

## Report of the Chief Auditor

Audit Committee – 25 October 2016

### DEBT WRITE OFFS - BRIEFING

<b>Purpose:</b>	This report provides details of the debts written off by the Council in the last 3 financial years and an outline of the robust debt recovery procedures that are followed by services before a debt is submitted for write off.
<b>Report Author:</b>	Paul Beynon
<b>Finance Officer:</b>	Paul Beynon
<b>Legal Officer:</b>	Debbie Smith
<b>Access to Services Officer:</b>	Sherill Hopkins

#### FOR INFORMATION

#### 1. Introduction

- 1.1 The Audit Committee received a report in August 2015 on the level of debts written off between 2012/13 and 2014/15. The report included an outline of the debt recovery procedures followed by services before a debt is considered for write off.
- 1.2 This report provides an update on debt write offs showing the debts written off between 2013/14 and 2015/16.
- 1.3 An outline of the robust debt recovery procedures followed by services before a debt is submitted for write off is also included in this report.

#### 2. Financial Procedure Rules

- 2.1 The authority to write off debts is contained in Financial Procedure Rule 11.6 which states the following.

*'Debts which are not recoverable must be written off. The Chief Financial Officer must approve all write offs of debt up to £10,000. Debts above £10,000 may be written off with the approval of the Chief Financial Officer, the Cabinet Member with responsibility for Finance and the Cabinet Member responsible for the relevant service'.*

- 2.2 The Interim Head of Legal/Monitoring Officer is proposing to recommend to Council a change to Financial Procedure Rule 11.6 for

writing off debts in excess of £10k to remove reference to the Cabinet Member with responsibility for Finance and insert the Head of Legal and Democratic Services instead. This will add to the robustness of the debt recovery procedure by ensuring that all legal options have been considered. The Cabinet Member responsible for the relevant service will continue to approve write offs. If approved the amended rule will be

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### 3. Debts Written Off 2013/14 – 2015/16

3.1 The following table shows the value of debts written off in the last 3 financial years broken down over the various types of income collected

Type of Income	2013/14 £	2014/15 £	2015/16 £
Council Tax	445,920.08	689,664.12	769,321.11
Business Rates	732,686.54	694,121.40	387,219.46
Business Improvement District	4,569.79	5,450.41	12,759.18
Housing Benefits Overpayments	142,229.71	117,434.49	115,797.49
Accounts Receivable	445,946.07	698,057.94	127,260.74
Housing Rent Former Tenant Arrears	295,899.03	376,395.83	396,673.70
Estate Rentals	16,224.43	97,837.50	2,293.48
Chief Cashiers Imprest	3,828.98	805.14	408.08
<b>Total</b>	<b>2,087,304.63</b>	<b>2,679,766.83</b>	<b>1,811,733.24</b>

3.2 The figures above relate to the year in which the debt was actually written off, not the year in which it was raised.

3.3 Debts may be deemed to be irrecoverable for many reasons e.g. debtor deceased, debtor bankrupt or in liquidation, debtor cannot be traced, value of debt too small to justify further recovery action, advice from Head of Legal and Democratic Services, insufficient evidence to enforce debt, genuine dispute over liability, all avenues of recovery exhausted.

3.4 Before a debt is considered to be irrecoverable and submitted for write off, every effort is made to collect the debt via the service's established debt recovery procedures. A brief description of the debt

recovery procedures for the most significant types of income is shown in section 4 below.

- 3.5 A review of service debt recovery procedures is made as part of each internal audit of the service to confirm that they are robust and effective.
- 3.6 Schedules of debts for write off are submitted to the Internal Audit Section and before being submitted to the Chief Finance and Deputy Section 151 Officer, the schedules have to be signed by the service manager, Head of Legal and Democratic Services and the Chief Auditor to confirm that all avenues of recovery have been exhausted.
- 3.7 Where a debt has been written off due to the debtor not being traced, should the whereabouts of the debtor subsequently become known then the debt will be re-instated.
- 3.8 The important point to make is that the write off of debt is always the **last resort** and all other available avenues of recovering the debt will have been fully exhausted before a debt is submitted for write off.
- 3.9 In reviewing the Council's annual debtor position as part of the annual Statement of Accounts audit process, our external auditors will wish to be satisfied that the figures stated are realistic in terms of collection. It is important, therefore, that regular reviews are undertaken of debt outstanding and appropriate write off action is taken where appropriate.
- 3.10 While the overall figures would appear to be substantial in value, they have to be read in the context of the value of overall debt raised – for example in excess of £100million annually for Council Tax. As an example during 2015/16 the Council collected 97.3% of all Council Tax due in year which in line with the all Wales average with the expectation that, over the following years, the overall collection rate will exceed 98%.
- 3.11 Appropriate provision has consistently been made in the closing of accounts process on an annual basis to account for debt write offs.

#### **4. Debt Recovery Procedures**

- 4.1 A brief outline of the debt recovery procedures for the most significant types of debt is shown below.

##### **Council Tax**

- 4.2 A demand notice is followed by a reminder notice and then a request to the Magistrates Court to issue a liability order. If the debtor does not pay or make an agreement to pay then the Council will seek an attachment of earnings or attachment of benefits order to collect the

debt. Further action will include referral to external enforcement agents (bailiffs) for collection and if that is not successful other options are considered in appropriate circumstances such as imprisonment via a committal order, bankruptcy or a charging order against the debtor's property.

### **Business Rates**

- 4.3 A demand notice is followed by a reminder notice and then a request to the Magistrates Court to issue a liability order. If the debtor does not pay or make an agreement to pay, the debt is sent to the Council's external enforcement agents. If recovery is still unsuccessful then applying for bankruptcy or winding up order is considered in appropriate cases.
- 4.4 There have been recent changes to bankruptcy thresholds which may make this option less effective in future for the recovery of Council Tax and Business Rates debt. With effect from October 2015 a creditor must be owed a minimum of £5,000 before bankruptcy proceedings can commence, the previous limit was £750. This is more likely to impact on Council Tax where the total debt owed is likely to be less than £5,000.

### **Housing Benefits Overpayments**

- 4.5 Where a debtor is still in receipt of ongoing benefit then the overpayment is recovered from the ongoing benefit. Where there is no ongoing benefit, an invoice is sent followed by a reminder notice and if no payment is made the debt is referred to Legal for recovery action via the County Court.

### **Accounts Receivable**

- 4.6 Invoices are followed by reminder letters and a court warning notice if the invoice remains unpaid. Attempts are made to contact the debtor by telephone or e-mail and a further warning letter is sent prior to the debt being referred to Legal for court action. A full range of debt recovery methods are used including instalment plans, securing the debt using voluntary or forced charging orders, Third Party Debt Orders as well as obtaining County Court judgements and using the High Court Enforcement Office. All debts over 60 days old are referred to the relevant Head of Service on a quarterly basis. The Accounts Receivable Section uses a full range of management reports to monitor outstanding debt levels and to alert Heads of Service to any issues in their service area, and levels of outstanding debt are reported to monthly Directorate Performance and Financial Monitoring meetings.

## **Housing Rent – Former Tenant Arrears**

- 4.7 Former tenant recovery procedures are in place and all efforts to recover debts are taken. Many former tenants leave their properties without notifying the Authority. Where a forwarding address is available then recovery action is taken, this will include letters, home visits, texts and e-mails. Agreements are made to repay debts in instalments and various payment methods are offered, when appropriate this will include DWP direct payments. Both Experian and the Prisoner Location service are used to locate forwarding addresses, debts are written off only after the tracing process has been exhausted and the former tenant cannot be traced.

## **Estate Rentals**

- 4.8 Once an account is identified as in arrears, a reminder letter is sent to the tenant. If payment is not forthcoming a 'stronger' reminder is issued giving a payment deadline. If payment is still not received, instructions are passed to the Debt Recovery team within Legal. The instructions, depending on the level of debt may be to pursue payment, secure a charging order, forfeit the tenancy or instruct High Court enforcement agents. Debts are written off only after the legal process has been exhausted and either the tenant cannot be traced, has gone into liquidation/receivership or there is no realistic prospect of securing payment.

## **5. Equality and Engagement Implications**

- 5.1 There are no equality and engagement implications associated with this report.

## **6. Financial Implications**

- 6.1 There are no financial implications associated with this report.

## **7. Legal Implications**

- 7.1 There are no legal implications associated with this report.

**Background Papers:** None.

**Appendices:** None.