

Item No. 16.	Classification: Open	Date: 20 September 2011	Meeting Name: Cabinet
Report title:		Authorisation of Debt Write-off over £50,000 for Health and Community Services	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Dora Dixon-Fyle, Health and Adult Social Care	

FOREWORD – COUNCILLOR DORA DIXON-FYLE, CABINET MEMBER FOR HEALTH AND ADULT SOCIAL CARE

This debt arose in error in 2004. Since then, significant effort has gone into investigating the matter and trying to recover the monies. Unfortunately this and other methods have proved unsuccessful and indeed the organisation, a charity, has long since stopped operating. Lessons have been learnt by the department and indeed a new method of payment has been implemented to ensure that the risk of this happening again is minimal. Any identified payment made in error is recovered through the debt recovery procedure.

There is also the monthly debt management review of debts outstanding and where necessary debts are referred to the debt recovery team. Where all action has been taken and the debt is deemed irrecoverable, the debt is recommended for write off.

This debt is now irrecoverable as it is statute barred. I agree with the officer recommendation to write off this debt.

RECOMMENDATIONS

1. That agreement is given for the write-off of a £69,721.02 debt relating to 'Federation of Black and Asian Drug and Alcohol workers'.

BACKGROUND INFORMATION

2. Under the council's constitution write-off of debts of £5,000 up to £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 of £50,000 or over must be referred to cabinet for authorisation.
3. The debt was a payment made in error to the 'Federation of Black and Asian Drug and Alcohol workers' during 2004. This registered charity (no. 1084624) is no longer in existence.

4. Case law dictates that action cannot be taken against directors/trustees for debts incurred by the charity as a whole, unless one can show bad faith on the part of the directors/trustees. In this instance there is no evidence of bad faith.

KEY ISSUES FOR CONSIDERATION

Policy implications

5. The proposed write-off is recommended in accordance with the Council's agreed write-off policies and procedures.

Commentary

6. Payments were made in error to the charity during the financial year 2004/05. When the error was identified in April 2005 the recovery process began with the Council's debt collection contractor, Liberata.
7. Recovery action was hampered because of changes of address and the failure of the organisation to respond to communications and invitations to meetings. Traces were made but failed to identify the whereabouts of the organisation or its directors.
8. Enquiries to the Charity Commission in August 2009 revealed that no current contact details of trustees or the charity organisation existed. The last accounts submitted to the Commission related to 2002.
9. A further review was conducted by a Police Detective seconded to the Council, which concluded that the case should be closed. Investigating officers identified that it would require a substantial amount of Police time. The total cost of investigation and prosecution could exceed the value of the debt with little prospect of recovering the monies. It is also considered that the Crown Prosecution Service would not view this case as meeting their prosecution criteria.
10. All reasonable efforts have been taken to recover this debt which is now considered to be irrecoverable. The debt is more than six years old and statute-barred under the Statute of Limitations Act 1980.

Community impact statement

11. 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

12. The total debt recommended for write off is £69,721.02 relating to payments made in error in 2004/05. The debt write-off will be funded by the Health and Community Services bad debt provision

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

13. This report recommends that the debt as set out in paragraph 7, be written off in accordance with the council's procedure on debt write-off. The strategic director of communities, law & governance agrees with the recommendation that the debt be written off as it is irrecoverable and now statute-barred.

Finance Director

14. The recommended write-off will be contained within the Council's relevant bad debt provision and as such will not impact on the revenue account.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Sundry debtors System report	Central Finance Team	Jim Lo 020 7525 3348
Individual case file	Central Finance Team	Jim Lo 020 7525 3348
Legal correspondence	Central Finance Team	Jim Lo 020 7525 3348
Audit and Risk – Met Police correspondence	Central Finance Team	Jim Lo 020 7525 3348

APPENDICES

No.	Contact
None	

AUDIT TRAIL

Cabinet Member	Councillor Dora Dixon-Fyle, Cabinet Member of Health and Adult Social Care	
Lead Officer	Carl Rushbridge, Departmental Finance Manager (HCS)	
Report Author	Jim Lo	
Version	Final	
Dated	28 July 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/Community Council/Scrutiny Team	9 September 2011	