Item No. 17.	Classification: Open	Date: 17 January 2023	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:			
Cabinet Member:		Councillor Stephanie Cryan, Communities, Equalities and Finance	

FOREWORD - COUNCILLOR STEPHANIE CRYAN – CABINET MEMBER FOR COMMUNITIES, EQUALITIES & FINANCE

National Non Domestic Rates, known locally as business rates, are collected from businesses in the borough by the Council. Since 2013/14 when the business rates retention scheme was introduced, the Council keeps 50 per cent of business rates.

The Council is responsible for collecting approximately £320m of National Non Domestic Rates and take appropriate enforcement action where needed to ensure that collection performance is high.

Historically, collection rates have been high with a collection rate in 2021-22 of 99%. This demonstrates that the Council is acting diligently and effectively in collecting business rates.

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 offs is shared between central government and the Council.

RECOMMENDATIONS

1. That approval is given for write off of the debts of £215,875.78 for two debts which are irrecoverable.

BACKGROUND INFORMATION

2. 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.

3. 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 framework implications

4. 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 and recover the debt 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 business premises
   - Land Registry searches
   - Companies House searches
   - Tracing letter to landlords or letting/managing agents & directors
   - Debt notified to the Insolvency Practitioner or Official Receiver dealing with the Companies affairs
   - Checks made with other Council Departments

5. The NNDR business unit use a minimum of three tracing methods and conducts a 10% audit review of cases under £5,000, 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.

6. Every avenue of debt enforcement available to the Council is pursued and the account is reviewed by both an NNDR Revenues Officer and a Senior Revenues Officer before a debt is recommended for write off.

Community, equalities (including socio-economic) and health impacts

Community impact statement

7. The decision has been judged to have no or very small impact on local communities and public.

Equalities (including socio-economic) impact statement

8. There are no equalities or socio-economic impacts anticipated from this report.

Health impact statement

9. We do not anticipate any impact on physical or mental health from the production of this report.

Climate change implications

10. There should be no additional adverse effects on climate change due to this report.

Resource implications

11. The total Non Domestic Rates debt recommended for write off is £215,875.78 for 2 debts which are irrecoverable. These relate to 2 companies which have been subject to insolvency action.

12. 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, entering into administration or liquidation. This in turn will lead to more cases being written off due to the business rates debts being irrecoverable.

13. The above debt will be contained within the NNDR bad debt provisions.

14. As per paragraph 4 the schedule of write-offs has been compiled in accordance with the Council's agreed policy and procedures.

15. The debts are recommended for write off as they are considered irrecoverable or uneconomic to collect.

16. The recommended write-off of £215,875.78 for National Non Domestic Rates will be contained within the Councils relevant bad debt provisions.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Governance

17. The report recommends that the debts set out in Appendix 1 to this report are written off in accordance with the council's procedures on debt write-off.

18. 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.

19. The report sets out the circumstances whereby debts can lawfully be written off by the Council and this includes cases where a company has been dissolved and there are no assets to claim against. The companies in appendix 1 are companies which have been dissolved. In such circumstances there are no means available to successfully pursue the debt.

20. The Director of Law and Governance agrees with the recommendation that these debts should be written off in accordance with procedure and is lawful.

Strategic Director of Finance and Governance

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

22. This report recommends the write off of ten 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.

23. The recommended write-off of £215,875.78 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.

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

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix 1	Case studies 1-2

AUDIT TRAIL

Cabinet Member	Councillor Stephanie Cryan, Communities, Equalities and Finance	
Lead Officer	Duncan Whitfield, Strategic Director of Finance and Governance	
Report Author	Norman Lockie, Head of Income Operations	
Version	Final	
Dated	5 January 2023	
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
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		5 January 2023

APPENDIX 1

Case details

Case 1

Name & address of ratepayer	Acct.	Amount	Period	Reason for write off
A Realisations 2020 Limited (Su31) Unit 131, London Bridge Station, Tooley Street, London, SE1 9SP	6979130	£109,486.11	16/10/17-03/07/19	Company dissolved

Statement of account

Amount billed

Period	**Amount £**
16/10/17-31/03/18	28,538.70
01/04/18-31/03/19	64,125.00
01/04/19-03/07/19	16,822.41
Total amount billed	**109,486.11**
Payments received	0.00
Balance outstanding	**£109,486.11**

Notices issued

Date	**Details**
13/05/19	Bill for period 16/10/17-31/03/20
22/07/19	Reminder notice
06/09/19	Revised bill for the amount due up to 03/07/19 following the company entering into a Company Voluntary Arrangement (CVA)

Case history

The company traded as Accessorize from a unit at London Bridge Station, which they occupied on 16/10/17. This was a new unit and a request was made to the Valuation Office Agency to assess the rateable value of the property so that a bill could be issued.

The Valuation Office Agency notified the Council of the rateable value on 03/05/19 and the bill was issued on 13/05/19. On 20/06/19, the company proposed a Company Voluntary Arrangement (CVA) due to the rent and occupancy costs facing the business becoming unaffordable.

When a CVA is proposed, the Council is required by law to suspend recovery action.

The creditors meeting was held on 03/07/19 and the proposed CVA was accepted by the creditors. From March 2020, the retail stores operated by the company had to be closed due to COVID-19. They continued to incur substantial retail estate costs but could only trade online.

The CVA ended on 06/07/20 when the company entered Administration. No dividend was received and the company was dissolved on 13 June 2022. The debt is irrecoverable.

Case 2

Name & address of ratepayer	Acct.	Amount	Period	Reason for write off
Roast (London) Limited Roast At, Floral Hall, Borough Market, SE1 1TL	699467 5	£106,389.67	01/04/18- 14/11/19	Company in liquidation No dividend payable

Statement of account

Amount billed

Period	Amount £
01/02/18-31/03/18	8,871.71
01/04/18-31/03/19	66,270.17
01/04/19-03/07/19	72,152.34
Total amount billed	**147,294.22**
Payments received	40,904.55cr
Balance outstanding	**£106,389.67**

Notices issued

Date	Details
30/08/19	Bill for period 01/02/18-31/03/20
16/09/19	Reminder notice
16/10/19	Final notice
22/11/19	Summons
23/12/19	Revised bill for the amount due up to 14/11/19 when the company vacated the property

Recovery action taken:

13/12/19	Liability order obtained for the debt outstanding up to 31/03/19

Case history

Roast restaurant have traded at the property in Borough Market since 2005. The original company, Roast Restaurant Limited, went into liquidation in January 2018 but they continued to pay the business rates liability by direct debit. A new company, Roast (London) Limited took over the property and notified the Council of this in August 2019.

The new company made some payments in respect of their rate liability, but due to funding issues which affected the company's cash flow and legal proceedings connected with the lease of the property, the company were not able to continue to pay the monthly instalments.

The landlord assigned the lease to a new company and the rate liability of Roast (London) Ltd was terminated with effect from 14/11/19.

On 02/12/19, a liquidator was appointed, with the statement of affairs showing that the company had a deficit of £1.4million. Due to a liquidator being appointed, recovery action had to be suspended.

A dividend of £5,289.59 was received from the liquidators on 13/04/22. In their final report prior to the dissolution of the company (dated 20/09/22), the liquidators have advised that there will be no further dividend available to unsecured creditors. The company is due to be dissolved on 27/12/22 and the debt is irrecoverable.
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