6 In these cases the Authority has no further legal powers to recover the unpaid debts.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 Effective financial management is a key element in ensuring that the Well-being Goals in the Well-being of Future Generations Act (Wales) 2015 are met. The process of writing-off unrecoverable debts ensures that financial liabilities are recognised as they occur and are not deferred as potential future liabilities.

6. EQUALITIES IMPLICATIONS

- 6.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan, therefore no Equalities Impact Assessment has been carried out.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no direct financial implications to the Authority as the Authority collects NNDR on behalf of Welsh Government.

8. PERSONNEL IMPLICATIONS

- 8.1 There are none.

9. CONSULTATIONS

- 9.1 There are no consultation responses which have not been reflected in this report.

10. RECOMMENDATIONS

- 10.1 It is recommended that Cabinet determine the debts detailed in paras. 4.4 and 4.5.1 to 4.5.3 inclusive be written-off on the grounds that they are irrecoverable.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To write-off bad debts due to the Authority where no further legal remedy exists.

12. STATUTORY POWER

- 12.1 Local Government Act 1972 and 2000.

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