

Item No. 11.	Classification: Open	Date: 11 December 2012	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:		All	
Cabinet Member:		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 2011-12 of 97.8%. 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 offs is borne by the government and not the council or the taxpayers.

RECOMMENDATIONS

1. That cabinet approval is given for write off of the debt of £69,794.45 for one debt which is irrecoverable.
2. That cabinet advise on further action they require on any write-off not agreed within this report.

BACKGROUND INFORMATION

3. Under the council's 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 off set out in this report is recommended in accordance with the council's agreed write off policies and procedures. The reasons for the recommended write off are stated in the appendix attached.
6. Appendix 1 includes a write-off for National Non-Domestic Rates (NNDR). The NNDR write-off has 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 and 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 percent audit review of cases under £5,000 and a 50 percent audit review of cases £5,000 to £50,000 and 100 percent audit review 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 £69,794.45 for one debt which is irrecoverable. This relates to a single company recently dissolved.
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. The above debt will be contained within the NNDR bad debt provisions.
11. As per paragraph 3 the schedule of write-offs has been compiled in accordance with the council's agreed policy and procedures.
12. The debt is recommended for write-off, as it is considered irrecoverable or uneconomic to collect.
13. The recommended write-off of £69,794.45 for National Non Domestic Rates will be contained within the council's relevant bad debt provisions.

Community impact statement

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

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

15. The report recommends that the debt set out in Appendix 1 to this report is written off in accordance with the council's procedures on debt write-off.
16. 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.
17. 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 company in appendix 1 is a company recently dissolved. In such circumstances there are no means available to successfully pursue the debt.
18. The Director of Legal Services agrees with the recommendation that this debt should be written off in accordance with procedure and is lawful.

Strategic Director of Finance and Corporate Services (FIN0347)

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

20. This report recommends the write off of one debt, falling within the range reserved for member decision. This debt meets one or more of the criteria for write-off and the strategic director of finance and corporate services considers that it would be uneconomic to make any further attempt at recovery.
21. The recommended write-off of £69,794.45 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.
22. 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
National Non Domestic Rates Customer Account http://moderngov.southwark.gov.uk/ie/ListDocuments.aspx?CId=302&MId=4249&Ver=4	Revenues & Benefits 1st Floor, Hub 3, 160 Tooley Street London SE1 2QH	Norman Lockie 020 7525 0928

APPENDICES

No.	Title
Appendix 1	Case details

AUDIT TRAIL

Cabinet Member	Councillor Richard Livingstone, Finance, Resources and Community Safety	
Lead Officer	Duncan Whitfield, Strategic Director of Finance and Corporate Services	
Report Author	Norman Lockie, Operations Manager (Revenues)	
Version	Final	
Dated	29 November 2012	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
	Officer Title	Comments Sought
	Director of Legal Services	Yes
	Strategic Director of Finance and Corporate Services	Yes
	Cabinet Member	Yes
	Date final report sent to Constitutional Support Services	28 November 2012