

Item No.	Classification: Open	Date: 20 November 2023	Decision Taker: Cabinet Member for Communities, Democracy and Finance
Report title:		Housing benefit overpayment write offs over £5,000 and under £50,000	
Ward(s) or groups affected:		All	
Cabinet Member:		Cabinet Member for Communities, Democracy and Finance	

RECOMMENDATION

1. That approval is given to the write-off of the debts detailed in Appendix 1 of the closed report totaling £396,276.45 (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. This report relates to 29 housing benefit overpayment debts that are deemed irrecoverable and seeks authorisation for their write off.
4. 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.
5. 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.
- Where the council has caused a housing benefit overpayment by a mistake, whether in the form of an act or omission and the claimant did not cause or materially contribute to that mistake, act or omission.

KEY ISSUES FOR CONSIDERATION

Policy implications

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

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

7. All write-offs are considered with due regard to the public sector equality duty in the Equality Act 2010. Whilst housing benefit administration does not require the recording of protected characteristics under the Equality Act 2010 this decision has been judged to have no or a very small impact on local people, communities and health.

Climate change implications

8. It is not anticipated that there will be any direct climate change implications as a result of the writing off of 29 housing benefit overpayment debts.

Resource implications

9. The total housing benefit overpayment arrears debt recommended for write-off is £396,276.45 relating to 29 debts which are irrecoverable.
10. The recommended write-off will be contained within the council's relevant bad debt provisions.

Legal Implications

11. 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.
12. 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.
 13. 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

Assistant Chief Executive (Governance and Assurance)

14. Under the Local Government Act 2000 and according to the Council's Constitution, a decision on an executive function can be taken by, *inter alia*, an individual cabinet member.
15. 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."
16. These particular debts have arisen as a result of non-payment of housing benefit overpayment.
17. The report sets out the circumstances whereby debts can be written off by the council in accordance with its corporate write-off policy approved in 2015 as part of the Southwark Corporate Income Policy.
18. The Assistant Chief Executive (Governance and Assurance) considers the proposed write-offs to be in accordance with the council's Constitution and procedures and lawful.
19. The cabinet member will need to ensure that the public sector equality duty in section 149 Equality Act 2010 is considered i.e. to have due regard to the need to eliminate discrimination, advance equality of opportunity, and to foster good relations between people with protected characteristics and others. Reference is made to this in the community impacts section above.

Strategic Director of Finance

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

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Clive Palfreyman, Strategic Director of Finance	
Report Author	Dominic Cain, Director of Customer and Exchequer Services	
Version	Final	
Dated	03/05/2023	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Assistant Chief Executive (Governance and Assurance)	Yes	Yes
Strategic Director of Finance	Yes	Yes
List other officers here		
Cabinet Member	No	No
Date final report sent to Constitutional Team	20 November 2023	