

Cabinet

Tuesday 20 September 2011

4.00 pm

Ground Floor Meeting Room G01A - 160 Tooley Street, London
SE1 2QH

Supplemental Agenda No. 1

List of Contents

Item No.	Title	Page No.
20.	Authorisation of Debt Write-Offs over £50,000 for National Non Domestic Rates - Revenues and Benefits	1 - 11

Contact

Paula Thornton 020 7525 4395 or Everton Roberts 020 7525 7221

or email: paula.thornton@southwark.gov.uk; everton.roberts@southwark.gov.uk

Webpage: <http://www.southwark.gov.uk>

Date: 12 September 2011

Item No. 20.	Classification: Open	Date: 20 September 2011	Meeting Name: Cabinet
Report title:		Authorisation of Debt Write-offs over £50,000 for National Non Domestic Rates – Revenues & Benefits Service	
Ward(s) or groups affected:		N/a	
From:		Councillor Richard Livingstone, Finance, Resources and Community Safety	

FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR FINANCE, RESOURCES AND COMMUNITY SAFETY

National Non Domestic Rates, known locally as Business Rates are collected from businesses in the Borough by the Council and paid into a central government pool and then redistributed to the Council as part of the annual grant settlement.

The Council is responsible for collecting approximately £200m of national non domestic rates on behalf of the government and take appropriate enforcement action where needed to ensure that collection performance is high.

Historically, collection rates have been high with an improved performance in 2010-11 of 97.7%. This demonstrates that the Council is acting diligently and effectively in collecting the business rates for the government.

However, there will be cases where businesses cease to trade due to becoming insolvent or dissolved where it has been decided it is not financially viable to continue to operate. In a small number of cases the amount of rates will be considerable as they are calculated on the rateable value of the property occupied.

The Council will only consider writing off debt where it is deemed to be irrecoverable to collect. The cost of business rates write off's is borne by the government and not the Council or the taxpayers.

RECOMMENDATIONS

1. That approval is given for write off of the debt of £852,846.61 for 8 debts which are irrecoverable.
2. That Members advise of further action they require on any write-off not agreed within this report.

BACKGROUND INFORMATION

3. Under the Councils Constitution write-off of debts above £5,000 but below £50,000 has been delegated to individual Members within their own service area. Debt write-off under £5,000 can be authorised by chief officers. Write off of any debt over £50,000 must be referred to cabinet for authorisation.

4. There are a number of key reasons why the Council may wish to write-off a debt. These are:
- i. The debt cannot be substantiated i.e. there is no documentary evidence that the debtor accepted the goods or services with the knowledge that a charge would be made.
 - ii. The debt is uneconomic to collect i.e. the cost of collection, including substantiation, is greater than the value of the debt.
 - iii. The debt is time barred, where the statute of limitation applies. Generally this means that if a period of six years has elapsed since the debt was last demanded, the debt cannot be enforced by legal action.
 - iv. The debtor cannot be found or communicated with despite all reasonable attempts to trace the debtor.
 - v. The debtor is deceased and there is no likely settlement from the estate or next of kin.
 - vi. Hardship, where permitted, (not hardship relief) on the grounds that recovery of the debt is likely to cause the debtor serious financial difficulty.
 - vii. Insolvency where the organisation or person has gone into bankruptcy and there are no assets to claim against.

KEY ISSUES FOR CONSIDERATION

Policy implications

5. The proposed write offs set out in this report are recommended in accordance with the Councils agreed write off policies and procedures. The reasons for each recommended write off are stated in the appendices attached.
6. Appendix 1 includes write-offs for National Non-Domestic Rates (NNDR). The NNDR write-offs have been recommended by the Council's NNDR Business Unit. In each case and where appropriate the business unit has attempted to trace account holders via a standard procedure as follows: -
 - Interrogation of the NNDR database.
 - Interrogation of the Document Imaging System
 - Tracing letters issued to other local authorities & solicitors.
 - Inspection of the domestic or business premises.
 - Land Registry searches.
 - Companies House searches
 - Tracing letter to landlords or letting/managing agents & directors
 - Letter sent to the Official Receiver for confirmation of any dividends to be paid
 - Checks made with other Council Departments
7. The NNDR business unit use a minimum of three tracing methods and conducts a 10% audit review of cases under £5,000 and a 50% audit review of cases £5,000 to £50,000 and 100% on cases over £50,000 to ensure that the correct procedures have been adhered to.

Resource implications

8. The total non domestic rates debt recommended for write off is £852,846.61 for 8 debts which are irrecoverable (case details contained in Appendix 1 of the report). Cases 1 to 7 relate to companies that have dissolved, in administration or liquidation. Case 8 relates to a ratepayer who has absconded (details are contained in Appendix 1 of the closed report)
9. In the current economic climate, it is envisaged that a greater number of small and medium sized businesses will experience difficult trading conditions. Whilst every effort will be made to provide support within the scope of the existing legislation, it is inevitable that there will be an increase in the number of businesses dissolved, put into administration or receivership or liquidated. This, in turn, will lead to more cases being written off due to the business rates debts being irrecoverable.
10. As per paragraph 3 the schedule of write-offs has been compiled in accordance with the Council's agreed policy and procedures.
11. The debt is recommended for write-off, as it is considered irrecoverable or uneconomic to collect.
12. The recommended write-off of £852,846.61 for national non domestic rates will be contained within the Councils relevant bad debt provisions.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

13. The report recommends that the debt as set out in Appendix 1 to this report is written off in accordance with the council's procedures on debt write-off.
14. The approval of debt write-offs for sums over £50,000 is reserved to the cabinet for collective decision making. This particular debt has arisen as a result of non payment of non domestic rates.
15. The report sets out the circumstances whereby debts can lawfully be written off by the council and these include cases where a company has been dissolved or has gone into liquidation and there are no assets to claim against. Of the eight companies in Appendix 1, seven relate to companies that have dissolved, in administration or liquidation and one is due to the ratepayer absconding. In such circumstances to pursue the debt would be a difficult and costly exercise with very little or no chances of success.
16. The Strategic Director of Communities, Law & Governance agree with the recommendation that this debt should be written off in accordance with procedure and is lawful.

Finance Director (FIN0347)

17. As per paragraph 3 the schedule of write-offs has been compiled in accordance with the Council's agreed policy and procedures.

18. This report recommends the write off of eight debts, each falling within the range reserved for member decision. Each debt meets one or more of the criteria for write-off and the finance director considers that it would be uneconomic to make any further attempt at recovery.
19. The recommended write-off of £852,846.61 will be contained within the Council's bad debt provisions. The amount will be met from the NNDR Rating Pool and the cost is not borne by the Council or Council Taxpayers.
20. As per paragraph 3 the schedule of write-offs has been compiled in accordance with the Council's agreed policy and procedures.

Community impact statement

21. This decision has been judged to have no or very small impact on local people and communities.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
National Non Domestic Rates Customer Account	Revenues & Benefits 1st Floor, Hub 3, Tooley Street	Norman Lockie ext 50928

APPENDICES

No.	Title
Appendix 1	Case details (Cases 1 to 7)

AUDIT TRAIL

Cabinet Member	Councillor Richard Livingstone, Finance, Resources and Community Safety	
Lead Officer	Duncan Whitfield, Finance Director	
Report Author	Norman Lockie, Revenues Manager	
Version	Final	
Dated	9 September 2011	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	9 September 2011	

Appendix 1

Case Details

Case 1

Name & address of ratepayer	Amount	Period	Reason for write off
Alpha Guard Ltd, Lancaster House, 70 Newington Causeway, London, SE1 6DF	£259,746.04	8/8/08 - 31/12/09	Insolvency – no assets to claim Company Dissolved

Notices issued	Date of issue	Amount	Financial Year
Demands (Bill)			
Opening	18/11/09	£223,332.27	2008/09
Amended demand (Bill)	05/01/10	£259,581.04	2008/09
Reminder Notices	16/12/09	£223,332.27	2008/09
	26/02/10	£259,581.04	2008/09
Liability Order granted following court summons	16/04/10	£259,746.04	2008/09
	Total LO Debt	£259,746.04	
	(of which are costs)	£165	
	<u>Total Write Off</u>	<u>£259,581.04</u>	

The ratepayer was retrospectively registered for business rates for the period 8th August 2008 until 31st December 2009 on 18th November 2009 based on documentation from the landlords of the premises. All notifications were sent to the registered office address of the company.

Bailiffs had been instructed to enforce the debt once the liability order was obtained but the property did not have assets to distrain upon in order to settle the debt.

No payments were made direct to the Council or collected via the Bailiffs.

The company was dissolved on 10th December 2010 with no dividend to any creditors leaving the debt irrecoverable.

Case 2

Name & address of ratepayer	Amount	Period	Reason for write off
Dorset Solutions Ltd, 268-282 Waterloo Road, London, SE1 8RQ	£149,371.58	1/4/10 - 26/05/11	Insolvency – no assets to claim Company Liquidated

Notices issued	Date of issue	Amount	Financial Year
Demands (Bill)			
	11/07/11	£127,885.03	2010/11
	11/07/11	£21,486.55	2011/12
	<u>Total Write Off</u>	<u>£149,371.58</u>	

The ratepayer was retrospectively registered for business rates for the period 1st April 2010 until 26th May 2011 on 11th July 2011 based on retrospective documentation from the landlords of the premises.

There was a slight delay in billing whilst legal advice was sought as company went into liquidation prior to the start date of the lease of premises and until then, the landlords of the premises were billed.

Legal advice received confirmed that there was no option but to bill the liquidated company as the lease is legally binding for the purpose of charging business rates.

The company was dissolved on 12th March 2010 with no dividend to any creditors leaving the debt irrecoverable.

Case 3

Name & address of ratepayer	Amount	Period	Reason for write off
2invest Ltd, (Excl 2nd & 4th Flrs), Lancaster House, 70 Newington Causeway, London, SE1 6DF	£109,986.30	1/4/10 - 6/12/10	Insolvency – no assets to claim Company Dissolved

<u>Notices issued</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Financial Year</u>
Demands (Bill)			
	27/01/11	£109,986.30	2010/11
Reminder Notice			
	16/03/11	£109,986.30	2010/11
	<u>Total Write Off</u>	<u>£109,986.30</u>	

The ratepayer was retrospectively registered for business rates for the period 1st April 2010 until 6th December 2010 on 27th January 2011 following changes to the Rating List undertaken by the Valuation Office Agency of HM Revenues and Customs.

The delay in being able to bill was caused as until the point where the Valuation Office Agency amended the Rating List, 2Invest Ltd were not liable for business rates as the owners were paying business rates for the whole premises. The Council could not therefore bill 2Invest Ltd prior to 27th January 2011 as a result and the circumstances were beyond the control of the Council.

The company was dissolved on 7th December 2010 which was prior to the Valuation Office Agency updating the Rating List, with no dividend payable to any creditors leaving the debt irrecoverable.

Case 4

Name & address of ratepayer	Amount	Period	Reason for write off
Powwow Water Company Ltd, Unit A At, 10 Marlborough Grove, London, SE1 5JT	£77,456.49	1/8/09 - 24/3/10	Insolvency – no assets to claim

<u>Notices issued</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Financial Year</u>
Demand			
	17/11/09	£79,753.93	2009/10
	21/01/10	£79,753.93	2009/10 (reissue)
	08/03/10	£128,030.00	2010/11
	15/04/10	£128,030.00	2010/11 (reissue)
	06/01/11	£77,456.49	Multiple year
Reminder Notices			
	16/04/10	£12,803.00	2010/11
	16/03/11	£77,456.49	2009/10
	<u>Total</u>	<u>£77,456.49</u>	

The ratepayer was registered for business rates for the period 1st August 2009 until 24th March 2010 based on documentation received. Bills were originally sent to the premises until further correspondence was received on 21/1/10 where a revised forwarding address was provided and added to the account details.

Correspondence was received on 6th April 2010 from Deloitte LLP stating the company had gone into administration. All further correspondence from that date was sent direct to Deloitte LLP as the administrators for the company.

The account was closed on 6th January 2011 based on evidence provided by the landlord's agent that the lease for the property had been surrendered.

An Email received from Deloitte LLP dated 29th March 2011 states that *any outstanding amounts relating to non domestic rates charges incurred in the period prior to the Administrators' appointment will rank as an unsecured claim against the Company. It should be noted that there will be no dividend available to unsecured creditors in this case.*

The company, though not formally liquidated, confirms that there is no potential dividend payable towards the business rates debt leaving the debt irrecoverable.

Case 5

Name & address of ratepayer	Amount	Period	Reason for write off
Ablethird Ltd, Job Centre, 92-94 Borough High Street, London, SE1 1LL	£73,061.53	7/12/09 - 14/12/10	Insolvency – no assets to claim

<u>Notices issued</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Financial Year</u>
Demands (Bill)			
Opening	17/09/10	£94,826.83	Multiple Year
Vacation	23/12/10	£72,986.83	Multiple Year
Reminder Notices			
	15/10/10	£30,704.83	Multiple Year
	17/01/11	£72,986.83	Multiple Year
Liability Order following court summons	15/06/11	£73,061.53	Multiple Year
	Total LO Debt	£73,061.53	
	(of which are costs)	£165	
	<u>Total Write Off</u>	<u>£72,896.53</u>	

The account was registered for business rates for the period 7th December 2009 until 14th December 2010 based on documentation received. Demands have been sent consistently to the insolvency practitioners, Baker Tilly. Companies House shows that the company moved from administration to receivership in 2010.

The account was closed on 23rd December 2010 and revised demands issued due to evidence provided by the landlord's agent that the lease for the property had expired.

A report from official receivers shows that due to level of debts owed to secured creditors there is no prospect of a dividend payable towards the business rates debt leaving the debt irrecoverable.

Case 6

Name & address of ratepayer	Amount	Period	Reason for write off
Tenacity Ltd (Guernsey), Units 10-12a, The Circle, Queen Elizabeth Street, London, SE1 2JE	£72,700.45	2/9/09 - 16/10/10	Insolvency – no assets to claim Company Liquidated

<u>Notices issued</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Financial Year</u>
Demands (Bill)			
Opening	02/10/09	£36,167.71	2009/10
	08/03/10	£66,402.00	2010/11
Vacation	11/11/10	£73,370.45	Multiple Year
Reminder Notices			
	16/09/10	£39,842.00	Multiple Year
Liability Orders following the issue of a court summons			
	17/02/11	£36,167.71	2009
	17/06/11	£36,202.74	2010
	Total LO Debt	£72,700.45	
	(of which are costs)	£330	
	<u>Total Write Off</u>	<u>£72,370.45</u>	

The ratepayer was registered on 2nd October 2009 for business rates for the period 2nd September 2009 until 16th October 2010 as landlords of the premises following the vacation of the previous tenants. Demands were initially sent incorrectly to Tenacity Ltd which is a UK company. After investigation it was ascertained the correct owners were a Guernsey based company and the account was corrected on 1/3/10.

A winding up order was made on 11/8/10 but the company was not officially liquidated until 24th January 2011 as per the Guernsey companies house website.

The Council has been liaising with the Insolvency Practitioners throughout the process since September 2010 which resulted in the account being closed from 16/10/10 when the property was sold.

The company was officially liquidated on 24th January 2011 with no dividend to any creditors leaving the debt irrecoverable.

Case 7

Name & address of ratepayer	Amount	Period	Reason for write off
Emporium Delights Ltd, 87-95 Rye Lane, London, SE15 4TL	£55,973.22	20/5/09 - 14/01/10	Insolvency – no assets to claim Company Dissolved

<u>Notices issued</u>	<u>Date of issue</u>	<u>Amount</u>	<u>Financial Year</u>
Demands (Bill)			
Opening	10/08/09	£73,480.82	2009/10
	18/09/09	£73,480.82	2009/10
Vacation	12/02/10	£55,973.22	2009/10
Reminder Notices			
	19/11/09	£73,480.82	2009/10
Liability Order following the issue of a court summons			
	11/12/09	£73,480.82	2009/10
	Total LO Debt	£55,973.22	
	(of which are costs)	£165	
	<u>Total Write Off</u>	<u>£55,808.22</u>	

The ratepayer was registered for business rates for the period 20th May 2009 until 14th January 2010. As bills were returned 'gone away' the forwarding address as per companies house was removed on 18th September 2009 and bills sent direct to the premises.

The account was closed on 12th October 2010 following investigations undertaken by a property inspector and the new occupiers were billed from 15th January 2010. The bills were then sent, again to the registered office address.

The company was officially dissolved on 26th October 2010 with no dividend to any creditors leaving the debt irrecoverable.

This page is intentionally blank.

CABINET AGENDA DISTRIBUTION LIST**MUNICIPAL YEAR 2011-12**

NOTE: Original held by Constitutional Team; all amendments/queries to
Paula Thornton/Everton Roberts Tel: 020 7525 4395/7221

To	Copies	To	Copies
Cabinet Members	1 each	Officers	
P John / I Wingfield / F Colley / D Dixon-Fyle / B Hargove / R Livingstone / C McDonald / A Mohamed / V Ward		Constitutional Team, Tooley Street	4
		Doreen Forrester-Brown	1
		Jennifer Seeley	1
Other Councillors	1 each	Trade Unions	
C Bowman / A Simmons / T Eckerseley / G Edwards / D Garfield / D Hubber / V Mills / D Noakes/ the Right Revd E Oyewole / M Williams / T McNally		Roy Fielding, GMB	1
		Mick Young, Unite	1
		Chris Cooper, Unison	1
		Tony O'Brien, UCATT	1
		Michael Davern, NUT	1
		James Lewis, NASUWT	1
		Pat Reeves, ATL	1
Group Offices		Sylvia Morriss, NAHT	1
Alex Doel, Cabinet Office	1	Irene Bishop, ASCL	1
Steven Gauge, Opposition Group Office	1		
		Others	
Press		Shahida Nasim, Audit Commission	1
Southwark News	1	Robin Campbell, Press Office	1
South London Press	1	Constitutional Officer	20
Members of Parliament			
Harriet Harman, MP	1	Total:	73
Tessa Jowell, MP	1		
Simon Hughes, MP	1		
Corporate Management Team			
Annie Shepperd	1		
Romi Bowen	1		
Deborah Collins	1		
Gill Davies	1		
Eleanor Kelly	1		
Gerri Scott	1		
Susanna White	1		
Duncan Whitfield	1		
Stephen Platts	1		
		Dated: 26 May 2011	