



## **CABINET– 13<sup>TH</sup> OCTOBER 2021**

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

**REPORT BY:               CORPORATE DIRECTOR FOR EDUCATION AND CORPORATE SERVICES**

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### **1.       PURPOSE OF REPORT**

- 1.1       On 15<sup>th</sup> 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 the business rate debts for two limited companies where, in each case, the aggregated values per business are greater than £20,000.

### **2.       SUMMARY**

- 2.1       This report gives details of amounts of business rate that the Authority is required to write off as bad debt on the grounds that they are irrecoverable as no further legal remedy exists.
- 2.2       The report includes any actions taken by the Authority to recover the amounts due.

### **3.       RECOMMENDATIONS**

- 3.1       Cabinet is asked to determine the business rate debts detailed in paras 5.2.1 to 5.3.9 inclusive be written-off on the grounds that they are irrecoverable.

### **4.       REASONS FOR THE RECOMMENDATIONS**

- 4.1       To obtain approval of Cabinet Members to write-off bad debts due to the Authority where no further legal remedy exists.

### **5.       THE REPORT**

#### **5.1       Overview**

- 5.1.1     Policy & Resources Scrutiny Committee receives half yearly reports on monies due to the Council which cannot be collected; the reports summarise the value of debts

written off by the Authority. Unpaid business rate is pursued through a magistrates' court liability order that empowers the Authority to instruct enforcement agents.

- 5.1.2 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. It should be noted that business rate is an unsecured debt in the event of bankruptcy/liquidation.
- 5.1.3 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 (known as the rating pool) along with the Revenue Support Grant. When a business rate debt is written off as irrecoverable, the impact of that revenue loss is borne by the rating pool, not directly by this Authority.
- 5.1.4 Members should bear in mind that for at least 14 months the Business Rate Team suspended the majority of its normal processes in order to administer numerous WG business rate related COVID-19 support grant schemes. The impact of the COVID-19 pandemic has caused delays in preparing cases to be considered for write-off by Cabinet.

## 5.2 **Personal Leisure Limited**

- 5.2.1 The first case involves Personal Leisure Limited, a company that occupied The Maes Manor Hotel, Blackwood. The unpaid rates of £31,637.52 are in respect of an occupied rate liability (reference no. 510337918) covering the period 13<sup>th</sup> April 2015 to 16<sup>th</sup> November 2015 inclusive. In June 2015 the Authority was advised by the owners of the property, Warner Hotels Ltd, that the company Personal Leisure was in occupation and a lease was supplied as evidence.
- 5.2.2 The Authority issued a rate demand in June 2015 and, as no payments were received from the company, subsequently obtained a liability order on the 13<sup>th</sup> November 2015 in respect of the debt. An enforcement agent was immediately instructed to recover the debt but no monies were collected. Following a statutory compliance letter being issued by the enforcement agent, the owners informed the Authority that they had re-entered the property due to non-payment of rent from their tenant and were themselves in occupation from the 17<sup>th</sup> November 2015.
- 5.2.3 As Personal Leisure Limited had ceased trading, the enforcement agent was unable to collect the debt and returned the case to the Authority. Personal Leisure Limited was subsequently dissolved on the 27<sup>th</sup> September 2016 according to Companies House records which leaves the Authority with no legal remedy to collect the debt.
- 5.2.4 In the unlikely event that any future payment is received in respect of these arrears, an equivalent amount of the debt will be reinstated.

## 5.3 **Grabal Alok (UK) Ltd t/a Store Twenty One**

- 5.3.1 The second case involves a company, Grabal Alok (UK) Ltd t/a Store Twenty One, who occupied 2 shops in the Caerphilly and Blackwood area. The company entered in to compulsory liquidation on the 10<sup>th</sup> July 2017, following the failure of a Company Voluntary Arrangement (CVA), according to Companies House records. As the business rate is an unsecured debt it is very unlikely that the Authority will receive any further payment following the liquidation of the company. In the unlikely event

that any future payment is received in respect of the arrears detailed in points 5.3.2 and 5.3.6, an equivalent amount of the debt will be reinstated.

- 5.3.2 The first account concerns unpaid rates of £40,618.27 for the property at Unit 16 Castle Court, Caerphilly which are in respect of an occupied rate liability covering the period 1<sup>st</sup> April 2016 to 6<sup>th</sup> January 2017 inclusive (reference no. 510235046).
- 5.3.3 The company had traded from this property since 2<sup>nd</sup> April 2006 and the Authority has collected the rates due up to the 1<sup>st</sup> April 2016 of £463,629.44 in full.
- 5.3.4 The Authority issued the annual rate demand in respect of 2016/17 and subsequently, as no payments were received, a liability order in respect of the debt was obtained on the 15<sup>th</sup> July 2016. On the 21<sup>st</sup> July 2016, an Insolvency Practitioner advised all known creditors that the company had entered in to a Company Voluntary Arrangement (CVA) and a proof of debt form for the unpaid business rate was submitted.
- 5.3.5 A CVA prevents any further enforcement action being undertaken by a creditor unless the debtor fails to maintain payment in accordance with the agreed payment terms of the CVA. Under the terms of the CVA, the company continued to trade from the property and further payments totalling £1,356.91 were received. The company ceased trading at the property on the 6<sup>th</sup> January 2017 and, following the failure of the CVA, the company was placed into compulsory liquidation on the 10<sup>th</sup> July 2017. This leaves the Authority with no legal remedy to collect the debt.
- 5.3.6 The second account concerns unpaid rates of £13,391.72 for the property 87-89 High Street, Blackwood which are in respect of an occupied rate liability covering the period 1<sup>st</sup> April 2016 to 23<sup>rd</sup> August 2016 inclusive (reference no. 510235064).
- 5.3.7 The company had traded from this property since 2<sup>nd</sup> April 2006 and the Authority has collected the rates due up to the 1<sup>st</sup> April 2016 of £281,216.23 in full.
- 5.3.8 The Authority issued the annual rate demand in respect of 2016/17 and subsequently, as no payments were received, a liability order in respect of the debt was obtained on the 15<sup>th</sup> July 2016. On the 21<sup>st</sup> July 2016 an Insolvency Practitioner advised all known creditors that the company had entered in to a CVA and a proof of debt form for the unpaid business rate was submitted.
- 5.3.9 As explained in point 5.3.5, a CVA prevents any further enforcement action being undertaken by a creditor unless the debtor fails to maintain payment in accordance with the agreed payment terms of the CVA. The company ceased trading at the property on the 23<sup>rd</sup> August 2016 and, following the failure of the CVA, it was placed into compulsory liquidation on the 10<sup>th</sup> July 2017. This leaves the Authority with no legal remedy to collect the debt.

#### 5.4 **Conclusion**

This report details amounts of business rate that the Authority is required to write off as bad debt on the grounds that they are irrecoverable as no further legal remedy exists. With no further legal powers available to the Authority to recover the unpaid debts, Cabinet is asked to approve the recommendations for write-off.

## **6. ASSUMPTIONS**

6.1 There are no assumptions within this report.

## **7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 No Integrated Impact Assessment has been produced because this report does not involve a strategic decision on a strategic proposal/project. The information provided is a statement of fact to enable Cabinet to approve the recommendations for write-off.

## **8. FINANCIAL IMPLICATIONS**

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

## **9. PERSONNEL IMPLICATIONS**

9.1 There are none in respect of this report.

## **10. CONSULTATIONS**

10.1 There are no consultation responses to be reflected in respect of this report.

## **11. STATUTORY POWER**

11.1 Local Government Finance Act 1988, Government of Wales Act 2006 and Local Government Act 1972, 2000 and 2003.

Author: John Carpenter, Finance Manager (Revenues)  
(Email: [carpewj@caerphilly.gov.uk](mailto:carpewj@caerphilly.gov.uk))

Consultees: Christina Harray, Chief Executive  
(Email: [harrhc@caerphilly.gov.uk](mailto:harrhc@caerphilly.gov.uk))

Richard Edmunds, Corporate Director for Education & Corporate Services  
(Email: [edmunre@caerphilly.gov.uk](mailto:edmunre@caerphilly.gov.uk))

Robert Tranter, Head of Legal Services & Monitoring Officer  
(Email: [trantrj@caerphilly.gov.uk](mailto:trantrj@caerphilly.gov.uk))

Stephen Harris, Head of Financial Services and S151 Officer,  
(Email: [harrisr@caerphilly.gov.uk](mailto:harrisr@caerphilly.gov.uk))

Anwen Cullinane, Senior Policy Officer (Equalities, Welsh Language and Consultation)  
(Email: [cullima@caerphilly.gov.uk](mailto:cullima@caerphilly.gov.uk))

Cllr Eluned Stenner, Cabinet Member for Performance, Economy and

Enterprise  
(Email: [stenne@caerphilly.gov.uk](mailto:stenne@caerphilly.gov.uk))

Cllr Gez Kirby, Chair, Policy and Resources Scrutiny Committee  
(Email: [gezkirby@caerphilly.gov.uk](mailto:gezkirby@caerphilly.gov.uk))

Cllr Brenda Miles, Vice Chair, Policy and Resources Scrutiny Committee  
(Email: [brendamiles@caerphilly.gov.uk](mailto:brendamiles@caerphilly.gov.uk))

Background Papers: None