

Item No.	Classification: Open	Date: 1 March 2022	Decision Taker: Cabinet Member for Finance, Performance and Democracy
Report title:		Housing benefit overpayment write offs over £5,000 and under £50,000	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Rebecca Lury - Cabinet Member for Finance, Performance and Democracy	

RECOMMENDATION

1. That approval is given to the write-off of the debts detailed in Appendix 1 of the closed report totaling £189,015.43 (multiple write-offs).
2. That the cabinet member advise any further action they require on any write-offs not agreed within this report.

BACKGROUND INFORMATION

3. Under the council's constitution a decision to write-off debts with a value of more than £5,000 and less than £50,000 has been delegated to individual members within their own service area.
4. There are a number of key reasons why the Council may decide to write-off a debt. These are:
 - The debt is uneconomic to collect i.e. the cost of collection, including substantiation, is greater than the value of the debt.
 - 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.
 - There has been a negotiated settlement as part of a complaint or dispute resolution which leaves a residual amount to be written off.
 - The debtor cannot be found or communicated with despite all reasonable attempts to trace the debtor.
 - The debtor is deceased and there is no likely settlement from the estate or next of kin.
 - Insolvency where the organisation or person has gone into bankruptcy and there are no assets to claim against and no likelihood of settlement.

KEY ISSUES FOR CONSIDERATION

Policy implications

5. These write-offs have been considered in accordance with the council's agreed write-off policies and procedures.

Community impact statement

6. All write-offs are considered with due regard to any potential community impact and on their own merits. This decision has been judged to have no or a very small impact on local people and communities.

Resource implications

7. The total housing benefit overpayment arrears debt recommended for write-off is £189,015.43 relating to 16 debts which are irrecoverable.
8. The recommended write-off will be contained within the council's relevant bad debt provisions.

Legal Implications

9. All reasonable efforts have been made to trace the account holder/debtor using standard procedures including:
 - Interrogation of the housing benefit database;
 - Interrogation of the document imaging system;
 - Tracing letters issued to other local authorities & solicitors;
 - Inspection of the domestic or business premises;
 - Letter sent to the Official Receiver for confirmation of any dividends to be paid; and
 - Checks made with other council departments.
10. Additionally, any debt recommended for write-off is always subject to further internal scrutiny commensurate with the value of the debt. That scrutiny takes place before any recommendation is submitted to the cabinet member. The council's officers use a minimum of three tracing methods and conduct a 10% audit review of cases to check that the correct procedures have been followed and to provide further assurance.
11. The reason for debts set out in this report to be recommended for write-off include:

- The debtor is insolvent;
- The debtor is deceased and there are no funds in the estate to settle the debt;
- The debt has been deemed irrecoverable for example due to its age or because it is uneconomical to collect; or
- The debtor has absconded and is unable to be traced.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

12. According to the Council's Constitution, a decision on an executive function can be taken by, *inter alia*, an individual cabinet member. 'Executive function' in this context means the development and implementation of the Council budget and policy framework, and overseeing the running of council services on a day to day basis. Individual cabinet members make decisions of an 'executive function' nature on their area of responsibility.
13. Part 3D of the Council's Constitution sets out that one of the matters reserved for decision by individual cabinet members is "Approving write offs of debt for their portfolio area of a value of £5,000 – £50,000."
14. These particular debts have arisen as a result of non-payment of housing benefit overpayment.
15. The report sets out the circumstances whereby debts can lawfully be written off by the council and this includes cases where a debtor has been declared bankrupt and there are no assets to claim against. In such circumstances, there are no means available to successfully pursue the debt.
16. The Director of Law and Governance considers the proposed write-offs to be in accordance with the council's Constitution and procedures and lawful.

Strategic Director of Finance and Governance

17. This report recommends the write-off of a debt, which meets one or more criteria for write-off. The Strategic Director of Finance and Governance considers that the debt is irrecoverable and should be written off in accordance with the agreed policy and procedure
18. The cost of the write-offs will be met from the provision for bad debts.

APPENDICES

No.	Title
Appendix 1	None

AUDIT TRAIL

Lead Officer	Duncan Whitfield, Strategic Director of Finance and Governance	
Report Author	Dominic Cain, Director of Exchequer	
Version	Final	
Dated	28/02/2022	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
List other officers here		
Cabinet Member	No	No
Date final report sent to Constitutional Team	1 March 2022	